

Zoning Board of Appeals
 One Liberty Lane
 Norfolk, MA 02056
 April 15, 2020
 7:00 P.M.

Christopher Wider – Chair ----- Present	Josephine Cordahi – Associate Member---- Present
Michael Kulesza – Vice Chair -----Absent	Timothy Martin – Associate Member -----Present
Joseph Sebastiano – Clerk----- Present	Amy Brady – Administrative Assistant----- Present
Donald Hanssen – Member ----- Present	Richard McCarthy – Town Planner -----Present
Devin Howe – Member----- Present	Daniel Hill – Hill Law -----Present

The duly posted meeting of the Norfolk Zoning Board of Appeals convened at 7:10 P.M. Mr. Wider announce that in accordance with the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the April 15, 2020, public meeting of the Norfolk Zoning Board of Appeals would be physically closed to the public to avoid group congregation, and further that:

Alternative public access to this meeting shall be made utilizing the Zoom virtual meeting software <https://zoom.us> for remote access. This software will allow users to view the meeting and send a comment or question to the Chair via the “Raise your Hand” function. The Meeting will be recorded for future rebroadcast by Norfolk Community Television.

PUBLIC HEARINGS:

Meetinghouse Road Solar Array, Special Permit

Mr. Wider read the public notice into the record.

Present were Daniel Serber, NextGrid, Inc.; Nathan Collins, CLC Design. Plans presented and referred to were entitled “Ground Mounted Solar Array, 41 Meetinghouse Road, Norfolk, Massachusetts,” prepared by CLC Design, dated 1/3/2020, rev. through 2/24/20.

Mr. Serber gave an overview of the project. He stated that the project is planned to be an under-250KW ground-mounted solar system, which is not considered a “large” ground-mounted solar by the town of Norfolk. The land it is proposed on is owned by the Norfolk Town Center Condominium Association (NTCCA,) who approached them about building the system. He said the project has been through several iterations. On the east side, there are abutters. The site is set back at least 200’ from any residential home. Landscape features have been added, and they believe the array will not be seen by any (non-NTCCA) abutters. Adjustments have been made to the access road that will be of benefit for the town of Norfolk in accessing the water tower. They have appeared before the Conservation Commission and the Planning Board.

Mr. Collins said the initial submittal on this project was to the Planning Board in September. The total parcel is 15 .8 acres, owned by the NTCCA; the proposed project will cover about one acre. The array is 684 units and is accessed by a 16’ wide gravel driveway, which has been re-routed so that the access is from the pumphouse building. This was moved north, so that the town can gain access to the water tower, whereas now they have to pay for access. Existing terrain flows north to south on the site. They are working with the town’s review engineers, BETA Group, to mitigate offsite flows of stormwater. A detention pond is proposed on the south portion of the site. Detention basin is a maximum of 2’ deep; a 100-year storm event would result in a little over 1.5’ with an overflow that will connect it back to the route that it currently flows. A minimum 50’ vegetated buffer has been provided. The Planning Board has included a condition that the buffer will be subject to re-inspection after construction is completed. A 6’ black chainlink fence with a gate will be installed. Fence will be elevated 6” off the ground. Mr. Collins said DEP does not consider the site jurisdictional, and NHESP deemed the project a no-take.

Mr. Howe said it looks like a good plan; he is glad they've added screening. Mr. Sebastiano said he is happy they have addressed abutter concerns with screenings and setbacks. Ms. Cordahi said she thinks this is the best use of the property, and appreciates the applicant's efforts to work with abutters. Mr. Hanssen asked about an abutter's property in the southeast corner, who was concerned they would be looking at the array, and confirmed that a post-construction walkthrough would be required per the Planning Board. There will be a surety on the project through the Planning Board, for removal of the array should it need to be decommissioned. It is not felt that nighttime lighting is required. Black vinyl fencing is acceptable in this zoning district; it is for security, not screening.

Barbara Carter, 36 Union Street, reviewed her concerns with the project, including the change in her view, the potential for stormwater retention failure, and negative property resale value. John Carter stated that he did not believe the visual impact would be negligible, and questioned who would maintain the new screening plantings. His biggest concern is the potential for failure of the stormwater system, and what recourse they would have. He also requested and received confirmation that all abutters, including those in the condominiums, had been notified of the meetings of the various boards. In addition, Mr. Carter expressed displeasure with the board's decision to move forward with a remote meeting.

