Zoning Board of Review Meeting
Tuesday, June 9, 2020
Municipal Offices Courtroom
100 Fairway Dr.
North Kingstown, RI 02852

Please note this is a video conference with conference instructions listed below
7:00 Pm

Agenda

Please Note:
To protect the health and well-being of our citizens during the COVID-19 emergency, and in accordance with the Governor’s Executive Orders, public attendance will not be permitted. The June 09, 2020 Zoning Board meeting can be watched live, online, through the following link:

https://us02web.zoom.us/j/89322871488?pwd=WStTeGFyY2p3VGdjNUIpTXNqWHpPdz09

Meeting ID: 893 2287 1488  Password: 744247

Or utilizing this phone number: US: +1 929 436 2866 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 301 715 8592 or +1 346 248 7799 with Meeting ID and Password (above)
For members of the public, once you enter the call, you will be placed on mute until a request for comments is made. A moderator will manage the order of the calls and will unmute the calls one-by-one.

You may also email comments to nlafontaine@northkingstown.org. Include your name, address, and statement. Only comments including all required information will be read into the record.

1 Call to Order

2 Pursuant to RIGL 42-46-6(c), notice of this meeting has been posted on the Secretary of State’s website

3 Minutes

3.a May 26, 2020
zbr_minutes_052620 done draft.pdf

4 New Business

5 Old Business

5.a Request by North Kingstown Solar, LLC, 111 Speen Street, Framingham, MA 01701 for the approval of special use permit(s) to allow for installation of a solar photovoltaic facility in accordance with Articles III: Land Use Table and XII: Miscellaneous Provisions: Section 21-323: Solar Energy Systems located on Open Space (OS), Plat 67 Lot 54 at 170 Hamilton Allenton Road, North Kingstown and zoned Rural Residential (RR) Property owned by Chestnut Farm LLC, 567 South County Trail, Suite 111, Exeter RI 02822. (cont'd from 1/28/20, 02/25/20 & 04/14/20 meetings.)
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zbr_minutes_022520.pdf

6 Adjournment

THE TOWN OF NORTH KINGSTOWN WILL PROVIDE INTERPRETERS FOR THE DEAF AND HARD OF HEARING AT ANY MEETING PROVIDED A REQUEST IS RECEIVED THREE (3) DAYS PRIOR TO SAID MEETING BY CALLING 294-3331, EXT. 120.
Zoning Board of Review Agenda Item Report

Submitted by: Beth Gagnon Glasberg
Submitting Department: Planning and Development/Zoning
Meeting Date: June 9, 2020

Agenda Action:
May 26, 2020

Motion:

ATTACHMENTS

- zbr_minutes_052620 done draft.pdf
The North Kingstown Zoning Board of Review convened at Municipal Offices Court Room, 100 Fairway Dr., North Kingstown, RI

The following members were present:

John v. Gibbons, Jr.
David McCue
Patricia O’Connor-Siegmund
Robert O’Neill
Randy Wietman

Mr. John Marth and Ms. Lemieux was excused.

Also, in attendance were Supervising Planner Maura Harrington and Town Solicitor Matt Callaghan.

To protect the health and well-being of our citizens during the COVID-19 emergency, and in accordance with the Governor’s Executive Orders, physical public attendance was not permitted. The meeting was aired online. Public comment was allowed through a moderator.

Mr. Wietman welcomed all to the May 26, 2020 Zoning Board of Review meeting to order.

Minutes

January 14, 2020
January 28, 2020
February 11, 2020
February 25, 2020

Mr. Wietman called for a motion to approve the January 14, 2020, January 28, 2020, February 11, 2020, and February 25, 2020 Zoning Board meeting minutes draft(s) into the record. Mr. Gibbons moved. Dr. O’Neill seconded. All voted aye. The minutes were approved 5-0.

Request by Green Care RI, LLC of 90 Liberty Rd, Exeter 02822 for the approval of a special use permit for a medical marijuana cultivation center in existing condominium unit C5 located at 440 Dry Bridge Road, North Kingstown, RI 02852 Plat 79 Lot 151 zoned Light Industrial (LI) and located within the Groundwater One (GW1) overlay in accordance with Article III: Land Use Table: Agricultural (10)Medical Marijuana (c)Medical Marijuana Cultivation Center(ii) Class A (0-5,000 sq. ft.) and Article XII: Miscellaneous Provisions- Section 21-325(24): Development Standards for Certain Uses: Medical Marijuana Cultivation.

Mr. Wietman stated this proposal is for a Special Use Permit for a marijuana cultivation center in a workplace condominium located on Dry Bridge Rd. The lot is zoned Light Industrial (LI) which allows this use through a Special Use Permit. This condominium unit is located adjacent to two units permitted for this same use. The applicant intends to own all three of these units increasing the operation to approximately 3400 sq. ft.; this size is within the Class A license sq. ft. limit.

Mr. John Kupa, representing the applicant Mr. Alex Monstrelis took the floor.

He told the Board no construction will take place as part of this proposal. There will be no signage. The entire use will be contained within the building.

The Planning Commission reviewed the application and has provided a positive recommendation.

The odor requirements for the Department of Regulations are strict and these units will be designed by an architect with experience in this field to ensure there are no odor emission problems. The DBR has specific requirements and facilities must be inspected. The architect, Mr. Stanzer testified in the fall about his company’s odor emission system – this same system will be used with this unit.

Mr. Kupa invited Ms. Amy Sonder to the floor. Ms. Sonder surveyed the site and area.

Mr. Kupa asked that she be accepted as an expert witness.

Mr. Wietman said Ms. Sonder has appeared as an expert witness before this Board on numerous occasions.

She was sworn in.
Ms. Sonder testified that the condominium is located 494’ from the nearest residential property; over 1000’ from the nearest school; the nearest residential structure is a quarter of a mile away. All within the required criteria of the Town Ordinance.

Mr. Kupa addressed the development standards. He said:

- The applicant will not use any compressed flammable gases in the extraction process.
- The property is located approximately 2 miles from any public or private school per Ms. Sonder’s testimony.
- The facility is over 400’ from any residential structure. Ms. Sonder testified the nearest structure approximately a quarter of a mile away.
- Lighting will be directed down in a manner to illuminate the exterior of the building and parking area. The Police Chief can also designate lighting.
- A security plan is in place. The Police Chief has a copy of the plan.
- There will be no change to loading and parking facilities.
- There is a Purchase and Sale agreement in place.
- The applicant has supplied Letters of Intent to the Fire Chief, the Police Chief, and the Building Official.
- He said all functions of the use will be in the interior of the building.
- All excess irrigation water is trapped and stored. Mumford Services will take the water from the storage tank and bring it to an appropriate disposal site.

Mr. Kupa noted that the property is located within the Town Groundwater Overlay; there will be no storage of toxic or hazardous materials (no more than 10 gallons of fertilizer will be occasionally stored); there will be no floor drains. There will be no groundwater withdrawals.

All best management practices will be utilized for this use.

The units, the parking and loading facilities, the nitrate and nitrogen loading, all sewage disposal, water source and storm water management were approved by the Planning Commission during the Development Plan in 2004.

