

TOWN OF LINCOLN
MINUTES OF THE PLANNING BOARD
FEBRUARY 26, 2019
TOWN OFFICES

PRESENT: Lynn DeLisi (Vice-Chair) (LD), Richard Rundell (RR), Stephen Gladstone (SG), Gary Taylor (GT).

NOT PRESENT: Margaret Olson

STAFF: Paula Vaughn-MacKenzie, Jennifer Burney

7:00 PM Public Hearings for Town Meeting March 23, 2019:

Proposed Solar Amendment: Amend Section 13.6 to allow the sale of energy to the grid or other third party; add regulations for stand-alone Canopy/Carport structures; add a requirement for surety for abandonment and removal of commercial solar systems; and other clarifications and/or requirements as substantially on file with the Town Clerk.

Non-Conforming Lots: Amend Section 4.1(c) to provide that a non-conforming lot which is hereafter decreased in size loses its non-conforming protection under **Section 4.5, except when such lot is altered by a taking, acquisition by, or donation to the Town or other governmental entity for a public purpose**, as substantially on file with the Town Clerk.

LD opened the public hearing for the Solar Amendment. PV-M reviewed the goals of the amendment and the changes that are proposed to achieve the goals. She noted that the proposed language and a Q & A have been posted on the Planning webpage. The goals and changes are as follows:

Warrant Article 28 Section 13.6

The goals:

The amendments are intended to:

- Bring the Zoning Bylaw up to date so that residents, businesses and the Town can take advantage of current government incentive programs and permit a variety of solar projects.
- Allow projects to be permitted that were not contemplated when the original bylaw was adopted, such as Canopy/Carport projects on parking lots and Town installations at the Lincoln School, the Public Safety Building, and the Transfer Station.
- Clarify existing language.

The changes:

1. Definitions (Section 13.6.2): For clarity, the definition section adds definitions for Roof-Mounted Solar Energy Systems, Energy Storage Systems, and Carport/Canopy Photovoltaic Systems.
2. General Standards (Section 13.6.3): This section is amended to allow residents, businesses, and the Town to take advantage of current government incentive programs. Currently the Bylaw ONLY allows the Solar Energy System to provide power for consumption on the site. It does not allow the sale of energy directly to the grid or others with the benefits to the property, practices which are now a regular part of financing and incentive programs.
 - The amendment allows:
 - A solar energy system to provide energy for consumption on site: or
 - The sale of electricity to the local utility company: with benefits provided either through payments directly from the utility, from a 3rd party owner/provider of the Solar Energy System, or through the purchase of electricity at reduced prices from the owner/provider of the Solar Energy System, or some combination of the above.
3. Design Standards in Residential Districts, except for properties used for municipal purposes (Section 13.6.4):
 - Roof-Mounted and Building Integrated Systems of **any size** are permitted.
 - The words “**any size**” were added to encourage Roof-Mounted and Building-Integrated Solar Systems. If a Roof-Mounted or Building-Integrated System complies with the Bylaw, it is allowed by right and only needs a building permit from the Building Inspector.
 - Ground-Mounted and Carport/Canopy Solar Energy Systems are allowed but are restricted to 125% of the annual consumption on the property.
 - This language allows the permitting of Ground-Mounted and Carport/Canopy Systems with a system size restriction of 125% of expected annual consumption. This allows a homeowner to have a slightly bigger Solar Energy System than would be needed to operate the needs of the property as a policy to promote clean energy.
 - If a property contains a Ground-Mounted and/or a Carport/Canopy Solar Energy System, then the maximum capacity of ALL Solar Energy Systems cannot exceed 125% of the annual consumption of the property. The 125% would include Ground, Carport and any Roof-Mounted or Building- Integrated Systems. This encourages Roof-Mounted and Building-Integrated systems and allows Ground-Mounted and Carport/Canopy up to the cap limit. If a homeowner has a Ground-Mounted System and wants to add a Roof-Mounted System, then the combined capacity of both systems is subject to the 125% cap.

