



## PLANNING BOARD

Town of Ayer

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### Minutes of December 13, 2022 - Ayer Planning Board Meeting

Location: First Floor Meeting Room, Ayer Town Hall

Meeting was recorded and then broadcasted on APAC

**Members Present:** Jonathan Kranz, Chairman, Ken Diskin, Vice Chairman; and Geof Tillotson, Clerk, and Nathan King

**Also Present:** Mark Archambault, Town Planner (via Zoom)

**Absent:** Julie Murray

Chairman Kranz called the meeting of the Planning Board to order at 6:18 PM.

#### General Business

##### Approve the Agenda

Chairman Kranz mentioned that there are a few items to add to the agenda under old/new business.

**At 6:18 PM Mr. Ken Diskin made a motion to approve the agenda as amended. Mr. Geof Tillotson seconded. No discussion. Unanimous vote to approve. (4-0-0)**

*Mr. Ken Diskin recused himself from the meeting.*

#### Discussion, Ayer Solar II update and review

*Present: Rohit Garg, Solar Company, Cal Goldsmith, GPR, Inc., Attorney Elizabeth Linden and Calvin Moore, Owner*

Chairman Kranz stated that he would like to have Mr. Cal Goldsmith go through the site as it is now and how that differs from the approved plans and the next steps for the site.

Mr. Cal Goldsmith mentioned that there was quite a lengthy discussion on the project while some of the Board members were out on site this morning. Mr. Goldsmith went over some of the changes to the site which include a new basin at the beginning of the solar array which will flow into the large basin located on site, the change in the location of the emergency turnaround and a few other small changes on site.

Chairman Kranz asked Mr. Goldsmith for a letter from the Fire Chief stating that the turnaround and grade of the driveway are adequate for emergency vehicles.

Mr. Goldsmith mentioned that their chief engineer has been in contact with Department of Public Works and the Fire Department on the changes on site.

Chairman Kranz requested a letter from the Fire Department stating their opinion on the road.

Mr. Goldsmith continued to go over the changes in the stormwater management on site that differ from the approved plans. Mr. Goldsmith stated that the stormwater is designed for major events and is functioning as designed.

Mr. Goldsmith mentioned that as part of his discussions with Mr. Dan Van Schalkwyk, Director of the Department of Public Works, he has requested that the guardrail be extended from Washington Street down the access road to the swing gate for public safety. Mr. Goldsmith mentioned there will also be some signage on site for entering and exiting the site.

Mr. Rohit Garg mentioned that the signs have been ordered and need to be installed.

Mr. Goldsmith mentioned that the stormwater is functioning, and the site is stable, and there are weekly monitoring inspections conducted by Epsilon and there are weekly reports submitted from those inspections.

Mr. Goldsmith mentioned that there are some minor items to be done on site including the guardrail, swing gate and some ledge that need to be removed for the drainage ditch leading to the large basin. '

Chairman Kranz stated that there is a cease and desist on site that needs to be resolved this evening which is why the item is before the Board.

Mr. Garg mentioned that the guardrail and swing gate can be installed early next week, and the ledge may take a little longer due to getting equipment on site.

Mr. Goldsmith mentioned that the speed bumps on the paved section of road have not been installed due to cold weather and will be completed in the warmer weather. The trees for the tree box filter are in the GPR offices and will be installed in spring.

Mr. Tillotson had a few questions regarding rip rap and drainage swales on the right side of the road.

Mr. Garg mentioned that there is some topsoil on site to place between the tree box filters.

Mr. Goldsmith mentioned that the solar array will be graded and seeded in the spring.

Chairman Kranz went over the list of items to be completed in the spring which include: the speed bumps in the paved roadway, trees in the tree box filters, restore landscaping between tree box filters and finish grading and seeding the array.

Mr. Goldsmith also mentioned that there is fill that is also needed along the entrance.

Mr. Tillotson asked if the retaining wall has been completed.

Mr. Goldsmith stated that it has been.

Chairman Kranz mentioned that the retaining wall needs to be inspected by the Building Commissioner.