Dr. O’Neill asked for clarification on whether odor inspections are done annually.

Mr. Kupa said that there is an initial inspection; after that, inspections are done annually. The RI Department of Business Regulation requires “annual inspections”, odor emissions are part of those inspections.
With no further questions or comments Mr. Wietman asked Mr. Callaghan if the Board could accept Mr. Kupa’s referenced development standards as part of the record.

Mr. Callaghan responded yes.

Mr. Kupa requested that the Board also allow previous testimony from Mr. Statzer, of Urban-Gro and previous testimony from Mr. McGeorge, of McGeorge Architecture.

Mr. Wietman moved to accept the standards and testimony of Mr. Statzer and Mr. McGeorge into the record.

Mr. McCue seconded. All voted aye.

Mr. Wietman then opened the floor to public comment.

With no comment from the public, Mr. Wietman motioned to close the meeting to public comment.

Dr. O’Neill seconded. All voted aye.

Mr. Wietman then called for findings of fact.

Dr. O’Neill stated this is a request by Green Care RI, LLC of 90 Liberty Rd, Exeter 02822 for the approval of a special use permit for a medical marijuana cultivation center in existing condominium unit C5 located at 440 Dry Bridge Road, North Kingstown, RI 02852 Plat 79 Lot 151 zoned Light Industrial (LI) and located within the Groundwater One (GW1) overlay in accordance with Article III: Land Use Table: Agricultural (10) Medical Marijuana (c) Medical Marijuana Cultivation Center(ii) Class A (0-5,000 sq.ft.) and Article XII: Miscellaneous Provisions- Section 21-325(24): Development Standards for Certain Uses: Medical Marijuana Cultivation.

He said that Attorney John Kupa spoke on behalf of the applicant; engineer/surveyor Amy Sonder; owner Alex Monstrelis also testified.

Mr. Monstrelis spoke about the ventilation system and the water usage and drainage.

This application was reviewed by the Town’s Planning Commission, which they supported and recommended to the Zoning Board.

The requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. It was noted by Ms. Sonder that there is no property less than 400 sq. ft. away. The property is zoned Light Industrial (LI). The proposed unit is in the same building as this applicant’s other two units.
The special use permit is reasonably necessary to serve the public convenience and welfare. The emphasis is on the availability of medical marijuana.

The granting of a special use permit will not pose a threat to the drinking water supply. As Mr. Monstrelis indicated and Mr. Kupa pointed out, the addition to this building will only necessitate another 108 gallons of water a day. All used water is collected after usage and removed by Mumford Services and eliminated at an appropriate resource.

The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare, or air pollutants. Mr. Kupa indicated that there is an agreement between the owner(s) and the Town Police. There will be dark-sky lighting. No additional noise will be created.

Sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately handled on site. As said previously any unused water will be treated, collected, and removed.

The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. The same three employees will be utilized. There are an additional two parking spaces which will most likely be used minimally.

Accessory signs, off-street parking and loading area and outdoor lighting are designed and located in a manner which complements the character of the neighborhood. There are no increases of signs, off-street parking. As said, the lighting will be cleared by the Police Department. Also noted, this will cause no change to this Industrial use zone property.

In addition to the criteria in subsections (1) through (7) of this section, in the case of a special permit, the board shall require evidence that the requested use will have a lesser undesirable impact upon the surrounding area than the preceding nonconforming use. The prior use was not non-conforming; it was legal.

With that, Dr. O’Neill proposed these as the Board’s findings of fact for this requested Special Use Permit.

Mr. Wietman moved. Mr. Gibbons seconded. All voted aye. The motion carried.

Mr. Wietman then stated there are a couple of conditions.

Dr. O’Neill added that approval of these findings includes conditions that:

All development shall be in strict conformance with the details submitted as part of this application unless minor modifications are approved administratively by the Planning Department
And, lighting details shall be approved administratively with the Police Department to satisfy requirements.

With that, he recommended that the Board grant the application of Green Care RI, 90 Liberty Rd., Exeter, RI for a Special Use Permit for a Class A medical marijuana cultivation center in accordance with Article III: Land Use Table: Agricultural (10)Medical Marijuana (c)Medical Marijuana Cultivation Center(ii) Class A (0-5,000 sq.ft.) (as stated by Ms. Sonder, this facility will not be close to 5000 sq. ft.); and Article XII: Miscellaneous Provisions- Section 21-325(24): Development Standards for Certain Uses: Medical Marijuana Cultivation. The location is 440 Dry Bridge Rd., Plat 79 Lot 151. Again, approval comes with the previously noted conditions.

Mr. Gibbons seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (by roll call).

**Adjournment**

With no further business, Mr. Wietman entertained a motion to adjourn.

Mr. Gibbons moved. Dr. O’Neill seconded. All voted aye. The meeting was adjourned at 7:50 PM.
Zoning Board of Review Agenda Item Report

Submitted by: Nicole LaFontaine
Submitting Department: Planning and Development/Zoning
Meeting Date: June 9, 2020

Agenda Action:
Request by North Kingstown Solar, LLC, 111 Speen Street, Framingham, MA 01701 for the approval of special use permit(s) to allow for installation of a solar photovoltaic facility in accordance with Articles III: Land Use Table and XII: Miscellaneous Provisions: Section 21-323: Solar Energy Systems located on Open Space (OS), Plat 67 Lot 54 at 170 Hamilton Allenton Road, North Kingstown and zoned Rural Residential (RR) Property owned by Chestnut Farm LLC, 567 South County Trail, Suite 111, Exeter RI 02822. (cont'd from 1/28/20, 02/25/20 & 04/14/20 meetings.)

Motion:

ATTACHMENTS
• zbr_minutes_012820.pdf
• zbr_minutes_022520.pdf
The North Kingstown Zoning Board of Review convened at Municipal Offices Court Room, 100 Fairway Dr., North Kingstown, RI

The following members were present:

John v. Gibbons, Jr.
Elaine Lemieux
David McCue
Patricia O’Connor-Siegmund
Robert O’Neill
Randy Wietman

Mr. John Marth was excused.

Also, in attendance were Planning Director Nicole LaFontaine and Town Solicitor Matt Callaghan.

Mr. Gibbons said good evening and called the January 28, 2020 Zoning Board of Review meeting to order.

**Election for Chair and Vice Chair**

Mr. Gibbons welcomed all to the January 28, 2020 Zoning Board of Review meeting.

He said the first item was the election of a new chair and vice-chair. He then moved to nominate Mr. Randy Wietman for the Chair.
Ms. Siegmund seconded. All voted aye.

Mr. Gibbons then entertained a motion to appoint a Vice Chair. Mr. Wietman moved to appoint Mr. John Gibbons the Vice Chair.

Ms. Lemieux seconded. All voted aye.

The new Chair and Vice Chair appointments will happen at the next Board meeting.

Decision of Peter Young, 110 Oak Hill Rd, North Kingstown, RI 02852 for a special use permit to convert an existing garage to an accessory dwelling unit and a dimensional variance for relief from the minimum lot size requirements in accordance with Article IV: Dimensional Regulations: Table 2A:Residential Districts and Article XII: Miscellaneous Provisions: Section 21-325 (7) Accessory Dwelling Units of the zoning ordinance located at 110 Oak Hill Rd., Plat 085 Lot 051 and zoned village residential (VR).