- Ground-Mounted and Canopy/Carport Solar Energy Systems will be treated as accessory structures and require Site Plan Review.
 - The setbacks will be those required for accessory structures: 20 feet from a side lot line and 50 feet from a front lot line unless the structure is greater than 20 feet and then the setback will be equal to the height of the structure. Treating these systems as accessory structures prevents Solar Farms from being sited on Open or Undeveloped Land as the Solar Panels would be the primary structure.
 - Canopy/Carport Solar Energy Systems shall have a max height of 17 feet. In a Residential Zone, the 17 feet must be justified to the Planning Board during site plan review.
4. Design Standards in Non-Residential Zones and Municipal Properties in any Zoning District (Section 13.6.5):
- Roof-Mounted and Building-Integrated systems of **any size** are permitted.
 - Any Roof-Mounted or Building-Integrated System that complies with the Bylaw can be installed by right with a building permit from the Building Inspector.
 - Ground-Mounted and/or Carport/Canopy systems of any size are permitted with Site Plan Approval.
 - The amended Bylaw will allow the Lincoln School project which will include Roof and Carport/Canopy systems. Other projects that were not allowed under the current bylaw such as Canopy/Carport Projects in parking lots at the RLF and Minuteman Tech, as well as a contemplated Ground-Mounted System at the Transfer Station, will now be allowed with site plan review. These large projects have the potential to exceed the electricity requirements of the buildings on the property.
5. Planning Board Waivers (New Section 13.6.6): The current Bylaw includes the ability for the Planning Board to waive requirements of each subsection. The amended Bylaw deletes the individual waiver sections and adds a general waiver section at the end to allow the Planning Board flexibility in reviewing and approving a project on a case by case basis.

GT noted that there are properties in residential zones that are larger and could accommodate larger solar installations such as the deCordova Museum, Drumlin Farm, and large condominium development such as Farrar Pond. He questioned whether the Planning Board should give a signal in the proposed bylaw that they would consider a larger installation in these instances. The Board noted that non-residential uses allowed in residential zones under the Dover amendment may be exempt from the bylaw restrictions anyway. The Dover amendment would not however cover deCordova and Farrar Pond. SG thought that the general waiver provision at the end of the bylaw would allow the Planning Board to address these specific kinds of projects on a case by case basis. RR agreed and thought that the issue was an educational one which could be addressed in the Q & A materials. The Board agreed.

Chris Klem had suggestions on some minor edits and gave them to PV-M to consider. He noted that the amendment separated municipal uses and residential uses. The Board would not typically waive the 125% cap on single family residential uses but could waive the 17foot limit on Canopy/Carport structures for large scale residential projects as a signal of flexibility.

Bob Domnitz asked if the Board had the authority to waive dimensional controls as would be allowed in the general waiver provision. Katie Laughman, of KP law explained that there are many bylaws that have these types of provisions. She noted that the waiver provision has a standard, ***The Planning Board may waive strict compliance with any requirement contained in Sections 13.6.3, 13.6.4, and 13.6.5 where it determines such action to be consistent with the purpose and intent of the Zoning Bylaw and otherwise in the public interest.*** She noted that this language prevents the action of the Planning Board to be arbitrary and would require the Planning Board to make a finding in any decision. She thought that the Attorney General would likely approve such language especially since the State statute states that solar cannot be unreasonable regulated. Therefore, the waiver provision in the context of state law is reasonable.

Sue Klem asked if the Board could require applicants to undergo an energy assessment as part of the application process. She thought that it made more sense for an applicant to reduce their energy consumption and be more energy efficient prior to sizing a solar installation. RR and GT thought that although it would be beneficial for homeowners to get an energy assessment, they did not think that it was the Planning Board's place to require one. The solar installer would size the system and the Board would require a year of electric bills as part of the application process.

Sue asked how the Board would assess new construction. GT responded that there are average consumption standards for new construction.

There was no further public comment.

GT made a motion to close the public hearing. SG Seconded. Passed 4-0.

GT made a motion to recommend passage to Town Meeting of the Solar Bylaw amendment as proposed. SG Seconded. Passed 4-0.

7:35 PM Warrant Article 29 Section 4.1(c)

LD opened the public hearing for Section 4.1(c).

PV-M explained the goal of the proposed amendment and the proposed language. The goal of the amendment is to create a narrow exception to the existing rule that any decrease in the size of a non-conforming lot will cause such lot to lose its non-conforming status. The consequence of this rule is that any change to a structure or addition of a structure would require a variance rather than a special permit from the ZBA. The requirements for the issuance of a variance are very strict and the ZBA issues them in rare circumstances.

