**Fryeburg Planning Board**

**November Meeting Minutes**

**November 30, 2021 – David and Doris Hastings Community Center**

**Members in Attendance**

Patrick Emery, Tom Rebmann, Edy Kizaki, Eli Goodwin

**Public Hearing: BD Solar Fryeburg, LLC Opened at 6:03 p.m.**

Bob Cleaves, representing BD Solar Fryeburg, LLC, provided a history of the project development and a summary of the current design proposal. He explained that the original proposal included approximately 27 acres of solar panels and was based upon the best available information about endangered species habitat and other protected resources. Further feedback from the Town included strong opposition to land disturbance near Round Pond. Additionally, information gathered on a site walk with Maine Department of Environmental Protection (DEP) and Maine Department of Inland Fisheries and Wildlife (IFW) personnel, additional changes were made to the proposal. The current plan includes a smaller area of solar panels (approximately 20 acres) and access from the south. One potential caveat is the timing of the airport runway expansion; it is possible, though not likely, that the southern access may not be available during construction. In that case, a temporary access would be established north of Round Pond and later removed after construction is completed. The area would be restored to its pre-construction condition. In any case, Central Maine Power (CMP) would retain access to its infrastructure to the north of Round Pound via Porter Road and the existing snowmobile trail in the vicinity. This existing trail is also the proposed route for the power lines extending from the solar array to the nearest substation on Portland Road.

Jeff Leach asked about access to the site from Porter Road during the winter – would the gate be moved, or left open? Would the road be plowed to Round Pond? Who would be responsible for maintenance? Various representatives from BD Fryeburg Solar provided answers (including Bob Cleaves and Sean Thies, their engineer from Haley Ward). It was noted that the CMP poles along Porter Road must be accessible at all times for emergencies. At present, the location of the gate prevents this. This project will include three new CMP poles near the intersection of the snowmobile trail north of Round Pond and Porter Road. CMP will need access to these new poles as well as the existing poles, so the details of relocating the gate will be worked out in the future between the Town and CMP.

Dan Gaynor expressed concern related to bird deaths from solar panels, potential glare hazards to pilots, and groundwater contamination from the panels. Both Bob Cleaves and Sean Thies commented that there are no known studies showing bird deaths or groundwater contamination from solar panels and also that the FAA has to approve the panel locations, so pilot hazards are not a concern that needs to be addressed by the Planning Board.

Sherri Billings stated that she was opposed to any industrial development in Fryeburg. She stated that her opinion was that the public was not consulted or given an opportunity to comment until this hearing. She also stated that her opinion was this project was being moved forward for no other reason than financial concerns and that no amount of financial compensation would be sufficient to justify cutting down twenty acres of trees. Bob Cleaves pointed out that the Town of Fryeburg, at a Town Meeting, voted to allow development of a solar electric utility on the airport.

Nels Liljedahl expressed his support for solar power, but not for this project. He asked why the project wasn’t sited on the former town landfill, concluding the decision must have been driven by financial concerns only. He also questioned how the Town could lease the property to the airport and also the solar developer. Finally, he suggested that he could be convinced to support the project if the developer provided some sort of mitigation or compensation for removing the trees. The attorney for BD Solar Fryeburg, Scott Anderson, explained that it is not only possible, but common to structure lease options in such a way. He explained that the Town has leased the land to the airport in seven year terms, but has also entered into a 40-year lease related to the new hangar. This new lease option agreement between the Town and the developer will also be for 40 years, and was approved by the citizens in a Town Meeting vote.

Tom Kingsbury spoke on behalf of the Select Board, re-iterating their support for the project.

Bob Cleaves also noted that the concept of compensation or mitigation has no precedent or legal basis and this application is well thought out and demonstrates compliance with the local ordinances. The frustration of Conservation Committee members is not relevant to the approval process being undertaken by the Planning Board. Furthermore, he acknowledged that the project is obviously being pursued because profit can be made, but that is not the only motivation in the least, and it is important to remember how much money the applicant has invested in the process to engage the public and the state to ensure project is success with minimal negative impact, before demanding mitigation in the form of monetary compensation, or otherwise.

Alison Leach stated that she is not opposed to solar electric generation, but she is disappointed that this project is being sited on a “super special area” in town. Her opinion reflected the idea that this project is being pursued to satisfy only the airport and its lawyers, with no concern for the citizens of Fryeburg. The applicant again noted that the Town approved a solar electric facility at the airport during a recent Town Meeting.

The hearing was closed at 6:42 p.m.

**Call to Order**

The regular monthly meeting was called to order at 6:43 p.m. It was determined that there was a quorum.

**Review and Approve October Planning Board Meeting Minutes**

Tom Rebmann made a motion to approve the October Planning Board Meeting Minutes. Edy Kizaki seconded. Vote: all in favor (4-0).