Mr. Gibbons called the agenda item for the decision of Peter Young, 110 Oak Hill Rd, North Kingstown, RI 02852 for a special use permit to convert an existing garage to an accessory dwelling unit and a dimensional variance for relief from the minimum lot size requirements located at 110 Oak Hill Rd., Plat 085 Lot 051.

Mr. Wietman said that the vote was taken on this matter on January 14th; it has been recorded to the Town Clerk’s office. He moved that the Board approve the decision of Peter Young, 110 Oak Hill Rd.

Mr. McCue seconded. Ms. Lemieux, Mr. Wietman, Mr. Gibbons, Ms. Siegmund and Mr. McCue voted aye. Dr. O’Neill was not present at the meeting on the 14th, he abstained. The motion carried.

Decision of Mandeville Sign Co. on behalf of Dynamic Properties, LLC, 676 George Washington Highway, Lincoln, RI 02865 for the approval of dimensional variances for the refurbishment of an existing directory sign with three (3) sign panels in excess of the allowed 8 sq. ft. in accordance with Article X: Signs: Sections 21-242: Definitions and Section 21-249 (a) (4): Requirements by Zone and Type of Sign- Directory Signs of the zoning ordinance located at 7406-7418 Post Road., Plat 138 Lot 110 and zoned Post Road (PR).

Mr. Gibbons moved onto the next agenda item. He called for a motion for the decision of Mandeville Sign Co. on behalf of Dynamic Properties, for the approval of dimensional variances for the refurbishment of an existing directory sign with three (3) sign panels in excess of the allowed 8 sq. ft. located at 7406-7418 Post Road., Plat 138 Lot 110.

Mr. Wietman said this has been recorded at the Town Clerk’s office; he moved to approve the decision of January 14th for Mandeville Sign Co. on behalf of Dynamic Properties.
Ms. Lemieux seconded. Ms. Lemieux, Mr. Wietman, Mr. Gibbons, Ms. Siegmund and Mr. McCue voted aye. Dr. O’Neill was not present at the meeting on the 14th, he abstained. The motion carried.

Mr. Gibbons signed the decisions.

**Decision** of William J. Simeone & Melinda W. Stephenson, 4815 Palmetto Street, Bellaire, Texas 77401 for the approval of dimensional variances in accordance with Article IV: Dimensional Regulations: Table 2A: Residential Districts and Article XII: Miscellaneous Provisions: Section 21-311 (f): Land Nonconforming by Area or Other Dimensional Requirements for relief from side yard setback requirements for the construction of a second floor addition to the existing dwelling and the construction of two pergolas to the exterior of the dwelling for plat 091 Lot 117 located at 31 Newport Ave, North Kingstown, RI 02852 and zoned village residential (VR).

Mr. Gibbons then called the decision of William J. Simeone & Melinda W. Stephenson, for the approval of dimensional variances for relief from side yard setback requirements for the construction of a second floor addition to the existing dwelling and the construction of two pergolas to the exterior of the dwelling for plat 091 Lot 117 located at 31 Newport Ave.

Mr. Wietman said this has been recorded at the Town Clerk’s office; he moved to approve the decision of January 14th.

Ms. Lemieux seconded. Ms. Lemieux, Mr. Wietman, Mr. Gibbons, and Mr. McCue voted aye. Ms. Sigmund was opposed. Dr. O’Neill was not present at the meeting on the 14th, he abstained. The motion carried.

Mr. Gibbons signed the decisions.

**Request** by North Kingstown Solar, LLC, 111 Speen Street, Framingham, MA 01701 for the approval of special use permit(s) to allow for installation of a solar photovoltaic facility in accordance with Articles III: Land Use Table and XII: Miscellaneous Provisions: Section 21-323: Solar Energy Systems located on Open Space (OS), Plat 67 Lot 54 at 170 Hamilton Allenton Road, North Kingstown and zoned Rural Residential (RR) Property owned by Chestnut Farm LLC, 567 South County Trail, Suite 111, Exeter RI 02822.

Mr. Gibbons called the next agenda item. Request by North Kingstown Solar, LLC, 111 Speen Street, Framingham, MA 01701 for the approval of special use permit(s) to allow for installation of a solar photovoltaic facility located on Open Space (OS), Plat 67 Lot 54 at 170 Hamilton Allenton Road zoned Rural Residential (RR).

Mr. John Kupa, Esq. came forward as representative for the applicant(s). He told the Board they would be hearing from Mr. Joseph Casali who acts as engineer and surveyor for this project; Mr. Raymond Hanna, Ameresco representative; Mr. Robert Jackson, Director of Development for Ameresco; and, Mr. Ed Pimental, Planning Consultant.
Mr. Kupa gave a brief history of this project. The applicants applied for a Special Use Permit on May 1, 2018, for a free-standing solar energy system—an allowed use permit under the Ordinance amendment passed in January 2018. However, the Town would not determine the application complete prior to an Amendment to the Ordinance; the parties litigated the matter until a decision in the applicants’ favor on November 22, 2019.

On June 22, 2012, the Town Planning Commission issued final plan approval for the Hamilton-Allen Condominium development. An Open Space Easement and Covenant upon the open space was recorded in February 2013; this Covenant allows for solar use at the property.

With that said, Mr. Kupa called Mr. Casali to be sworn in.

Mr. Kupa asked that Mr. Casali be established as an expert witness based on this resume (exhibit #1).

Mr. Casali presented project points:

The property is located off Hamilton Farm Rd. on 27.12 acres of privately-owned open space behind the Hamilton Farm Condominiums. The property has no frontage on Hamilton Allenton Rd. (which is a distance of 480’ from the subject property). The solar array itself will be 1160’ from Hamilton Allenton Rd.

The project will provide for adequate emergency vehicle access; there will also be two parking spaces in place.

Mr. Kupa stopped Mr. Casali here to introduce a December 17, 2019 letter to Greg A. Pariseaultz, North Kingstown Fire Marshal, which states the access route to the solar field will provide the fire department with adequate access in the event of an emergency. The letter was put into record as exhibit #2.

Mr. Casali continued.

The panels will not exceed 16’ in height.

All panels, equipment, and structures will meet the Town’s setback requirements.

All equipment is designed to be screened from street view.

The system is designed to prevent reflective glare on adjacent properties.

The plan shows the delineated wetlands and stream tributaries—the project must maintain a buffer of 50’ from the wetlands and 100’ from the tributaries.

He noted the historic cemetery on the property. This proposal will have no adverse effect on the cemetery.

Above ground poles will be kept to the minimal extent possible. There will be one pole at Hamilton Allenton Rd., then go below ground until they meet the wetlands; they will then be installed above ground, run the (curvature) of the wetlands and then underground again.

A 7’ black vinyl coated wire fence will enclose 7.29 acres will be installed for security and viewshed protection.

Drainage will be handled by Best Management Practices.