In the case where a non-conforming lot is subject to a taking by a municipal or state agency for a public purpose, the homeowner has no choice in the matter. The Board thought that in this rare circumstance, a homeowner should not be penalized by making their property subject to an almost

impossible town permitting process. This narrow category of lots will continue to retain its non-conforming status and require a special permit from the ZBA for any proposed changes like any other non-conforming lot.

The Board next discussed that they wanted the language to apply retroactively so that it covered lots that were subject to a taking prior to this amendment. The language as proposed covered all such properties, but RR noted that the proposed language might inadvertently capture lots that were in existence prior to the acceptance of the non-conforming section of the bylaw and create a problem for such lots. Katie Laughman suggested adding language to prevent this.

The Board agreed to the following language:

(c) A non-conforming lot which is hereafter decreased in size loses its non-conforming protection under **Section 4.5, except when such lot is or has been altered by a taking, acquisition by, or donation to the Town or other governmental entity for a public purpose.**

There was no further public comment.

SG made a motion to close the public hearing. GT seconded. Passed 4-0.

SG made a motion to recommend to Town Meeting the passage of the amendment to Section 4.1 (c) as amended. GT Seconded. Passed 4-0.

8:00 PM Update and Discussion of Proposed Parking Benefits District with members of SLPIC

A quorum of SLPIC attended the discussion and the meeting is a joint public meeting of the Planning Board and SLPIC.

Jennifer Burney presented a power point outlining SLPIC's work regarding revitalization efforts in the Lincoln Station area and the role that a Parking Benefits District could play in helping with these efforts.

RR expressed concerned that if the parking revenues were split 50/50 with the general fund, there would not be enough money generated to accomplish the projects. Creating the parking benefits district might give the impression that these projects will be fully funded by the parking revenue and no additional funds would be needed. The revenue split is projected to be approximately \$25,000 and many projects at Lincoln Station such as parking lot improvements will be well over that amount.

Rick also thought that the program did not appear to streamline the process better than the capital project process because the funding process still needed to go to Town Meeting for appropriation each year.

The group discussed that many projects such as marketing, events, maintenance, management and enforcement, beautification, design, and studies would typically not be considered a capital project and would not qualify for funding as a capital project.

The group conceded that it may be premature to go before Town Meeting and the Finance Committee and that they should wait until a new parking system is in place to determine the amount of revenue captured.

They discussed increasing the current parking fee to be more in line with other communities as well as updating the residential sticker requirements. They discussed the pros and cons of assessing an annual fee for residents and noted that even if a residential sticker remains free it would be useful to track the number of parking stickers that are awarded annually.

The group discussed the importance of implementing a new parking system to replace the archaic cash honor system. There were questions as to who will monitor the new parking system and if there would be an enforcement component.

Katie Laughman explained that MGL Chapter 22A is local acceptance statute that Lincoln does not use. The new state law codified the local practices of many communities who placed 100% of parking fees into a special account to be used for parking projects. The new change in 2016 added wider uses to the existing limited uses. In Lincoln, all parking fees go into the general fund.

Katie explained that MGL Chapter 22A ½ allows a town to create a Parking Benefits District which is a way to “pump” money into a specific geographical area for revitalization and allows you to split revenues. The concept works much better in larger cities and towns where there is significant parking revenue.

Both SLPIC and the Board suggested that improvements at Lincoln Station should be prioritized as projects that have a positive impact on the residents. For example, they would like to see improvements to the unpaved commuter lot prior to improvements to the paved commuter lot. They would like to see projects that impact residents first as a way of building support for SLPIC initiatives.

SLPIC decided that it would not go forward with the warrant article at this time to allow SLPIC and the Planning Board further time to study the Parking Benefit District and/or other alternatives as well as a parking management program. They encouraged a meeting with the Finance Department to discuss the new parking pay system, the increase in commuter parking fees and the concept of the parking benefits district.

8:55 PM Business

GT made a motion to approve the February 6, 2019 minutes as amended. RR Seconded. Passed 4-0.

RR made a motion to designate LD to approve a redraft of the January 22, 2019 minutes GT Seconded. Passed 4-0.

GT made a motion to adjourn. RR Seconded. Passed 4-0.

Minutes approved March 12, 2019