**Continued Review of Application for Land Use Authorization – BD Solar Fryeburg**

Tom Rebmann asked about the regulations and restrictions related to siting solar panels near FAA-regulated air-strips. Audrey Puleio from BD Solar Fryeburg gave a brief explanation, but noted that FAA rules are very complex – essentially, the governing factor related to locating anything near an air-strip is the elevation of the structure relative to the elevation of the air-strip. In the case of Eastern Slope Airport, the topography surrounding the air-strip trends higher, so any structures must be located further away from the runway than would be required on a flat site.

Tom Rebmann inquired why access for CMP was necessary along the snowmobile trail north of Round Pond. The applicant noted that CMP would only be accessing its poles along (or very near) Porter Road and would not need to access the solar utility.

Tom Rebmann asked about gates, the one on Porter Road and/or a possible gate barring access to the solar utility. The concern was snowmobile traffic management and Eli Goodwin added, asking how many new CMP poles were being proposed. The applicant noted again that CMP “should” already have access to its poles on Porter Road and also that there were no plans to restrict access to the existing snowmobile trail. Ultimately, the location of the gate on Porter Road and its security will be worked out between the Town and CMP. All of the new CMP poles will be in the Porter Road right-of-way (ROW).

Edy Kizaki asked if the applicant could review again the caveat related to a potential temporary access road north of Round Pond. Ms. Kizaki also asked for assurances that, if a temporary road were to be constructed and later removed, the mitigation/rehabilitation of the area would be satisfactory to the Town. Anderson noted that DEP would review the plans and it could be made a condition of this approval that the local Code Enforcement Officer be given authority to condition a building permit on the submission of satisfactory mitigation plans.

Eli Goodwin expressed similar concerns about future erosion and sedimentation control plans, stating his desire that more project specific plans be prepared, approved, and used for construction in place of the generic plan submitted with the application. The applicant agreed that the CEO could condition issuance of permits on the approval of project specific erosion control plans.

The Chair provided a review of the applicable local land use ordinances and noted that the applicant has adequately demonstrated compliance.

Edy Kizaki asked if the applicant could address the questions from Dan Gaynor regarding water pollution, hazardous glare, and bird mortality. Bob Cleaves stated that his team was not aware of any studies that indicated these items were of concern.

Tom Rebmann stated several conditions that should be included in the Notice of Decision, including the two mentioned above regarding the authority of the CEO to review and approve habitat restoration plans and/or project specific erosion and sedimentation control plans. It was noted that the applicant could be required to fund a third-party consultant to conduct the review, if the CEO feels that is necessary.

Tom Rebmann made a motion to approve the application as conditioned above. Eli Goodwin seconded. Vote: all in favor (4-0).

**Review of Application for Minor Subdivision – Stephen R. Meehan (Meehan Lots)**

Jon Bliss, of Bliss and Associates (Lovell), presented on behalf of the applicant. The proposed project includes four new parcels, while retaining a portion of the original parcel. It is situated to the west of Hemlock Bridge Road. There are no wetlands or watercourses on the parcel. Two of the new lots will be accessed directly from Hemlock Bridge Road and two behind those will be accessed via a common driveway that will traverse one of the front lots. The remaining parcel out back will be accessed from an existing driveway on Hemlock Bridge Road. The lots will be served by private water and sewer.

Eli Goodwin asked if any new public utilities were proposed. None are proposed, although some private utility access to the back lots may be needed in the right-of-way that establishes the common driveway.

Edy Kizaki inquired about the proposed fire suppression. The applicant stated that fire suppression water would be obtained from one or both of two sources – the East Fryeburg Fire Station and the dry hydrant near the intersection of Carter Hill Road and Bridgton Road. It was noted that the Fryeburg Fire Chief approved this plan.

Patrick Emery made a motion to find the application complete. Tom Rebmann seconded. Vote: all in favor (4-0).

Tom Rebmann made a motion to require a public hearing. Edy Kizaki seconded. Vote: all in favor (4-0).

The public hearing will be at 6:00 p.m. on December 28, 2021 at the David and Doris Hastings Community Center.

**Other Business**

The Board discussed recent efforts to make some changes to the local land use ordinance regarding cluster development, building and site review, floodplain management, and other topics. The board agreed to have a workshop to discuss ordinance updates on December 7, 2021 at 6:30 p.m. at the Town Hall.

**Public Forum**

There were no requests for an audience with the Board.

**Review and Approve November 29, 2021 Code Enforcement Officer’s Report**

Tom Rebmann made a motion to accept the Code Enforcement Officer’s Report for November. Patrick Emery seconded. Vote: all in favor (4-0).

**Adjourn**

Patrick Emery made a motion to adjourn. Seconded by all. Vote: all in favor (4-0).

Meeting adjourned at 8:30 p.m.