Mr. Casali finished saying that if the Special Use Permit is granted, an application will be made to RI DEM for freshwater wetlands permit.
Zoning Board members Mr. Gibbons and Mr. Wietman had questions about the number of poles above-ground and the view the condominium residents will have of the panels.

Mr. Casali responded that there will be 1 above-ground pole at Hamilton Allenton Rd and Hamilton Farm Rd.; there will be 7 poles above-ground at the wetlands area (these will be approximately 30’ from the condominium property). He said that with tree sightlines and the fence, the panels would be unseen.

Ms. Lemieux asked if any forest or wildlife studies had been done.

Mr. Casali answered that they will wait for RI DEM wetland determination, which would note the requirement of wildlife study. He does not think the scope of this project will require the study; he thinks RI DEM will determine this as an insignificant alteration. He added that the panels and the fencing would be off the ground which will allow critter crossing.

Mr. Wietman asked how much of the 79 acres are proposed to be cleared.

Mr. Casali answered that the project will encompass only 7.92 acres – 25% of this will be cleared.

With no further member questions, Mr. Kupa asked Mr. Casali to clear up a few points.

Mr. Casali testified:

- Emergency plans have been submitted and approved by the Town Fire Marshal.
- No panel will exceed 6’ in height – the typical height is 12’ to 13’.
- All Town setback requirements are being met.
- The 7’ fence surrounding the field will be raised from the ground for a critter corridor.
- His opinion is that the project will not be seen from any street. The project will be 1175’ from Hamilton-Allenton Rd.
- The proposal will not interfere with any scenic overlay.
- The panels are designed to prevent reflection glare.
- There will be no threat to the public water supply.
- There will be no excessive noise per the transformer specification decibel levels.
- No light, glare or air pollutants will be produced for this project.
- There is no sewerage and no water use as part of this project. There will be only storm water, which will be handled on site.
- No proprietary signage is planned.
- All loading areas are to be located inside the facility.
- There will be plenty of off-street parking.
- The project is set far enough back to accommodate the character of the neighborhood.

Dr. O’Neill asked about lighting

Mr. Casali said that the only lighting will be emergency lighting – mostly motion-operated.

Ms. Lemieux asked what an emergency at this type of facility might be.
Mr. Casali said there may be a panel crack, someone trespassing or a fire.

Mr. Gibbons asked about the possibility of kids getting under the fence (raised for wildlife). He suggested the use of underground PVC piping to accommodate the critters.

Mr. Gibbons also asked about “Danger” and “Keep Out” signs.

Mr. Casali said there would be that type of signage – there would be no proprietary signage, such as company or project identification signs.

Mr. Wietman asked again about decibel levels.

Mr. Casali said that Mr. Hanna would be the best to address that, but he believes 50-60 decibel levels at the transformer and/or inverter would be all that would be heard (that decibel level is comparable to “heavy traffic”).

With that, Mr. Kupa called Mr. Raymond Hanna to the floor. He was sworn in. He told the Board he was an employee with Ameresco, an energy savings provider. He has worked with them for 10 years; 7 of those years in the construction and maintenance of solar arrays.

Mr. Hanna told the Board a bit about the construction process for this type of project. Land would be cleared; sediment erosion control measures would be installed; land would be destumped, graded and leveled; pile-driving and excavation for racking, panels and electrical components.
In response to the comment made by Mr. Gibbons about kids gaining access to the site, Mr. Hanna noted that the critter gap for the fencing is typically only 6” off the ground – safety is tantamount for Ameresco.

He said that typical timing for the construction phase on a project of this size would be 4-5 months.

Mr. Hanna then explained the process to embedding the conduit(s) underground. Would start outside the designated wetland area to the common pole at Hamilton-Allenton Rd. The underground network will run parallel to the road (Hamilton Farm Rd.); crossing driveways would require different procedures for different driveway materials. The driveways along Hamilton Farm Rd. would not be disturbed.
He then talked about the construction equipment and deliveries timeline. The equipment and delivery aspect of the project will taper dramatically after the operation is up and running. Four to eight maintenance visits would occur during the first year of operation, this mainly to see that all is up and running properly; after that first year, on average two visits would be made mainly for mowing and general equipment inspection.

Mr. Hanna did want to point out that the above ground poles would be approximately 30’ in height for accommodation of three phase wiring.
Dr. O’Neill asked if the equipment traffic using the private road might be noisy for the condominium owners, especially as the Town Ordinance allows work to begin at 7:00 AM.

Mr. Hanna answered that agreement could be made to shorten the daytime traffic from 9:00 AM to 2:00 PM; but that would add onto the numbers of days for deliveries would take.

Dr. O’Neill then asked if Ameresco would be willing to work with the Homeowner’s Association about appropriate delivery hours.

Mr. Hanna said Ameresco is willing to share their delivery schedule with the Homeowner’s Association.

Mr. Siegmund asked if this facility will be manned. She also asked who the electricity from the solar field would be supplied to.

Mr. Hanna said that the facility is not manned but is equipped with notification systems; the receiving end of this notification system is manned 24 hours a day. He then answered that the electricity produced from the field is dumped into the grid. He has no idea or control of where the supply goes.

Mr. McCue asked if the inserts in the fencing are secured to avoid breaking, loosening and flying everywhere.

Mr. Hanna responded that experience has taught Ameresco that a black vinyl fence is the most inconspicuous for this type of project. The fencing inserts for this type of fence are more rigid, thicker and are installed vertically to avoid just what Mr. McCue is talking about.

Ms. Lemieux asked as far as excavation is concerned, how much material does Mr. Hanna think will be removed from the site.

Mr. Hanna said none to a bare minimum – this is the #1 goal of Ameresco when excavating a site.

Ms. Lemieux asked if there was a dust mitigation plan.

Mr. Hanna said there is no plan, but practice minimizes dust – if there is any dust, it will be mitigated or “quashed” down.

Ms. Lemieux asked if the Homeowner’s would have to make a formal request to “quash” the dust.

Mr. Hanna said he did not think it would come to that. Dust control is a usual practice.

Ms. Lemieux asked about the entrance to Hamilton Farm Condominiums – was the 12’ road and opening going to be enough for the heavy equipment to get in and out of.
Mr. Hanna said it is enough.

Ms. Lemieux said that any changes to the road or opening should be noted and submitted as part of the plan.

Mr. Wietman asked when construction might begin. If in the spring, there will be a lot of mud created. He said he has walked along Hamilton Farm Rd. and it is pristine – how would Amersco/North Kingstown Solar take care of that.

Mr. Casali answered this one. He said that he is sure that RI DEM would most likely require this work to be done during a low flow time of year.

Dr. O’Neil asked who would be responsible if there is mud in the road.

Mr. Casali said that would be Ameresco/North Kingstown Solar responsibility.

Mr. Kupa added that could be a condition of approval.

Mr. Callaghan said that there may well be wear and tear on the private road – it must be restored to prior to construction condition. This should also be a condition.

Mr. Callaghan then asked about de-commissioning.

Mr. Hanna said that they would put up a bond – the site will be left in the same as it was prior to construction/installation.