Mr. Garg stated that he will contact the Building Commissioner to come out and inspect the wall now or in the spring to see the location of the tie backs.

Mr. Goldsmith gave the Board members an itemized list of the items to be completed with a cost breakdown.

Conservation Agent, Heather Hampson, added there is additional work that needs to be completed on the large stormwater basin in order to meet Stormwater standards.

Mr. Goldsmith stated that they can add that to the list of work for the spring as the basin just needs to be seeded.

The Board reviewed the list and cost breakdown with Mr. Garg and Mr. Goldsmith.

Mr. Archambault stated that the Building Commissioner issued the cease and desist, and suggested that the Board make a motion to lift the cease and desist subject to the list of items to be completed as discussed this evening.

Mr. Tillotson went over the list and the cost breakdown of the completion of the items which totals \$10,500.

Mr. Archambault also asked the Board if they feel an amended site plan be submitted for the project given the number of changes on site.

Mr. Goldsmith stated that they are in the process of drafting a construction record plan that would be redundant of any site plan modification plan as they are the same thing.

Mr. Archambault agreed.

Mr. Goldsmith mentioned that having another Site Plan Review would be redundant as the construction record plans will show everything needed. Mr. Goldsmith stated that as part of the Site Plan Approval a Certificate of Completion is mentioned that would be the natural close to the project instead of going through the approval process again.

Chairman Kranz asked if the construction record plan serve as the as built plans.

Mr. Goldsmith stated that they do, and the site has already been surveyed and are just waiting for the guardrail and swing gate to be installed so that they can provide the Board with a full construction record plan (showing the topography of the entire site showing what was built and all the tie in of all the pipes), which is a stamped plan from their office will show everything that is on site. At that time, the Board can review it to ensure all the items are complete and then issue a Certificate of Completion with the list of items to still be completed.

Mr. Archambault suggested that the Board vote to lift the cease and desist.

**At 6:48 PM Mr. Geof Tillotson made a motion to request the Ayer Building Commissioner to lift the cease and deist issued on December 1, 2022 to the project known as Ayer Solar II located on**

**Washington Street issued to Ayer Solar II, LLC and GPR subject to the list of items to be completed as discussed at the Planning Board meeting on December 13, 2022 and the additional items listed by Mr. Cal Goldsmith provided to the Board. Mr. Nathan King seconded. No discussion. Unanimous vote to approve. (3-0-0)**

Mr. Archambault mentioned that he will draft a letter with the motion and list of items to be completed that will be sent to the Building Commissioner.

Mr. Nathan King had a few questions on the project including when they will be requesting the Certificate of Completion.

Mr. Goldsmith stated the Board placed a condition in the approval requiring a Certificate of Completion be issued before the power can be turned on the solar array. Mr. Goldsmith mentioned that the condition is not one they have ever received before and would like to be able to receive the Certificate as soon as possible, once they receive the construction record plans. Mr. Goldsmith went over the request for covenant release which replaces the covenant on the property with a bond amount for the work to be completed which is \$10,500.

Chairman Kranz asked if they are looking for the Certificate now or in the spring.

Mr. Goldsmith is not sure but is looking for release of covenant with the bonding amount to be posted and hopes that the Certificate can be issued on that and not wait till the spring due to financial hardship.

Chairman Kranz asked Mr. Archambault if releasing the covenant allow for the power to be turned on or does the Certificate of Completion need to be issued.

Mr. Archambault stated that is a question for Town Counsel to answer.

Mr. Goldsmith stated that they are looking for the release of the covenant with the posting of bond which they feel is sufficient enough to issue the Certificate of Completion.

Mr. Tillotson stated that the road is mostly constructed and there is a decommissioning bond separate from the bond Mr. Garg is stating he will issue. Given the constraints of the project and the weather becoming colder, construction is at a standstill. Mr. Tillotson stated if the project is substantially complete it would be a true burden to not let the applicant connect the project to start generating power.

Chairman Kranz stated that he has two issues one can the Board come to an agreement on the bond amount with out DPW review.

