

ZONING BOARD OF REVIEW MEETING MINUTES – MAY 18, 2023

State of Rhode Island

County of Washington

In Hopkinton on the eighteenth of May 2023 A.D. the said meeting was called to order at 7:04 PM by Zoning Board of Review Chairman in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Johnathan Ure, Joseph York, Daniel Baruti, Daniel Harrington, Solicitor Per Vaage of Gidley, Sarli, and Marusak LLP, Zoning Board Clerk: Katrina Caputo, Building Official Anthony Santilli

Absent: Ronnie Sposato, Chip Heil, and Alternate Member Phil Scalise

Sitting as the Board for Petition I: Ure, York, Baruti, & Harrington  
Petition I – Determine completeness of application/consider waivers

A Special Use Permit to allow for an addition to be used as a nurse’s office and team room. Petition is filed by Wood River Health Services, with mailing address of 823 Main St Hopkinton, RI, 02832, for property owned by Wood River Health Services located at 823 Main St Hopkinton, RI, 02832, identified as AP 14 Lot 47A, an RS zone, and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Applicant or representative present.

Filing fees paid and notice posted.

Discussion.

Decision.

Chairman Ure states that Attorney Fracassa is present and representing the applicant. Attorney Fracassa states that Wood River Health services is building a

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room in an existing building. He continues to say it won't require any additional septic capacity, water, parking, etc. Attorney Fracassa states that the addition is only going provide additional space for the existing staff members. He explains that is the basis for all of the waivers that were requested.

Chairman Ure states that the applicant is looking for waivers on items D the Biologist letter, F the traffic study, and H the water supply. Chairman Ure asks Attorney Fracassa if they are asking for those waivers because they are not really altering anything, just filling in a void between two existing buildings by adding another room. Attorney Fracassa states that is correct. He explains that as far as the letter from the Biologist goes, they've been before the board before and the wetlands have already been staked out and are shown on the site plan so there is no need to go over that again.

CHECKLIST ITEM A: Three (3) copies of a site plan prepared by, and signed and stamped by, a professional engineer or professional land surveyor at a scale of no less than one (1) inch = forty (40) feet clearly showing:

- Name and address of property owner(s)
- Date, north arrow, graphic scale, lot dimensions and area
- Plat & lot, zoning district(s) and setbacks
- Existing and proposed structures, and their relationship & distances from lot boundary lines
- Existing and proposed parking areas and walkways – existing and proposed landscaping, as it relates to the request.
- Existing streets, 911 address, wells, septic system
- List of names and address of all property owners within 200 feet of subject property
- Any peculiar site conditions or features

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A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER BARUTI THAT CHECKLIST ITEM A WAS COMPLETE. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM B: Three copies of a separate map indicating all property owners within 200 feet of the subject property and/or all of those owners and entities which require notice under section 45-24-53 of the R.I.G.L., also depicting any zoning district boundary and uses of all neighboring properties.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON THAT CHECKLIST ITEM B WAS COMPLETE. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM C: A soil erosion and stormwater control plan with supporting calculations based on standards approved by the USDA Soil Conservations Service and in conformity with the R.I. Erosion and Sediment Control Handbook.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON THAT CHECKLIST ITEM C WAS COMPLETE. ALL IN FAVOR.

SO MOVED

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CHECKLIST ITEM D: A letter from a biologist indicating that there are no freshwater wetlands on or in proximity to the site such that the application is regulated by the R.I. Freshwater Wetlands Act. In those instances where the application is regulated by the R.I. Freshwater Wetlands Act, a physical alteration permit issued by the R.I. Department of Environmental Management, and where applicable, the U.S. Army Corp of Engineers, shall be required.

Member York states that there is a waiver request for this checklist item.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER YORK TO GRANT THE WAIVER FOR CHECKLIST ITEM D. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM E: Location of existing septic system. Where construction requires approval by the R.I. DEM - Division of Land Resources for an ISDS (individual sewage disposal system) or change of use permit for the proposed activity, attach a copy to the application.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER BARUTI THAT CHECKLIST ITEM E WAS COMPLETE. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM F: Traffic Study addressing the potential impacts of the proposed activity.

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Member York states that there is a waiver request for this checklist item.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER YORK TO GRANT THE WAIVER FOR CHECKLIST ITEM F. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM G: On a separate site plan, indicate existing and proposed topography at two (2) foot intervals.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER BARUTI THAT CHECKLIST ITEM G WAS COMPLETE. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM H: Provide evidence that the proposed water supply has sufficient supply to support the proposed activity and is drinking water quality.