Ms. LaFontaine noted that the Town Finance Director requires cash surety for solar projects.

Mr. Hanna said usually a percentage is put into cash surety; the rest is put into a bond.

Mr. Callaghan said that Mr. Kupa will have to make sure this is settled with the Town prior to a vote by this Board; it should be formally presented to the Board.

Ms. Lemieux asked for assurance that all equipment needed as part of the pole and wire installations will not have any effect on the private road.

Mr. Casali said that all construction related to that would happen along the road not on it.

Mr. Wietman said that a condition will be added to any approval that no construction vehicles or equipment will be parked along the private road.

Mr. Hanna agreed to this.

Mr. Kupa then called Mr. Robert Jackson to the floor. Mr. Jackson is the Director of Development for Ameresco. He had 12 years’ experience. He was sworn in.
Mr. Jackson testified that a pre-construction assessment or survey would be formally made prior to any construction. All would be documented thoroughly. If at any time, the Town or this Board has concern with what is happening to the road – it will be addressed.

Mr. Gibbons called for a copy of this assessment report to be submitted to the NK Planning Department.

With no further questions for Mr. Jackson, Mr. Kupa called Mr. Edward Pimental to the floor. He was sworn in.

Mr. Kupa said that Mr. Pimental has testified before this Board numerous times, he has also testified before Boards in every city and town in the state. He asked that Mr. Pimental be accepted as an expert witness.

He was.

Mr. Pimental told the Board that he works for government during the day, but he also has a Land Use Consulting business. He said he is skilled in a variety of neighborhood and commercial planning and zoning activities, frequently in a supervisory or managerial capacity. He stated that his purpose of his analysis is to evaluate the appropriateness of the proposed solar energy system project in order to establish it holds to the standards of the granting of a Special Use Permit; and, to render his professional opinion on the consistency of the overall proposal with the Town Comprehensive Plan.

Mr. Pimental testified that in his professional opinion this proposal will be consistent with the goals and objective of the Comprehensive Plan; and, therefore appropriate for the granting of a Special Use Permit. This project will be well incorporated into the overall fabric of the surrounding neighborhood – a non-intrusive land use that will be almost invisible, while providing clean efficient and less costly energy. He gave Comprehensive Plan Goal 2: “promote sustainable water and energy measures to conserve resources and reduce greenhouse gas emissions”; Policy numbers 4.5 and 4.6 as example of how this project consists with the Comprehensive Plan.

He then noted that if the applicant provides all requisite standards, which in this instance entails specific design standards pertaining to solar facilities then the development proposal must be affirmatively approved.

With the conclusion of Mr. Pimental’s testimony, Mr. Gibbons called a ten-minute break.

After re-convening, Mr. Gibbons asked if any of the public wanted to speak on this matter.

John Brinz came forward; he was sworn in. He told the Board that his property abuts the subject parcel for this project; he also noted the late materials submission by Mr. Kupa – he was planning a more visual presentation but did not have the time. He spoke of the beauty of the properties along that boundary; some of the area had been cleared for the dumping of cleared debris from the condominium buildings construction but now is starting to return to its natural state.
state. There are two nearby cemeteries that people visit regularly. He holds wellness walks, scout and school field trips, etc. at the back part of his property where it abuts the proposed lot. He asked the Board to consider RI DEM doing a wildlife study out there; he has seen coyote, turkey along with other small forest animals. He again stated the beauty of the existing and returning fauna.

He said he was present during all development hearings held for the condominium project. He clearly remembers that stipulations were placed on this part of the property ensure no further development or structures were put there.

Dr. O’Neill asked for clarification; was the Chestnut Farm property deemed as open space.

Mr. Brinz answered that during the 2011 hearings, he raised concerns over development and use of the back property. He specifically mentioned ATV trails. At that time, he was assured that this part of the property was for farm use only with no new standing structures.

Mr. Gibbons noted that while Mr. Brinz has the right to use his property as he sees fit (the walks and field trips), so does the abutting landowner.

Mr. Michael Saccoccia was the next to speak. He was sworn in. Mr. Saccoccia identified himself as Treasurer of the Homeowner’s Association for the condominiums along Hamilton Farm Rd.

He said that all residents of the condominiums are against this project.

From 2013 to 2016, sales promotions and open houses for the future condominiums talked of only farm/agricultural use for the abutting lot.

The property consists of approximately 27 wooded acres with approximately 2 acres of previously cleared land. The proposal entails the clear cutting of 7 of these acres.

This property is home to deer, turkeys, rabbits and other wildlife.

Mr. Saccoccio noted the Town Ordinance speaks of “providing for the protection of the natural, historic, cultural and scenic character of the town”. This project does not do this.

He noted that the elevation for the proposed panels sits higher than the surrounding wetlands; he also noted that this area lies within the Groundwater Overlay. Water runoff will drain to the wetlands, watershed and abutting properties. Soil and erosion will also impact the wetlands, watershed and abutting properties.

Mr. Saccoccia also mentioned the historic cemetery which is actively visited.

He said that part of this project includes installation of conduit PVC tubing along Hamilton Farm Rd. This will disrupt up to 6 driveways, which are already showing signs of crumbling. The homeowners are concerned about all the heavy construction equipment coming and going along their private road during construction of the project. The homeowners will have to bear the burden for any repairs needed. The entrance to Hamilton Farm Rd. from Hamilton Allenton Rd. is very narrow, also a concern. The condominium properties were developed with all underground utilities – this proposal includes the installation of utility poles which will be seen by several condo owners.

Mr. Saccoccia said he believes agricultural use as recorded within the open space restrictions states that certain materials may not be brought onto the property and certain materials may not be removed from the property. Some of these materials will most definitely brought in and taken out for the sake of this project…until, he read #6 of the Covenant regarding restriction of
property to Agricultural uses - No use or development of the Premises other than for agricultural or clean energy purposes shall be permitted.
He asked that the Board not consider issuing a Special Use Permit for this.

Mr. Frank Romeo came forward and was sworn in. He told the Board that he is a resident of one of the Hamilton Farm condominiums. He also served on the Town Planning Commission for several years.
He talked about the 8 standards for considering a Special Use Permit; he especially noted:
The requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based.
The special use permit is reasonably necessary to serve the public convenience and welfare.
Mr. Romeo said this project certainly doesn’t adhere to these.
He said that the solar project dynamics are changing from environmental standpoints. The clearing of environmentally sensitive areas in large swaths opposes the very definition of clean energy.

Mr. Clayton Piemer came forward next. He was sworn in. He told the Board is a new resident at the Hamilton Farm Condominiums. He does remember the real estate agent telling he and his wife that the surrounding areas were saved for open space and only agricultural uses could happen there. When he asked the agent what types of business’, she replied probably a vegetable stand at most. Now he and his neighbors are about to be neighbors to a very large solar energy array.
He asked the Board if the wetlands are to remain. Is this a residential area; if so, why are we going ahead with a commercial enterprise.
He and his neighbors will not only have to deal with the sight of the panels, but all the construction matters before and as the panels are put in place.
He talked about noise. A pile-driver has a 185-decibel level – that is not only louder than a rock concert, it is vibratory as well.