Mr. Tillotson stated that he was fine with the breakdown of costs provided.

Mr. Nathan King stated that if releasing the covenant and accepting the bond is seen as allowing the power to be turned on for the array, he cannot agree to that this evening. Mr. King said that he needs to know what will allow the power to be turned on the release of the covenant or the issuing of the Certificate of Completion.

Mr. Garg mentioned that the back when the project was first approved the bond amount suggested by then DPW Superintendent, Mr. Mark Wetzel, was substantial. An agreement was made not to turn the power on until the road is substantially built, at which time they could come back to the Board and post a bonding amount to allow the power to be turned on. Mr. Garg mentioned that is why they are before the Board this evening.

Mr. Tillotson mentioned that when the project was first proposed there were plans to put two ANR lots on site which created an issue with the bond amount.

Mr. King stated that the bond is not his main concern. Within the Site Plan approval under General Conditions 11D, the applicant must provide information that all work is completed to approved plans. Mr. King stated that the Board needs that condition met and has something in writing showing that it is all complete.

Mr. Goldsmith stated that they can provide that to the Board.

Mr. King stated that until the Board can get that they should not release the covenant. Mr. King stated that there are 27 General and Special Conditions and the Board should receive a letter from the applicant or their representative stating that all the conditions have been met.

Attorney Linden stated that the letter from GPR with the bond amount breakdown should act as a punch list of items to be completed.

There was a brief discussion regarding National Grid on-site testing that did not occur due to the cease and desist.

Chairman Kranz stated that if Board allows for the power to be turned on the only leverage they have on the project for completion is the bond amount of \$10,500. Chairman Kranz expressed concern regarding the lack of communication regarding the site and its construction and would feel better about having the letter pertaining to the conditions as Mr. King suggested before releasing the covenant.

Mr. Archambault informed the Board that there is a meeting scheduled in two weeks at which the Board can meet with the applicant and their representatives again.

Chairman Kranz mentioned that he would like the letter on the conditions and the letter from the Fire Department at that meeting.

Mr. King asked what the status of the construction record plans was.

Mr. Goldsmith stated that if they can get the guardrail installed, they may be able to get the plans to the Board for next meeting.

Attorney Linden spoke to the Board about the difference between the covenant and the Certificate of Completion. Attorney Linden stated that the covenant is partially related to the residential development part of the project that was supposed to take place; it references Section 81U in Chapter 41, which is the Subdivision Control Law. Under Chapter 41 the covenants are changed from time to time due to the work completed. Section 81U states the method of which the covenant is placed and can be verified by the applicant. Attorney Linden stated they are asking that instead of holding up the financing aspect of

the project, they replace remaining items under the bond amount and release the covenant allowing the applicant to move forward financially with the project, and request that it be done this evening.

Mr. Goldsmith stated that they can provide the items that Mr. King is requesting prior to the issuance of a Certificate of Completion but allow Mr. Garg to move forward with the project with the bond in place as surety the project will be completed. Mr. Goldsmith mentioned that the Board could request more money in bond if they feel it is necessary.

Attorney Linden mentioned that the Board could ask for more money to account for the cost of inflation in case the Board does need to be the one to complete the work. Attorney Linden stated that Mr. Garg is dedicated to completing the work and will do so in the spring.

Several Board members expressed concern for allowing the electricity to be turned on and then not having the project completed. There have been a number of concerns on the site both through the permitting process and through construction and the Board does not want to see the project not completed.

There was a brief discussion on the bonding process and the amount to be posted, and the amount of clean energy the project will produce.

Mr. Tillotson stated that he feels compelled to allow the power to be turned on and release the covenant this evening.

Mr. King stated that the Board should wait, stating that he has concerns with the project being completed to satisfy the plans.

Attorney Linden stated that the Board could condition the release of the covenant upon receipt of the cash bond amount, letter from the Fire Department on the road conditions and the letter stating all the conditions of the Site Plan have been met.

The Board had a discussion on the proposed conditions to release the covenant.

