

## ➤ **Reconsideration of Article 26: Solar Bylaw**

9/7/16

Lee Hartmann thanked the Advisory & Finance for reconsidering Article 26. The Energy Committee listened to the recommendations that were made when they presented the article to Advisory & Finance and made changes to the Bylaw as a result. Parking lots and power line utility easements were added as locations not requiring site plan review but require a 200 foot buffer along each lot line that abuts a residential district. The maximum size allowed decreased from 30 acres to 15 acres. Residential zones were further defined. Screening was added to the standards. Notification of abutters within 300 feet was added as a requirement. The Planning Board approved the changes. Lee Hartmann reminded the committee that there are 2 appeals currently in court and that both litigation fees and staff time will continue to add up to tens of thousands of dollars or more each year if we do not get a solar bylaw on the books. If we had this bylaw on the books 1/3 of the solar fields approved to date would not have met this bylaw.

Questions:

- Were solar bylaws of other towns looked at? Carver currently has a large conflict over solar fields. (J Fitzgerald) Yes, we looked at solar bylaws of all local towns. This bylaw adds protections where we currently have none. New required buffers will go a long way.
- Sand and gravel operations are considered previously disturbed land, correct? (S Sheridan) Property owners can turn a wooded area into a field provided it is not a natural heritage area or wetlands. If they want to create a field first and then apply for a solar permit, they have to wait 5 years. To run a gravel operation it is a completely different permit process.
- Why were parking lots added? (S Sheridan) The Planning Board encourages developers to put solar in developments and parking lots are a great spot, like REI has done in their parking lot.
- What about use of power utilities for solar fields? We heard an article last week that pertained to this. (S Sheridan) That particular lot has rare and endangered species so they would have a hard time getting permits to build a solar field. In that case usually 70% is set aside and the state may allow up to 30% be developed. If a solar field is built in a power easement and the lot abuts residential lots, screening and setback requirements would have to be met. Planning would perform a site plan review. This is better than what we have today, which is nothing.
- Why has the abutter notification been batted back to us? (H Helm) Lee Burns, Energy Committee Chair, said the Energy Committee is welcoming suggestions from Advisory & Finance as far as the specifics of the abutter notification in hopes that they will look at the bylaw more favorably.

**Scott Stephenson made a motion to recommend Article 26 to Town Meeting contingent upon an abutter clause being added to the bylaw language. Harry Helm, second.**

Discussion:

- 30 days notice prior to construction is short notice to coordinate with neighbors, boards, legal counsel, etc. Longer notification would be preferable. (K Canty)
- What are the other timing options in the cycle? (J Moody) 30 days prior to site plan review (possibly 45 – 60 days) but that does not include all projects. Some projects go only to the Building Commissioner. 60 days would work for all projects.
- I have concerns about the solar on power utility easements. When is enough enough for solar farms on residential land. I can not support this. (S Sheridan)

**Kevin Canty made a Motion to Amend to require abutter notification a minimum of 60 days before construction begins. Chris Merrill, second if 60 “business” days. Motion to Amend to require abutter notification a minimum of 60 business days prior to the start of construction passes (9-3-0). Sheila Sheridan, Betty Cavacco, and Judith Fitzgerald, opposed.**

Discussion/Comments - returning to main motion as amended:

- There is lots of opposition to solar. Currently the town has no protection. While I prefer bylaws to be tight, right now a 70% solution is better than no solution. We need to help Plymouth residents by recommending this to Town Meeting, I urge you to vote yes. (M Lincoln)
- I would like to see solar fields eliminated from residential properties completely. (S Sheridan)
- If we allowed solar fields on only commercial property then the 5% of land in Plymouth that is commercial may be covered by solar farms preventing buildings from being built. (J Moody)
- That state has more power and they say we can not unreasonably regulate solar fields. Concerns should be addressed at Beacon Hill. For now this bylaw addresses many concerns and gives some regulation where there is virtually none now. (K Canty)

**The main motion to recommend Article 26 as amended to Town Meeting carries (10-2-0). Sheila Sheridan and Judith Fitzgerald, opposed.**

Lee Hartmann said he will let the Planning Board know about the motion to add abutter notification.

➤ **Article 26: Solar Bylaw**

8/17/16

Lee Burns and Kerry Kearney, of the Energy Committee, presented this article. This article asks town meeting to amend the Zoning Bylaw to create a Solar Bylaw that allows the installation of ground-mounted solar systems while establishing definitions, procedures and provisions for installations. The intent of this bylaw is to promote the generation of solar energy while preserving the natural environment and supporting reduction of Plymouth's carbon footprint. The Planning Board voted 3-1 in support of this article.