Mr. Anthony Turco was sworn in. He is an abutting neighbor to this property on several property sides. He told the Board back in 2012, he attended every development meeting held with the Planning Commission for at the time condominium proposal. He remembers some discussion about the developer possibly turning a portion of the open space to the Land Conservancy; evidently that was never attempted. The Land Conservancy know nothing of it.
He again mentioned the sensitivity of the watershed in this area.
He said he has walked his backlots and seen evidence of bobcat(s), turkeys (which help with the tick problem), deer and 3 coyote dens.
Mr. Turco is also curious about the amount of clear cutting needed to install this solar energy system. It is not clear on the presented plans.

Ms. Gidget Loomis came forward and was sworn in. The said she is present tonight as a town resident and representative of the Land Conservancy. She reiterated what others has said about the water shed; the shed is contributed to by many streams which empty into a culvert under Boston Neck Rd. and out into the bay. In storm events these waters already rise. She asked if
wetland crossings in this area; would the crossings (culverts) be sustainable with the influx of water this project may add to it. She said it was mentioned that “mowing would happen a couple of times a year”; she asked mowing what? What is the plan for underneath the panels? No herbicides should be used. She finished saying that strong erosion control should be in place during and after construction.

Due to time constraints, Mr. Callaghan said the application should be continued. Public comment should remain open. He also noted that the applicant should be ready with a detailed plan of how they plan to use the private condominium roadway and how it will affect the residents. The applicant needs to submit a de-commissioning plan; this is a usual request for these types of projects.

Mr. Wietman added that he wanted to see more information about the historic cemetery.

Ms. Lemieux asked about the possibility of a wildlife study.

Ms. Siegmund said she is concerned with the damage construction trucks and equipment might do to the condominium residents front lawns and driveways.

Mr. Callaghan said the applicant should be prepared with furnish details on buffering around the panels.

With no further discussion, Mr. Gibbons entertained a motion to continue.

Mr. Wietman moved to continue the application of Ameresco Solar for the purpose of a Special Use Permit to February 25, 2020.

Ms. Siegmund seconded. With no further discussion, all voted aye. The motion carried.

**Adjournment**

With no further business, Mr. Gibbons called for adjournment.

Mr. Wietman motioned to adjourn. Ms. Siegmund seconded. All voted aye. The meeting was adjourned at 10:15 PM.
NORTH KINGSTOWN
ZONING BOARD OF REVIEW

February 25, 2020

The North Kingstown Zoning Board of Review convened at Municipal Offices Court Room, 100 Fairway Dr., North Kingstown, RI

The following members were present:

John v. Gibbons, Jr.
Elaine Lemieux
Patricia O’Connor-Siegmund
Robert O’Neill
Randy Wietman

Mr. David McCue and Mr. John Marth were excused.

Also, in attendance were Director of Planning Nicole LaFontaine, Supervising Planner Maura Harrington, and Town Solicitor Matt Callaghan.

Mr. Wietman said good evening and called the February 25, 2020 Zoning Board of Review meeting to order.

Minutes

Mr. Wietman asked Board members if there was any comment on the December 10, 2019 minutes draft.

There was none, Mr. Wietman entertained a motion to accept the December 10, 2019 Zoning Board of Review minutes into the record.
Mr. Gibbons moved. Ms. Lemieux seconded. All voted aye. The motion carried 5-0

**Request by North Kingstown Solar, LLC, 111 Speen Street, Framingham, MA 01701 for the approval of special use permit(s) to allow for installation of a solar photovoltaic facility in accordance with Articles III: Land Use Table and XII: Miscellaneous Provisions: Section 21-323: Solar Energy Systems located on Open Space (OS), Plat 67 Lot 54 at 170 Hamilton Allenton Road, North Kingstown and zoned Rural Residential (RR) Property owned by Chestnut Farm LLC, 567 South County Trail, Suite 111, Exeter RI 02822. (cont'd from 1/28/20)**

Mr. Wietman noted that additional materials have been submitted since the January 28th meeting. He asked Mr. John Kupa, representative for the applicant to address the new materials.

Mr. Kupa came forward. He said both Mr. Joseph Casali, the project engineer, and Mr. Edward Pimentel, planning consultant have provided reports that address previous comments from the Board and the abutters.

He also provided a copy of the homeowner’s association’s legal documents which specifically address an easement on the road and open space; and, the use of the open space for clean energy and agricultural purposes. He noted that each condominium owner is given a copy of these documents at the time of purchase; there is full disclosure. He asked that a copy of the documents be entered into the record.

Mr. Wietman entered the homeowner’s association’s legal documents into the record as exhibit #3.

Mr. Andrew Tietz asked to speak. He is representing the Hamilton Farm condominium’s residents. He said that he has not seen a copy of either Mr. Casali’s or Mr. Pimentel’s reports – he would like a copy.

Mr. Kupa said that Mr. Pimentel is not present at this time, he had to attend another zoning meeting in another town and will arrive later. Mr. Casali is present; Mr. Kupa asked him to come forward to address his comments.

Mr. Casali gave a power point presentation.

He first apologized – he had testified at the last meeting that the above ground pole height was 10’; it is actually 30’.

His presentation included:

More detail on the riser pole that will cross the street, the PVC conduits, the utility poles (all poles previously proposed on the condominium parcel have been removed after comments from the Board and the abutters).
The trench will have to be dug across Hamilton Farm Rd. – the road will have to be patched.

The first pole on the southern parcel will be 63’ from the property line. The pole will be seen by the homeowners in winter.

Dr. O’Neill asked if the trench will be dug on resident’s properties.

They will; along the front and across some driveways.

Mr. Kupa added there is an easement in place that allows this.

Mr. Casali continued.

One of the two existing culverts will remain; it is 12” concrete piping across the road. The second “open box” culvert will be replaced with a more conventional concrete culvert.

Two of the existing watersheds to the east will remain unchanged. One 1-acre watershed will be diverted to an infiltration system; the system will reduce the amount runoff. An application for the system has been submitted with RI DEM.

As for the larger watershed area(s) concerns, the predominate path of the greater 600-acre watershed does not flow through the proposal lot; this is another area that will be determined by RI DEM.

As for grading, slight cuts will be made to accommodate the basins install; the material dug from there will be re-located to the access road profile. The slight slope will be needed to accommodate the construction vehicles and equipment.

The historical cemetery and access to it are not located on the project parcel.

Vinyl slats are no longer proposed as part of the fencing. Fencing will be 7’ black vinyl coated chain link.

Critter control around and through the fencing can be through a gap of 6”-8” from the bottom of the fencing to the ground; or, through sporadically placed piping or tubing – the applicant is happy to leave that choice up to the Board.

As for the soil, erosion and sediment control measures, additional plans have been made.

An application for the plan has been filed with RI DEM.

Temporary parking for construction vehicles and equipment have been located and placed on the plan.
There will be a vehicle wash-down area.

Stockpiling areas will be located on uphill cleared areas – placed on the plan.

There will be no parking of construction or contractor vehicles on the condominium lot or along the residential roadway.

A stipulation has been added to sweep the roadway and keep it passable 100% of the time.