**7:21 PM Mr. Geof Tillotson made a motion to release the Certificate of Completion covenant and accept the offer of the bond with all items listed and the amount of \$10,250 as stated in the letter dated December 13, 2022, contingent upon the receipt of the letter from the Fire Department addressing the turnaround and slope of the road, letter addressing Condition 11d of the Site Plan approval, to the Town Planner. Chairman Kranz seconded.**

**Discussion: Mr. King asked if this would allow the applicant to turn on the system. Chairman Kranz stated that it did. Mr. King stated that he would prefer to discuss the matter on the 27<sup>th</sup>.**

**Vote: 2-1, Mr. King voted nay.**

*Mr. Diskin returned to the meeting.*

#### **Discussion, Zoning Bylaw Housing**

*Present: Janet Providakes, Affordable Housing Committee*

Ms. Janet Providakes, from the Ayer Affordable Housing Committee, went before the Board this evening to request a working group be created to work on new Zoning to allow for smaller houses and building

lots. These smaller houses and building lots will help create more affordable housing within the Town of Ayer.

Chairman Kranz agreed that this is exactly something that the Board should be working on and would like to set up a group to go over these items.

#### **Discussion - 99 Fitchburg Road, Road Striping**

Chairman Kranz mentioned that Department of Public Works Director, Dan Van Schalkwyk, contacted him regarding the Special Condition in the Site Plan approval for 99 Fitchburg Road regarding road striping. Chairman Kranz informed the Board that the striping condition was placed in the approval to keep trucks from driving down Groton Shirley Road unless there is a delivery on that road. Chairman Kranz mentioned that Mr. Van Schalkwyk is looking for guidance on the striping.

Mr. Diskin read through the findings and the Special Condition in the approval that mentioned the need for striping. Mr. Diskin stated that the striping is for directional purposes for vehicles entering and leaving the property.

Mr. Tillotson mentioned that the need for striping was also for public safety and would recommend that the striping that is proposed be reviewed by the Police and Fire Department to ensure it meets public safety.

#### **Discussion – Request for Proposal (RFP), Stratton Hill**

Chairman Kranz stated that Mr. Archambault sent a revised RFP to the Board earlier and wanted to review the document to finalize it this evening.

Mr. Mark Archambault stated that he revised the RFP to include all the comments from the last meeting including offsite improvements and traffic study review. Mr. Archambault mentioned that he feels the RFP is in good shape and hopes the Board will finalize and approve it this evening so that he can send it out for requests.

The Board went through the draft RFP page by page and discussed some edits and comments they had with the document. Mr. Tillotson added the comments and changes to the draft and will send them to Mr. Archambault to edit the draft before it is sent out for approval.

#### **Town Planner Update**

Mr. Archambault mentioned that there will be a public hearing at the next meeting on December 27<sup>th</sup> for an addition at Nasoya which includes a Site Plan Review, Stormwater Management Permit and a Special Permit for work within the aquifer overlay district.

#### **Meeting Minutes October 25, 2022**

**At 7:57 PM Mr. Ken Diskin made a motion to approve the meeting minutes from the October 25, 2022, meeting as amended. Mr. Geof Tillotson seconded. No discussion. Unanimous vote to approve. (4-0-0)**

**Meeting Minutes November 22, 2022**

At 7:57 PM Mr. Geof Tillotson made a motion to approve the meeting minutes from the November 22, 2022 meeting as amended. Mr. Nathan King seconded. No discussion. Unanimous vote to approve. (4-0-0)

**Old and New Business**

**MRPC (Montachusett Regional Planning Coalition)**

Mr. Tillotson gave the Board a brief update from the last MRPC meeting.

**Meeting Adjournment**

At 8:06 PM Mr. Geof Tillotson made a motion to adjourn.

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Minutes recorded and submitted by Heather Hampson, Administrative Coordinator

Planning Board Approval \_\_\_\_\_  
Date

Planning Board Chairman (Jonathan Kranz)

 3/10/23  
\_\_\_\_\_  
Date