Member York states that there is another waiver request for checklist item H since there is no increase in water use.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER YORK TO GRANT THE WAIVER FOR CHECKLIST ITEM H. ALL IN FAVOR.

SO MOVED

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A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON THAT THE SPECIAL USE PERMIT CHECKLIST WAS COMPLETE. ALL IN FAVOR.

SO MOVED

Chairman Ure states the hearing for this application will be at the June 15<sup>th</sup>, 2023 meeting.

Sitting as the Board for Petition II: Ure, York, Baruti, & Harrington

Petition II- Determine completeness of application/consider waivers (cont.)

A Special Use Permit to allow for the installation of ground mounted solar panels. Petition is filed by Scott LeDuc, with mailing address of 1451 Grafton St, Worcester, MA 01604, for property owned by Sergio and Rebecca Bueno located at 178 Skunk Hill Rd, Hopkinton, RI 02832, and identified as AP 21 Lot 3F, an RFR-80 Zone, and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Applicant or representative present.

Filing fees paid and notice posted.

Discussion.

Decision.

One of the representatives present from Bright Planet Solar states that his name is Zach and they are here representing Sergio Bueno.

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CHECKLIST ITEM A: Three (3) copies of a site plan prepared by, and signed and stamped by, a professional engineer or professional land surveyor at a scale of no less than one (1) inch = forty (40) feet clearly showing:

- Name and address of property owner(s)
- Date, north arrow, graphic scale, lot dimensions and area
- Plat & lot, zoning district(s) and setbacks
- Existing and proposed structures, and their relationship & distances from lot boundary lines
- Existing and proposed parking areas and walkways – existing and proposed landscaping, as it relates to the request.
- Existing streets, 911 address, wells, septic system
- List of names and address of all property owners within 200 feet of subject property
- Any peculiar site conditions or features

Member Baruti asks the solar representative who did the field work for their site map. The solar representative states that a field worker takes photos for an engineer. He explains that they have a drone that takes photos of landscaping, and it goes to the engineers on their design team. Member Baruti asks if the engineers normally sign and stamp the site maps. The solar representative explains that they normally do stamp them. They continue to say that the Engineer team was in a hurry to complete the site map and overlooked the stamp and signature.

Chairman Ure explains to the solar representatives that the board will need a signed and stamped copy of the site map. He continues to explain that the setbacks and the location of the existing house are very important parts of their application and having it stamped by a certified engineer is a must. Chairman Ure explains that

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they can make a motion subject to a signed and stamped site map being submitted on or before the hearing date.

Member York advises the solar representatives to read through section A and ensure their plan includes all the information listed.

CHECKLIST ITEM B: Three copies of a separate map indicating all property owners within 200 feet of the subject property and/or all of those owners and entities which require notice under section 45-24-53 of the R.I.G.L., also depicting any zoning district boundary and uses of all neighboring properties.

Member Baruti states that the applicant might want to include lot 3E in the abutters list because it is so close. Chairman Ure asks the solar representatives to update the abutters list to reflect lot 3E on it for the hearing.

CHECKLIST ITEM C: A soil erosion and stormwater control plan with supporting calculations based on standards approved by the USDA Soil Conservations Service and in conformity with the R.I. Erosion and Sediment Control Handbook.

Chairman Ure states that he doesn't think the board would find this checklist item applicable to this application. Member Baruti advises the solar representatives that they should request a waiver for this checklist item.

The solar representatives notate a waiver for checklist item C on the Clerk's copy of their application.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER HARRINGTON TO GRANT THE WAIVER FOR CHECKLIST ITEM C. ALL IN FAVOR.

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SO MOVED

CHECKLIST ITEM D: A letter from a biologist indicating that there are no freshwater wetlands on or in proximity to the site such that the application is regulated by the R.I. Freshwater Wetlands Act. In those instances where the application is regulated by the R.I. Freshwater Wetlands Act, a physical alteration permit issued by the R.I. Department of Environmental Management, and where applicable, the U.S. Army Corp of Engineers, shall be required.