Linear silt fencing is planned around the entire circumference of the limit of disturbance area. Sediment traps and berms are also planned to trap and divert silt flow.

Mr. Casali then passed the floor to Mr. Raymond Hanna, of Ameresco to discuss road maintenance during construction.

Mr. Hanna said that research has already been done to determine types and weights of trucks and equipment that can safely pass on this private road. The road will always be passable during construction – it will come down to one lane at times. There will be one-week notification of any work to be done involving resident’s driveways. Residents will also be told the day of construction that driveways will be blocked to allow time to move vehicles. All driveways will be accessible during off-construction hours. The timing for this part of construction (which will impact resident’s most) is one week.

Dr. O’Neill asked about bonding or some other sort of financial insurance on the construction work. If work is done in a manner not complete or not done as promised, the residents have the means to get their neighborhood back to pre-construction condition.

Mr. Hanna asked Mr. Rob Jackson of NK Solar to come up to address this.

Mr. Jackson said that NK Solar was not doing any bonding. All work must be done as proposed or the Town Building Official will not sign off on permits; that should provide the residents some confidence.

Mr. Callaghan said that a condition of approval used for permitting done on Town roads could be added to this private road.

Mr. Jackson said NK Solar would be agreeable to this.

Mr. Kupa added, to minimize disruption to the HOA residents, Ameresco proposes to provide the following road maintenance plan for the duration of the construction.

A survey will be conducted by Ameresco to document existing conditions of the road. Attendance by the HOA will be required.

Ameresco will conduct periodic road inspections during construction of the array. The HOA may attend.
Road traffic will be managed. Construction traffic will be weekdays from 7:00am to 5:00pm.

Delivery traffic will be weekdays from 8:00am to 3:00pm.

Lane closure and driveway closures—one week and 48-hour notices will be issued to the HOA for lane closures and driveway work, respectively.

Flag personnel will be on site to direct traffic when only one lane is available.

Driveways affected by construction will be given 48-hour notification to allow for vehicles to be moved out of driveways.

To minimize disruption to homeowners, steel plates will be placed over open trenches to permit use of driveways during construction.

Ameresco will sweep street at intervals determined by Ameresco to minimize mud and debris and maintain a safe environment. The street sweeping will be supplemented by a water truck if necessary.

Any damage caused by Ameresco during the construction of the array will be documented and repaired in a manner consistent with prudent industry standards. Ameresco will cooperate with any reasonable Town request.

Ms. Lemieux asked about grading. How much?

Mr. Hanna responded that there will be zero export. The cut/fill ratio will be 1:1. There will be some fill material brought in for the road construction.

Mr. Casali added it will amount to 6”–9” of fill for the 700’ road. Most of this needed fill will come from material dug out from the planned drainage basins.

Ms. Lemieux then asked for a timeframe; start to finish.

Mr. Hanna said 2 months.

Mr. Wietman asked about a statement from the Operations and Maintenance manual—an electrician will be on site 40 hours a week.

Mr. Hanna answered an electrician will be on call 40 hours, not on site.

Mr. Wietman asked for more information on the De-commissioning plan.

Mr. Hanna stated that the plan states
- The panels will be removed.
- All beams will be cut below grade.
- All terrain will be replaced and put back to original condition.
- All fencing will come down.
- Concrete pad(s) will be demolished.
- All equipment will be removed and re-purposed.
- A bond will be in place in the amount of $108,207.00.
- The timeframe to de-commission is approximately 2 weeks.

Ms. Lemieux noted the fencing keeps out some wildlife, like deer and coyote; for passive development purposes, it does still drive away wildlife.

With no further Board comment or discussion, Mr. Kupa addressed the Ordinance standards for solar energy systems.

Any freestanding solar energy system that requires a special use permit pursuant to article III and section 21-13 shall adhere to the requirements of this section. That is the reason for this hearing.

Properties with freestanding solar energy systems shall provide adequate emergency vehicle access and a minimum of two parking spaces for routine maintenance or monitoring. The letter from the Fire Marshal attests to that.

No individual panel within a freestanding solar energy system installation shall exceed 16 feet in height, as measured from predevelopment lot grade at the location of the panel to its highest point. The submitted cut sheets show nothing is going to be greater than 16’.

All panels, equipment and structures included with freestanding solar energy system installations shall meet the setback requirements prescribed by the zoning district in which they are located. This proposal does meet setbacks.

Single-family or multi-family zones. All solar panels and equipment associated with freestanding solar energy systems, including but not limited to controls, energy storage devices, heat pumps, exchangers, or other materials, hardware or equipment necessary to the process by which solar radiation is converted into another form of energy shall be screened with a six-foot tall privacy fence and prevent unauthorized access. A 7’ fence will be put in place; there will be a crossing for small mammals underneath.

All other zones. With the exception of solar panels, equipment associated with freestanding solar energy systems, including but not limited to controls, energy storage devices, heat pumps, exchangers, or other materials, hardware or equipment necessary to the process by which solar radiation is converted into another form of energy shall be designed to be screened from street view and prevent unauthorized access. A locked gate is proposed. Town emergency personnel will have access to open this gate. The system is proposed at least 600’ from any other structure; the only way to see it is to fly over it.
The freestanding solar energy system shall not interfere with the view of, or from, sites of significant public interest such as public parks or national, state or locally designated scenic byways. There are no sites of public interest.

All freestanding solar energy systems shall be designed and located to prevent reflective glare on any adjacent properties. There will be no reflective glare due to the proposed direction the panels are set. There is also a surrounding vegetative buffer more than 30’ tall.

Electrical lines and connections shall be installed underground to the extent permissible by the utility company. As presented, before the property line to the Homeowner’s Association land is reached, everything from there will be underground.

Mr. Kupa said procedural regulations must be met.

In granting a special use permit or special permit under this chapter, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- The requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan upon which this chapter is based. This will be addressed by Mr. Pimentel when he arrives.
- The special use permit is reasonably necessary to serve the public convenience and welfare. This too will be addressed by Mr. Pimentel when he arrives.
- The granting of a special use permit will not pose a threat to the drinking water supply. This is not in the drinking water, groundwater zone.
- The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare, or air pollutants. This has all been addressed. The main being the glare, the project is surrounded by vegetation and the panels will not be set in the direction of residential properties.
- Sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately handled on site. There is none.
- The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. Other than the initial construction traffic, traffic will be limited to maintenance and if need be emergency traffic.
- Accessory signs, off-street parking and loading area and outdoor lighting are designed and located in a manner which complements the character of the neighborhood. Off-street parking has been addressed. There will be no parking on the Homeowner’s Association property.
In addition to the criteria in subsections (1) through (7) of this section, in the case of a special permit, the board shall require evidence that the requested use will have a lesser undesirable impact upon the surrounding area than the preceding nonconforming use. This is a non-conforming use – it was a non-conforming use before. No dimensional variances are needed.

Mr. Wietman called a 5-10-minute break to wait for Mr. Pimentel to arrive.

The meeting resumed when Mr. Pimentel came in.

He came forward and was sworn in.

