

Zoning Board of Appeals Minutes, 07/06/2016

Zoning Board of Appeals Minutes Land Use Meeting Room July 6, 2016

Members present: Chair Ethan Berg, (EB); Shawn Leary Considine, (SLC); Clayton Hambrick, (CH); Robert Fuster, (RF); Clifford Snyder, (CS)
Absent with notification: Ned Douglas, ND
Staff present: Gwen Miller, Land Use Director/Town Planner (GM); Peggy Ammendola, Land Use Clerk (PA)

HG October Mountain Estate LLC, (Eastover) 430 East Street (Map 18, Parcel 85) Modify an existing Special Permit to allow an accessory structure housing an eco-machine on site under Section 10 "Definitions" of the Lenox Zoning Bylaw. *The first meeting, June 15, 2016, was continued to July 6th.*

The Board went to the site earlier in the day.

Attorney Rich Dohoney, Stephen Nolan, architect and Yingxing Wang were present. A Google map of the aerial view of the site with the location of the greenhouse depicted was presented.

Also present were the following abutters: Bob McNinch, Susan McNinch and Dorothy Winsor.

There was no correspondence.

Attorney Elizabeth Goodman was present as well as her clients, Ted Silverman and Kelly Brown. Their property abuts Eastover. Attorney Goodman gave a list of her proposed conditions to both the Petitioner and the Board members.

Each member read the conditions before proceeding with the hearing.

Attorney Goodman wanted to confirm that the generator was a backup generator that would only be used during power outages. Ms. Wang confirmed and said that there has been a generator at the west side of the mansion for 4-5 years. All wiring is buried and any associated with this project will also be buried.

Attorney Goodman asked about the septic system. Ms. Wang stated that the existing septic tank will remain and that it is pumped from time to time and the contents trucked off site. She believes that it has been pumped once in the last four years. Attorney Dohoney pointed out that the application before the Board is for the structure only.

Bob McNinch of 420 East Street asked about the effects the generator would have on birds or the environment. The Board said that this matter does not relate to zoning. Kelly Brown said that DEP had advised that it did. The Board disagreed and said that this was not a part of the bylaw.

Ms. Wang said that the generator, powered by natural gas, would only be used in the event of a power outage. Attorney Goodman proposed that only natural gas be used to power the generator. In response to further questions posed by Susan McNinch, Ms. Wang said that the generator has an automatic periodic test to make sure it is functioning.

Ms. McNinch also asked about the maintenance of the eco system. Ms. Wang said that it will be maintained by a licensed engineer as per requirements of the state permit. Ms. Wang gave a brief description of how the tropical plants clean the water.

The leaching field will be adjacent to the existing leaching field but a little larger.

Attorney Goodman requested that the Board incorporate in their decision that the Petitioner comply with the Discharge Permit 960-0 dated October 2, 2015. Attorney Dohoney responded that his client had gone through a highly regulated process to receive her permit and that she has to comply with all DEP regulations, therefore is not necessary.

RF pointed out that the permit is a part of the package and that the Petitioner must follow what has been presented.

Attorney Dohoney was satisfied with suggested language which read that Eastover would comply with all Mass DEP requirements for this kind of facility as well as comply with the permit 960-0.

Attorney Goodman quickly looked over her list of proposed conditions and felt that issues had been resolved. The balloons that had been put at the site of the proposed greenhouse were not visible from the home of Mr. Brown and Mr. Silverman. She was satisfied that diesel would not be used to fuel the generator. The petitioner is held to what had been presented.

The public hearing was closed.

RF made a motion to allow the special permit with the construction of the green house as presented. SLC seconded the motion and the Board voted to approve 5-0.

George Chasse, 18 Morgan Street (Map 8, Parcel 187), Special Permit for exception under Section 4.1.1, "Table of Dimensional Requirements", Footnote 7 of construct a shed within the 25' foot setback.

Present were Mr. and Mrs. Chasse. Mr. Chasse presented his application.

Mr. Chasse said that the space in his garage was reduced in size when he removed exterior stairs and furnace enclosure which actually extended further into the setback than the new construction would. New stairs have been constructed inside. This proposal is to construct an attached shed that measures 7'6" x 30 feet on the south side. The setback before construction is 30 feet, so the new construction would be 2-3 feet into the setback. He is requesting the setback be changed to 20 feet. The shed will be used to store small lawn tractor, ladders, etc.

Kevin Haynes, a next door neighbor, wrote a letter of support and was also in attendance. Ross Perreault of 176 East St. spoke in favor.

EB made a motion to close the public hearing. SLC seconded the motion and the Board voted to agree 5-0.

CS made a motion to grant the petition as requested which includes changing the required setback to 20 feet. RF seconded the motion and the Commission voted to agree 5-0.

AMEC Foster Wheeler, 0 Willow Creek Road (Map 14, Parcels 2 and 3,) for property owned by the Town of Lenox Site Plan Approval per Section 6.13 "Large Scale Ground Mounted Solar Photovoltaic Installations".

Presenting the application were Joel Lindsey of Ameresco, contractor for the project, and Rob Bukowski and Rich Niles of AMEC Foster Wheeler.

Attorney Peter Puciloski, representing abutters to the site, was also present.

Mr. Lindsey started the presentation, stating that his company was chosen by the town some months ago to work with the town to develop the project which includes bringing the landfill in compliance and building the solar array. Because there are two wetland areas on the site they have filed a Notice of Intent with the Conservation Commission and will present it to the Commission tomorrow evening.

Mr. Bukowski and Mr. Niles, whose company does the environmental consulting for the project, provided details of the proposal for the 748 kilowatt solar PV array within a fenced area. The array would take up an area of 3.1 acres. Another parcel of about 1.9 acres would be cleared so as to eliminate any shading on the array. The project requires that they get a post closure use permit for Mass DEP (Department of Environmental Protection). DEP requires a minimum of 2 feet of soil to cover over the waste, so there will be grading which will promote drainage. There are two wetland areas on the site, Willow Creek Road will be extended to provide access to the array. Blocks will be placed on the landfill as they cannot penetrate through it. The large blocks prevent overturning. DEP also requires a geotechnical analysis that shows the weight of the blocks. There are 2340 modules proposed, each measuring about 3x5 and each rack has 20 modules. A fence will surround the array for security reasons and compliance with the National Electric Code.

CS asked if there had been any issues regarding panels reflecting light. Mr. Niles said that there is a reflective coating which absorbs light, and not reflects it. SLC asked about snow covering the panels and it was explained that the panels are elevated with the lowest part between 2.5 and 3 feet off of the ground, and that it is not often that snow accumulates to bury the panels. The panels do not generate heat.

There was a brief discussion regarding the provisions of the lease, power purchase agreement and bond as well as the Post Closure Use Permit required by DEP. Detailed information was provided in the application.

There was no correspondence.

CS made a motion to close the public hearing. SLC seconded the motion and the Board voted to agree 5-0.

CS made a motion to grant the petition for Site Plan Approval. EB seconded the motion and the Board voted to agree 5-0, stating that the petition met all of the requirements.

Minutes: June 15, 2016-RF made a motion to accept the minutes as published. SLC seconded the motion and the Board voted to approve 5-0.

Respectfully submitted,
Peggy Ammendola