The solar representatives notate a waiver for checklist item D on the Clerk's copy of their application.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER BARUTI TO GRANT THE WAIVER FOR CHECKLIST ITEM D. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM E: Location of existing septic system. Where construction requires approval by the R.I. DEM - Division of Land Resources for an ISDS (individual sewage disposal system) or change of use permit for the proposed activity, attach a copy to the application.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON THAT CHECKLIST ITEM E IS COMPLETE. ALL IN FAVOR.

SO MOVED

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CHECKLIST ITEM F: Traffic Study addressing the potential impacts of the proposed activity.

The solar representatives notate a waiver for checklist item F on the Clerk's copy of their application.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER YORK TO GRANT THE WAIVER FOR CHECKLIST ITEM F. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM G: On a separate site plan, indicate existing and proposed topography at two (2) foot intervals.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER YORK THAT CHECKLIST ITEM G IS COMPLETE. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM H: Provide evidence that the proposed water supply has sufficient supply to support the proposed activity and is drinking water quality.

The solar representatives notate a waiver for checklist item H on the Clerk's copy of their application.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER HARRINGTON TO GRANT THE WAIVER FOR CHECKLIST ITEM H. ALL IN FAVOR.

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SO MOVED

Member Baruti asks the board if they can clarify the setbacks, so everyone understands them. Chairman Ure explains to the solar representatives that they are going to have to review the Non-Residential Photovoltaic Solar Energy System Ordinance which is chapter 246. He continues that all of the requirements are on page two, section 5.3.3. The accessory solar energy systems in the code of ordinances will need to be met. Chairman Ure explains that one of those requirements is that no more than one-hundred-twenty five percent of the energy necessary to support the residence can be produced. Member Baruti states to the solar representatives that at the hearing they are going to have to produce testimony and evidence to that.

The board continues to review the solar ordinance requirements with the solar representatives. They then review the setbacks on the site map the applicant provided.

Chairman Ure explains the placement of the solar panels on the site map does not give enough of a setback on the West side. He explains the requirement is a one-hundred-foot setback and they currently have a sixty-four-foot setback on that side. Member Harrington and Chairman Ure recommend to the solar representatives that they shift the solar panels over and rotate them to meet the setback requirements from all sides. Chairman Ure explains that the board is unable to grant a Dimensional Variance per the solar ordinance, only the Building Official can grant them a dimensional modification of up to twenty-five percent.

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The board and the solar representatives discuss the possible ways to reposition the solar panels, so they are within the setbacks.

Member Baruti asks the Solicitor if he has researched if the Zoning Board has authority to grant relief of a dimensional modification. The Solicitor states that only the Building Official has the authority to grant a dimensional modification.

Member Baruti explains to the board and the Solicitor his concerns about discussing the setbacks when the board does not have the authority to grant any type of relief. He states that he doesn't understand why the board is giving the applicant guidance on something that they have no authority over. Member Baruti questions how the board can grant this applicant a Special Use Permit if the application as proposed is not in conformance with the ordinance. Member Baruti states that the applicant should have to get the dimensional modification from the Building Official before coming before the board. He explains if the modification is denied, that is an obstacle that should be overcome before a Special Use Permit can be approved. Member Baruti states, with the current ordinance they are granting an open-ended Special Use Permit that can't be consummated until the Building Official grants a dimensional modification.

The Building Official and the board continue to discuss the solar ordinance.

Chairman Ure explains to the solar representatives that Checklist item's A and B are deficient. He continues to say if they can get the solar array within the setbacks and height restrictions, it will make it a lot easier at the hearing. Chairman Ure states to the solar representatives that if they have more questions to contact Building Official Santilli.

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Chairman Ure states that this will be continued to the June 15<sup>th</sup>, 2023 meeting. He explains if they have everything needed to complete the checklist, they can move into a hearing that night.

The board and the Clerk explain to the solar representatives the process of notifying the abutters and bringing the receipts to the hearing.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO CONTINUE THE APPLICATION TO THE JUNE 15<sup>th</sup>, 2023 MEETING. ALL IN FAVOR.

SO MOVED

The board and the Solicitor discuss the solar ordinance. Member Baruti reiterates his concerns.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO APPROVE THE MINUTES FROM THE APRIL 20<sup>TH</sup>, 2023 MEETING. ALL IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO ADJOURN THE MEETING AT 8:15 PM. ALL IN FAVOR.

SO MOVED

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Respectfully Submitted,

Katrina Caputo

Zoning Board Clerk

Next scheduled Meeting: June 15, 2023