Massachusetts General Laws (Chapter 40A Sec 3) state that "No zoning by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare." Therefore, the Town cannot prohibit the construction of solar energy systems but can establish reasonable regulations. Recently the town has permitted a growing number of commercial-scale, ground-mounted solar facilities but currently we have no standards covering the proper installation of such facilities. In total absence of any guidance, the Planning Board is forced to deal with each case on an ad hoc basis. There are currently two lawsuits against the town regarding solar fields which were permitted. This amendment establishes reasonable standards and protections for neighboring residential areas and the Town as a whole which may reduce exposure to costly litigation. The Energy Committee and Planning Board have heard from many residents on both sides of the issue, those that want to help the environment by supporting solar energy and those that want to prevent the replacement of trees with solar.

Provisions of the bylaw include:

- Only apply to ground mounted facilities
- Require site plan review by the Planning Board on projects within residential zones Prohibit large scale commercial solar facilities over 30 acres
- Establishes natural vegetated buffers and screening measures
- Establishes removal and decommissioning provisions
- Includes stormwater standards

Exempt from this amendment are rooftop systems, systems under 1,500 square feet in size, systems on agricultural land used for energy generation for agricultural use, and systems located on commercial and industrial districts.

78.5% of Plymouth is zoned residential and 15.9% is state forest, so over 94% is protected or residential.

Lee Hartmann, Director of Planning & Development, added that it is important to get this bylaw on the books this fall. Solar does not show up in our bylaws at all today. The town is exposed to extensive and expensive litigation without this bylaw in place. We can always amend the bylaw in the future if needed but it is important to get it on the books now.

Questions:

- Why doesn't the bylaw apply to solar systems less than 1,500 square feet? (K Canty) The standards apply to all sizes it is just that those less than 1,500 square feet do not have to go through the site review process.
- How does this prevent or regulate clearcutting? (K Canty) Today, it is legal to clear trees to make fields. If a solar permit is not received before clear cutting, then owners will have to wait 5 years to receive a solar permit.
- There are no state or federal requirements regarding clearcutting? (H Helm) Massachusetts has agricultural exemptions where anyone can clear and make a field on their property as long as there are no rare and endangered species. There are other uses where clear cutting is allowed as well.
- How many municipalities have similar solar bylaws? (C Merrill) Not sure how many but we looked at a dozen or so and they were all different regarding range of sizes allowed, etc. We are following within the spectrum of those bylaws in existence in the other towns.
- Is there an environmental assessment required after the solar system is removed to restore the site? (C Merrill) There is nothing in the bylaw that requires that.
- Why a 5 year wait after clearcutting? What do the other towns have for a timeframe? (H Helm) There was debate over the time period, we wanted it to be prohibitive but reasonable. 2 towns banned clearcutting. Fairhaven had no time limit. Marion had a 5 year time limit. All of these provisions were passed by the State Attorney General.
- Does the 5 year penalty apply to the land or the owner? (M Sirrico) It is with the land, so if the property is sold they would still have to wait until the 5 years are up.
- Is the landscape plan available for review by neighbors? (H Helm) Site plan review goes through the Planning Staff, Planning Board and Building Commissioner. It is an allowed use so there is no abutter notification but all Planning Board meetings are posted and open to the public.
- What if the LLC goes bankrupt and the solar project is not removed? (C Merrill) The town holds their deposit as protection. The Building Commissioner has the authority to issue fines and court action can be taken.
- Is there potential for issues with those projects exempted from this bylaw? (S Sheridan) Many are already built. If bylaw had been in place we would have protection from appeals and minimize the town's exposure. Those in existence will be grandfathered.

Public Comment:

Anatol Zuckerman, member of the Energy Committee, is in opposition to this bylaw. He feels the bylaw filed to minimize the impact of solar fields to residential and historical areas. He does not like that vegetative screens are only required in residential zones. He is also concerned with clearcutting and the impact of the loss of those trees on our environment. He does not like that a clearcut property can be used as a sand and gravel operation while they wait out the 5 year penalty. He supports solar systems on roofs. A home with a solar system on the roof may be valued at \$7,000 more than a home without one but ground mounted solar fields reduce the value of not only that home but also properties in the entire neighborhood.

**Harry Helm made a motion to recommend Article 26: Solar Bylaw to Town Meeting. Mike Lincoln, second.**

Discussion/Comments:

- This bylaw is not ready, it needs more work. (C Merrill)
- Uncomfortable that fields less than 1,500 square feet are exempt where they can have huge impact on the value of neighbors' property. (K Canty)
- In opposition, don't like that neighbors are not alerted and have a problem with the 5 year penalty. (H Helm)
- I feel it is critical to notify abutters also concerned that a property can be used as a sand and gravel operation during the 5 year penalty. (S Sheridan)
- There is currently nothing on the books, we have analysis paralysis, we need to approve this article and let Town Meeting decide. (S Stephenson)
- This can be tweaked over time. (R Cote)
- We should recommend this article to Town Meeting. (H Salerno)
- Bylaws, and all articles, should be ready when they are presented to us, we vote on the state that they are in now as presented, this is not to the standard to approve now. (K Canty)

**The motion fails (4-6-0). Mike Lincoln, Peter Mador, Scott Stephenson, and Rob Cote, in support.**