



Planning Board Minutes – September 8, 2020

A meeting of the Town of Freetown **Planning Board** was held on September 8, 2020 at 4:15 pm over Zoom. **Present:** Chairman Keven Desmarais, James Frates, David Crose, Christopher Mello, Robert Jose **Absent:** Debra Robbins

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Chairman Desmarais read the opening meeting statement authorizing virtual meetings due to the COVID 19 Pandemic.

Public Hearing – Proposed Changes to the Town of Freetown Protective By-Laws, Article 11 Zoning By-Laws

Chairman Desmarais entertained a motion to waive the reading of the public hearing announcement. **Mr. Jose** moved and **Mr. Frates** seconded. The motion passed unanimously.

Chairman Desmarais explained that Freetown is somewhat unique since large scale solar is allowed in residential areas. **Chairman Desmarais** said that the majority of the solar arrays within town have been developed without issues but within the last the year or two residents have rightfully made some complaints when the by-law was exposed. The most notable example of this is in the setback of the large-scale solar which is basically the same as a residential house's setback. **Chairman Desmarais** said that the setbacks listed are in not set in stone and are placeholders so that the public hearing could be advertised.

Armand Clermont, 32 Middleboro Road, said he is in contract with CVE to build a large-scale solar array on his property that would use 12-14 acres and that a 200 ft buffer would stop their proposed project. Mr. Clermont said that he has already been notified by CVE that if the proposed changes pass at Town Meeting then they will not go through with the project. Mr. Clermont said that he just wants the Board to know that this could ruin something that has been worked on for over a year. **Chairman Desmarais** thanked Mr. Clermont for attending the meeting and sharing his concern and clarified that this will only affect lots that abut residential or conservation areas.

Chairman Desmarais asked for input from the other Board members. **Chairman Desmarais** said he would like to change the term from vegetated buffer to buffer and that he would like to see 100 ft no activity buffer which would have no drainage or roads. **Chairman Desmarais** said he would like to add a noise limit, in addition to the visual impact regulations, that would mimic the DEP's noise limit. **Chairman Desmarais** said it will go a long way if the Board can decide on a buffer, noise limit, and buffer definition to put in the By-Law. **Chairman Desmarais** reiterated that for the most part large scale solar has benefited the town and that the town collects over \$1,000,000 in taxes every year from the solar arrays.

Bob Clermont, 32 Middleboro Road, said that the property does abut residential area. Mr. Clermont said they decided to go with a solar array because it would be better for the environment than house lots. **Chairman Desmarais** told Mr. Clermont that as passionate as he is about solar that there are other residents who feel it has affected them negatively. Mr. Clermont asked what their complaints are.

Chairman Desmarais said one complaint is the lack of setbacks on large-scale solar and that one solar array in particular has, in the resident's opinion, had a negative impact on the neighborhood.

Mr. Frates asked if we are in agreement that 50 feet is not enough. **Chairman Desmarais** said yes in a residential area, he can see how 50 feet is not enough.

Ryan Young, CVE, said he would disagree that 50 feet is not enough and that he can show areas in town where 50 feet is more than enough. Mr. Young said he thinks 50 feet is enough with adequate screening and that screening doesn't not have to be natural. Mr. Young said does not think the Board will be able to enforce such strict by-laws. Mr. Young said he does not believe the proposal is reasonable and that it could be violating Massachusetts chapter 40A due to the dimensional requirements. **Chairman Desmarais** asked if he was an attorney. Mr. Young said he is not. Mr. Young said they have invested hundreds of thousands of dollars in projects in Freetown and that changing the laws would invalidate them. **Mr. Jose** asked Mr. Young if it was his interpretation that town's such as Dartmouth that have a solar moratorium are in violation of Massachusetts Law and if it was his interpretation that any proposed changes to the Zoning By-Law would adversely affect people who are currently planning to use their property for projects down the line and that the Town cannot make zoning changes as it see fit. Mr. Young said no, and that his interpretation is that the proposed by-law would effectively limit solar in all of town. Mr. Young added that it is his interpretation that a By-Law like could actually negatively impact neighbors is the best place to put the solar array is right next to the property line. **Mr. Jose** asked Mr. Young if he is aware that these regulations only apply to lots abutting residential properties. **Mr. Jose** said he also believes that the Town is allowed to limit commercial uses in residential areas.

Chairman Desmarais said he believes the proposed setbacks are onerous but the purpose is to think about the impact of what different size setbacks would be. **Chairman Desmarais** said he is favor doing something that's a bit better and more restrictive than the current by-law.

Mr. Jose said for the record he is one of the biggest proponents of solar and that there is a reasonable graduated approach, in conjunction with vegetative screening, could work. **Mr. Jose** asked **Chairman Desmarais** if he thinks if it would make more sense to make these changes in the Rules and Regulations, instead of the by-law. **Chairman Desmarais** said that is a good idea and he believes that the setbacks should be based on the solar array size, not the lot size.

Chairman Desmarais said they do not have to figure it out tonight and that they have time to discuss this further at another meeting. **Mr. Jose** said maybe they go with an either or situation where if there is already sufficient vegetation then there is no need for additional plantings.

Mr. Young suggested that the Board make it incumbent on the applicant to prove they have sufficient coverage to lessen the visual impact. **Chairman Desmarais** said it is not the Board's job to make it easier for applicants if doing so would make be detrimental to residents. **Chairman Desmarais** said if we put it in the Rules and Regulations instead it would allow for more leeway for individual projects.

Chairman Desmarais asked **Mr. Jose** if he finds a no-touch zone of 75 feet, with the exception of the entrance and egress, agreeable. Bob Clermont said that even an additional 25 feet could kill their project. Bob Clermont also asked if he could be grandfathered in. **Chairman Desmarais** asked if he has applied. Bob Clermont said he is not sure.

Mr. Jose said he is sorry but the Board is planning for the entire town not just his project. **Mr. Jose** said additionally the state can change the rules tomorrow and that could kill your project.

Lisa Lundrigan, 16 Algonquin Way, said she represents folks who about a current project which probably contributed to the discussion that is happening today. Ms. Lundrigan said the project going on behind her clear-cut 80 acres and about 50 acres are being dedicated to solar. Ms. Lundrigan added that every concern they had has been validated and then some. Ms. Lundrigan said there are visual disruptions, the ongoing noise from a year's worth of excavations, loss of trees on her property due to wind, and that the overall neighborhood looks shabby. Ms. Lundrigan said there are also safety concerns due to loitering. Ms. Lundrigan said the noise of inverter is so loud that her daughter can't sleep in her room.

Chairman Desmarais said it is obvious that the Board is not going to solve everyone's issues tonight. **Chairman Desmarais** said he would at least like a consensus on a requiring adherence to the DEP's ambient noise levels.

Chairman Desmarais told Ms. Lundrigan that the town's review engineers will be out there at some point within the next week to do a noise study on the inverters. Ms. Lundrigan said it typically gets louder at 6 pm and from 9 to 10 pm.

Chairman Desmarais entertained a motion to continue the public hearing on proposed changes to Large-Solar Array by-law to September 15, 2020 at 4:15 over Zoom. **Mr. Mello** moved and **Mr. Jose** seconded. The motion passed unanimously.

Chairman Desmarais entertained a motion a adjourn. **Mr. Jose** moved and **Mr. Mello** seconded. The motion passed unanimously.