Mr. Howe said the system is designed for a 100-year storm, but he questioned why the spillways were directed toward abutter properties, and not toward the wetland toward the left of the property. Mr. Collins indicated 3 catchment areas on the plan; he said the existing wetland is actually a detention pond that was constructed as part of the condo development, and there is already catchment that runs to that pond; if additional runoff were diverted there, it would flood and not work properly. He indicated a channel through the middle of the proposed array, which is being maintained, and a drainage swale is being constructed on the eastern side of the site to keep stormwater from running offsite; he said they are cutting what is running off on the abutter side of the site by about ½. He said a conservative infiltration rate was used, as compared to what was calculated in the field. Mr. Howe noted that more than a 100-year storm event can be detained onsite. Mr. Carter said he understood, but was still concerned about a possible unforeseen event, and said he would like some kind of assurance, such as insurance, from the developer as a show of confidence in their own system. Mr. Hanssen noted that the ZBA could not condition something like that.

Mr. Wider said he would be interested in a site walk, to be sure everyone's concerns are looked into, and several other members concurred. Discussion ensued regarding the stormwater system. Mr. McCarthy said the Planning Board can send peer reviews and cross sections for ZBA members to review. Mr. Collins said he feels that the system is "overdesigned" in that very conservative rates were used.

Mr. Sebastiano made a motion to continue the hearing to May 6, 2020, at 7:15 P.M. and to schedule a site walk in the meantime; Mr. Martin seconded the motion; the vote on the motion was 5 – 1.

DELIBERATIONS:

77 Boardman Street - FINDINGS OF FACT

Map 15, Block 54, Lot 73

Applicant stated no changes to the property at all
Attached two-family dwelling

Each unit has bathroom, kitchen and living room

At least 800 s.f. in each dwelling unit

Neither unit has separate utilities

Discussion ensued as to whether a two family unit can have two kitchens, and whether the Special Permit can condition that it be limited to the current applicant, and if only specifically to a particular tenant. Mr. Hanssen said that for a house to be marketed as a two-family home, it must have separate utilities. Mr. Martin said he was not sure that it needs separate utilities. Mr. Hanssen said it did. Mr. Martin said the applicant has fulfilled the requirements of bylaw E.2.f. and he is not in favor of restricting it to a particular person; he also noted that

there are no physical changes to the dwelling being requested. Mr. Wider concurred that the Board is approving the conversion of a single-family to a two-family dwelling under the bylaw E.2.f.. If the owner wants to market it as a two-family dwelling in the future, they will need to apply to the building department at that point. Mr. Martin said if there is a building code issue, it is not pertinent to the Special Permit. Ms. Cordahi expressed concern with issuing a Special Permit based at least in part on someone's financial status; she also noted that the area is strictly single-family homes. Mr. Martin said there are no specific zones for multifamily homes in town, yet the bylaw does allow conversion from a single family to a two family, and there is no change to the dwelling being requested. Mr. Sebastiano confirmed that it only applies to dwellings in existence at the time of adoption of the bylaw, it does not apply to all houses in town. Mr. Howe said he believes the decision should be based strictly on the bylaw. A previous decision for 75 Main Street was reviewed; it did have separate services, and it was being actively marketed as a two-family. Mr. Wider said the issue would only arise when the unit is put up for sale as a multifamily. Mr. Martin said many units are rented with common utilities.

Mr. Wider read the Special Permit criteria into the record.

Mr. Sebastiano made a motion to grant a Special Permit to allow the conversion of a single-family unit in existence at the time of the adoption of the bylaw, 77 Boardman Street, to a two-family unit; Mr. Howe seconded the motion;

Mr. Hanssen asked if conditions regarding family were eliminated from the motion and Mr. Sebastiano responded that they were.

the vote on the motion was as follows:

*Christopher M. Wider – yes to grant
Michael J. Kulesza - absent
Donald M. Hanssen – no to grant
Joseph Sebastiano – yes to grant
Devin P. Howe – yes to grant
Timothy Martin – yes to grant (Designated Associate Member)*

MINUTES:

Mr. Hanssen made a motion to approve the minutes of February 5, 2020; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous.

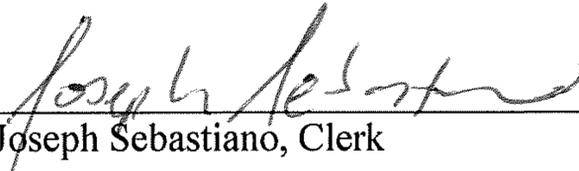
Mr. Sebastiano made a motion to approve the minutes of February 19, 2020; Mr. Howe seconded the motion; the vote on the motion was unanimous.

Mr. Sebastiano made a motion to approve the minutes of March 4, 2020; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.

Mr. Sebastiano made a motion to approve the minutes of March 12, 2020; Mr. Howe seconded the motion; the vote on the motion was unanimous.

Mr. Sebastiano made a motion to approve the minutes of April 1, 2020; Mr. Hanssen seconded the motion; the vote on the motion was unanimous.

Mr. Hanssen made a motion to adjourn the meeting; Mr. Sebastiano seconded the motion; the vote on the motion was unanimous. The meeting adjourned at 10:46 P.M.


Joseph Sebastiano, Clerk