



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD
July 11, 2023
5:33 pm
MINUTES

CALL TO ORDER: David Peppard called the meeting to order at 5:30 pm.

ROLL CALL: Members present were David Peppard, Craig Knight, Heather Grass, and Scott Newhart. Susan Dunham Shane has an excused absence.

MINUTES: None presented

UNFINISHED BUSINESS: BD Solar Application

First Item:

David P reports we received updated decommissioning plan from BD solar. After review by David P. and by the town attorney it appears everything is in line. One thing the town attorney pointed out is that the State will require a decommissioning plan that meets their standards. Our town can be more restrictive than the State but not less restrictive. We will need to wait until the state comes out with their acceptance of what BD submits.

Sean Theis (On behalf of BD Solar) decommissioning plan was part of SLODA application. It was essentially the same plan we received. David P. asks if response from DEP yet. Sean replies, not yet.

Scott N. states that he looked up DEP solar plan and does not believe that the DEP has produced a final draft of their requirements for decommissioning plans. Which means nothing is able to be accepted until there are rules published on their part.

David P. So we won't know if our ordinance is more or less strict than DEP and basically need to wait until they finalize their rules and then respond to BD's application with an approval or denial.

David P. asks for a motion to accept BD updated Decommissioning Plan pending a response from DEP to a decommissioning plan.

Motion by Heather G. Second by Scott N. Vote 4-0

Chair Peppard moves to second item:

Board has all received and reviewed letter from Charles Gilbert, Town Attorney regarding the frontage of the property on Davis Road and how the access easement/road for project affects the conformity of the lot.

According to Atty Gilbert it is not possible for that to happen and D.P talked to CEO and he is in agreement with the attorney that the access is not possible. David asks Sean T. if applicant has any response to this letter. Sean says they have not received anything from the Town. They were not advised what the meeting tonight was really about. Heather G makes a copy of the Town Attorney's letter for Sean and Susan's original e mail.

David P. explains that the question is would the easement BD is proposing reduce the 200' frontage of the lot and thus make the lot non-conforming. The Planning Board cannot approve an action that would make land non-conforming. This would make it impossible to sell the lot in the future. David says Shawna forwarded this letter to BD (Nick Sampson). This is not something the Board will act on tonight we just wanted to make you aware of it and that we need to figure out where do we go from here.

Sean T. does not agree with attorney. Would agree if it was a right of way. But this is an easement. The BD attorneys will need to review Atty Gilbert's letter.

Craig K. asks if Susan, when she wrote to Atty Gilbert, call it a right-of-way or an easement?

David P. reply "An easement"

David repeats that the Board will not take any action tonight. Look forward to BD response.

Scott N. not agree with that assessment. For instance, if David has an easement from the power company for the lines in the front of his property it would not take away from David's ability to sell his property.

David P. Except if it took away from my frontage.

Scott N. What if the power line was right next to the road across all of David's land?

Sean T. Then he would have no frontage.

David Power line in his pasture.

Scott What about next door neighbor – power line is right at road. Does that mean he has no frontage?

David the problem is the easement is going in at 90 degrees to the road. It's not parallel to the road. That is where the problem arises.

Again, no action tonight. Just passing on information.

Craig asks, is that sole reason we are here?

Yes.

Heather asks what is road frontage? David P : 200' Heather: so 50' would leave 150'?

Scott asks can they apply for a non-conforming lot?

David looked back at his notes and found that the case that he cited in a previous meeting where an easement didn't count against the property frontage was a piece that was wider than the district required and that is why the easement was not a problem. (500' vs 200' in this case)

David does suggest that we could deny the access down the road and then BD could go to Appeals Board and if that didn't work they could go to Superior Court. But that is not for now. David says we just wanted to get this on the table

Board Input:

Heather asks if we are complete on all of the other review items?

David points out Wetland questions from Susan and Sean's responses can be reviewed. Everything else should be about done. Discussion re reviewing document tonight

Scott suggests that we need to develop a punch card system so we all can tell where we are at in review process at any time. He is not sure what we have left to do.

Scott thinks that the Wetlands questions were just questions Susan DS raised in her review of the BD Solar applications to DEP

David P. asks Sean if any response from DEP?

Sean reply still working on wetland mitigation compensation amount is still under discussion back and forth. The SLODA and storm water are almost accepted. Discussion that we already accepted these parts contingent on BD getting DEP acceptance.

This makes Sean's response to Susan's list of questions was just a nice information thing to do.

David puts review of document on agenda for next meeting.

Discussion re need for punch card. Scott thinks we have done everything. Then Heather points out items on punch list of June 26 that are still to be done or are marked hold.

Go over list:

Roads hold: 106.9 never made a motion re roads because we have never gotten info response for third culvert weight ability from Shawna. (Typist note: this is also part of hold "Site Plan Review" item "i" Impact on local roads and traffic)

Shawna received state response from DOT today. David reads document from Shawna. In a nut shell: State will not provide a letter regarding the load rating since town roads are a town responsibility/liability not the state's. He did state that all legal roads that go over the highway are legal to go over the bridges. According to him bridges designed for these loads.

Note: this is a summary of the document David read. Full text should be attached to these minutes and to the main file for the BD application.

David continues... originally state person said he would give it to us in writing but now he won't.

Sean T. comments that when DOT came out originally the rep said all three culverts were rated for 80,000 pounds.

Discussion re box culverts and weight rating and how making the road better is determined by the construction of the road surface above it. Per Scott all box culverts start out rated for 80,000. Metal culverts nothing in writing. Scott says DOT says bridges are rated for permitted traffic and it is responsibility of town, they have never given us a rating. Points out that town is going to get a bond so he feels that this point is now covered and we should make a motion. Craig worries the bond is only for resurfacing. It is pointed out bond covers any and all damage. Scott reminds town can have inspection of road before any work on project starts. But remember that is the Town's responsibility not ours. Scott thinks 106.9 Roads is complete.

Heather also pointed out this section also needs proof or a shared use agreement or easement for abutter from Rt.178

Craig asks if Selectmen are going to address road bond at meeting on the 18th. Scott thinks just the Decommissioning Plan amount. Heather shares the letter to the Select Board that accompanies the info packet that she and Susan assembled and points out that they will discuss Road Bond, Decommissioning, and Operational License Fees with the Planning Board.

Chair Peppard asks if anyone has anything else to discuss at this time.

Scott N suggests we make a motion regarding the roads. Assent from group.

"I move that 106.9 "Roads" be accepted as presented by BD Solar in their application."

Motion Scott Newhart, second Craig Knight. Vote: 4/0

(Typist note: This motion will have to be re submitted at next meeting and include shared use agreement section)

NEW BUSINESS: N/A

PUBLIC ACCESS: no one

AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING:

DATE OF NEXT MEETING: Tentative Date 7/25.

Select Board meets 7/18 Appeals Board 7/19 regarding Hammond.

ADJOURNMENT: Motion to adjourn Scott N. 2nd Heather G Vote 4-0.
Meeting adjourned

Respectfully Submitted,

Susan Dunham-Shane
(from her notes and the recording)