Mr. Pimentel said that the report he submitted points to adherence to the Town Ordinance which requires a statement that the requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan upon which this chapter is based.

The referenced standard of approval does not imply that there must be a direct nexus between the land use itself and the immediate neighborhood, nor even the general community. Merely that there must be evidence of 'need' and that it can be introduced in a manner that will not impair the public safety and welfare. Clearly the fact that Town officials have already deduced its conditional permissibility in a residential zone, should be more than satisfactory regarding evidencing 'need' and 'serving the public convenience'.

The Board thanked Mr. Pimentel for his report.

With that, Mr. Wietman reminded all that the hearing was still open to public comment. He asked if anyone would like to comment or question.

Mr. Andrew Tietz came forward. He told the Board he is an attorney representing the Hamilton Farm Homeowner’s Association and its members.

Mr. Tietz began saying he and the homeowners were glad to see the change that there would be no above-ground poles on their property.

He also noted that the homeowner’s documents do reference the possibility of clean energy; however, most home buyers do not go through the thick packet of paper when deciding to purchase a unit.

Mr. Tietz stated that the question before this Board is whether to allow an industrial-sized energy plant on a piece of land zone Rural Residential/Open Space.

He said the applicant has presented this proposal as meeting all Town standards and guidelines; but these standards and guidelines are the reason the Town amended its solar energy ordinance.
This applicant is asking to allow a system under the Ordinance in place at the time, but it still falls under the exact circumstances the people of North Kingstown found inappropriate.

Mr. Tietz said the Zoning Board’s responsibility is to weigh community benefit and any individual homeowners’ negative impact.

Preservation of open space and protection of wildlife are stated in the Town’s Comprehensive Plan. This proposal maxes out all land that is not swamp on this parcel.

Mr. Tietz ended noting the Board can deny this application because the size and scale is not consistent with the Comprehensive Plan.

With that, Mr. Tietz asked Ms. Linda Steere to come forward. He told the Board Ms. Steere is a principal at Applied Bio-Systems in Wakefield, RI. He asked that her resume’ be entered as objector’s exhibit #1. He also asked that the report she wrote on the wetlands and wildlife of this property be entered as objector’s exhibit #2.

The Board allowed it and recognized Ms. Steere as an expert witness.

Ms. Steere testified that she studied several aerial photographs of the property but also walked the property. She said that RI DEM has determined this land as eco-land with great value and high vulnerability. She counted among wildlife in that area frogs, toads, salamanders, deer, wild turkey, bobcat(s), red fox, voles, fisher cats, bats, migrating birds, hawks.

She said per the State Habitats Assets Map this is 500 acres of unfragmented forested land, which is rare in RI.

Mr. Tietz asked Ms. Steere if in her expert opinion, this proposal supports open space criteria for this parcel.

Ms. Steere answered that aside from “clean energy”, grading, clearing, altering wetlands does not speak “preservation and protection of agricultural and open space lands”.

Mr. Kupa noted 1962 aerials which show this area as pasture.

Ms. Steere said she had seen the aerials.

With the conclusion of Ms. Steere’s testimony, Mr. Tietz called Mr. Vin Murray to the floor. Mr. Murray was a past Planning Director in South Kingstown. Mr. Callaghan said that the Board should except his testimony as expert. They did. Mr. Murray’s resume was accepted as objector’s exhibit #3.

Mr. L. Vincent Murray was sworn in.

He told the Board he has done a report on his findings of whether this proposal supports Town land policy. The report was entered as opponent’s exhibit #4.
Mr. Murray said that the tax assessment for this property is $61,000.00 for the 27.12 parcel. The assessment points to the property’s constraint and open space designation. This project will consume all upland of the property – it represents maximal utilization of the property. This use does not coincide with the Town Ordinance definition of Rural Residential and Open Space. The project intensity is well above lot coverage constraints to the sensitive areas of the Town.

He said in summary, his position is that the application is contrary to the overall community interests detailed in the Comprehensive Plan and the Zoning Ordinance. This application represents an industrial scale of use in a residential zone. The project will alter the general character of the surrounding area; and, does not meet the criteria for a Special Use Permit in the Zoning Ordinance.

Mr. Murray said for these reasons, the Zoning Board should deny this proposal.

Dr. O’Neil noted two experienced planners spoke tonight on opposing sides, can the NK Planning staff weigh in on their thoughts.

Ms. LaFontaine said that the staff opinion is stated through the staff report.

Mr. Wietman commented that this is a complex matter; input from Mr. Pimental and Mr. Murray was warranted.

Mr. Wietman entertained a motion to extend the meeting past the 10:00 PM curfew.

Ms. Siegmund moved. Ms. Lemieux seconded. All voted aye.

Mr. Wietman then called for any further public comment.

Ms. Susan Diemer came forward and was sworn in. The introduced a Providence Journal article printed today about the land use problems arising from solar installations (objector’s exhibit #5).

She asked the Board to please base their decision in 2020, not when this was first submitted.

Up next to speak was Samantha Brinz. She was sworn in. She lives adjacent to the proposal’s parcel. She spoke of the wildlife impact. She also noted that she had not heard enough about maintenance – what about pesticide use? Grading and water runoff are of grave concern to her. This is vulnerable land; increased climate change will have a huge impact here. She also talked of the decimation of the existing tree canopy from near past gypsy moth infestation.

Ms. Gidget Loomis came up. She was sworn in. Ms. Loomis said she present on behalf of the Land Conservancy of North Kingstown; she wanted to submit a letter from the Conservancy’s president. The letter made note of the conservation easement. The easement was granted to the Town of North Kingstown. The easement granted the Town the right to preserve this land for natural, agricultural, and recreational value. Lastly, she noted the easement language stating, “for purpose of husbandry and passive solar”; it states “and” not “or”.

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Ms. Loomis said the Land Conservancy’s mission aligns with the sentiments of over 90% of Town residents that preservation and protection of the environment and open space is the number 1 land management consideration.

The clear-cutting of the existing woodlands and landscape grading endangers the hydrology of the ecosystem. While the Conservancy applauds the Town’s and the developer’s efforts to reduce dependence on fossil fuel, this proposed solar facility does not conform to the Town’s Comprehensive Plan. The proposal does not comply with the agricultural intent of the conservation easement on the property.

Dr. O’Neil asked if the language “and/or” alters anything about the litigation.

Mr. Callagan said it did not.

Mr. John Brinz came to the floor and was sworn in. He told the Board he had a PowerPoint presentation.

Due to the time, Mr. Wietman asked Mr. Brinz to bring the presentation to the next available meeting. He asked Mr. Brinz to submit his PowerPoint presentation to the Board and Mr. Kupa; that will help with timing for the next meeting.

Mr. Callaghan said that public comment should remain open limiting comment to Mr. Brinz and offering Mr. Tietz and Mr. Kupa the opportunity for closing comments.

Mr. Wietman then motioned for the public comment to remain open until the next meeting on this issue which is going to be April 14th.

Dr. O’Neil seconded. All voted aye.

Adjournment

Mr. Wietman then made a motion to adjourn.

Ms. Siegmund seconded. All voted aye. The meeting was adjourned at 10:15 PM.