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**Town of Norton Planning Board
Meeting Minutes
November 1, 2016
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7:15 P.M. Call to Order

The November 1, 2016, meeting of the Norton Planning Board was held in the first floor Selectmen's Conference Room, of the Norton Town Hall and was called to order at 7:15 P.M., by Joanne Haracz, Chairman. Member(s) Present: Joanne Haracz, Chairman; Mr. Edward Beatty; Mr. Patrick Daly; Mr. Frank Durant; and Mr. Stephen Jurczyk. Absent: Mr. Christopher Barrows and Mr. Joseph Fernandes.

General Business

A. Approval of Minutes

MOTION was made by Mr. Beatty to approve the Planning Board Minutes, dated August 23, 2016, as amended. Second by Mr. Jurczyk. Vote: All In Favor except for Mr. Daly voting "present".

B. Bills and Warrants

There were no Bills and Warrants to vote on this evening.

C. Planning Board Business and Policies

Nothing was discussed.

D. Report of the Planning Board

Nothing was discussed.

7:20 P.M. PUBLIC MEETING (continued from the October 25, 2016 meeting)

In accordance with the Certificate of Vote for the Clapp Street Solar Project dated February 9, 2016 (Special Permit #448) the Norton Planning Board will hold a public meeting on October 25, 2016 at 7:20 P.M. in the Norton Town Hall, Selectmen's Meeting Room, 70 East Main Street, Norton, MA to discuss conditions of approval for the Clapp Street Solar Project, pertaining to additional visual buffering.

Documents Provided to Planning Board:

1. *Norton Planning Board Public Meeting Notice In accordance with the Certificate of Vote for the Clapp Street Solar Project dated February 9, 2016 (Special Permit #448) - date of Planning Board Public Meeting: October 25, 2016, accompanied by Certified Abutters' List (meeting continued to November 1, 2016 from October 25, 2016)*

2. *Document: "Findings and Decision" - Applicant: Norton Solar I, LLC, Special Permit #448 and Site Plan Approval, Wheaton College/Clapp Street, Norton, MA, Assessor's Map: #23, Lots: #52, 53, 70 (Stamp-received by Town Clerk on February 10, 2016)*

Mr. Henry Weitzner reiterated what he discussed at the last meeting; time is of the essence regarding this project, otherwise, it affects Wheaton College and the Town and he hopes it is not delayed. There needs to be a resolution and hoping for one as soon as possible. Garth, their landscaping professional, was present this evening as well and he spoke to the residents of this area, Dean and Patricia Zwicker, Kevin and Janice Heayden, and Bruce Cummings. It was noted Dean and Patricia were speaking on behalf of their neighbor of 19 Clapp Street (Norton Memorial Funeral home) also.

Mr. Weitzner stated he thought the resolution was good and there may be some visibility at this time, but plants will grow in nicely. For 19 Clapp Street and Zwickers, Garth is proposing an additional eight trees to fill in rows in a certain area and screening effective for 9, 15 and 19 Clapp Street. Therefore, there was an identified weakness and also a very effective solution. He was also aware Garth met with Janice and Kevin Heayden as well and meetings did not sound very fruitful. He stated there was extraordinarily limited visibility from the Heayden's residence and at this point it appears there is nothing they can do to make them happy. They planted about 100 trees to provide screening to Janice and Kevin Heayden's house.

Mr. Weitzner indicated they were proposing an additional eight plantings and gaps to be filled in nicely and not 100% coverage, but they will grow.

Garth explained on map where the 8-10 foot trees and 10-12 foot trees were proposed and noted the species of trees they had would provide the best coverage (pine trees) and a better spread up top which is what is needed. He said they stood on funeral homes steps to see coverage and got a good view. As a person walks certain line sites they will get larger views. They are trying to establish these plantings the first year; the second and third year they would get better coverage. He has done solar plantings for many years and with planting over 100 trees for this project, he felt they were going above and beyond anything else he has done before. The trees they have planted just need time to grow. Garth hoped to get the trees in before ground freezes; even if it freezes it is still ok to plant. When next spring arrives, they will reassess them. Also, the purchase of these trees were from a very reputable grower.

Mr. Beatty referenced the driveway to right of trees they are proposing; in front of driveway across from funeral home (Zwickers) nothing is being proposed.

Garth responded he believed the racks were visible from that location.

Mr. Weitzner said they are not really visible from properties; some visibility from road, not from properties and referenced map.

Mr. Zwicker of 9 and 15 Clapp Street thought there was some error with this map; the funeral home he believed was in the wrong location per this map. Discussion ensued.

Garth said he and Mr. Cummings had discussions on coverage, however, 100% coverage is difficult to do, and he has not seen it on any other solar project. In four to five years, it will come close to 100% coverage; and in ten years almost guaranteed 100% coverage. It is generally overplanted and they may want to take out some of these trees in years to come.

Mr. Zwicker said not so much from 15 Clapp Street but from 19 Clapp Street, from front porch, there needs to be more screening/trees.

It was again noted, the owner of 19 Clapp Street is not present this evening as he had a funeral service this evening.

Garth said it is a peaceful neighborhood with about 360 trees; something else could have been built instead of a solar farm.

Mr. Beatty said he thought there were some serious gaps across from funeral home.

Garth said they could add some additional plantings if the Board believes it is needed. He thought it was further down the road from what Mr. Beatty was referencing; he has also set up flags for reference, etc.

Mr. Daly asked about the frames and glare issue?

Garth responded, yes, once covered the glare is reduced.

Mr. Weitzner said once they are covered, the aluminum won't be seen; with fewer visual elements, a person's eyes will ignore them.

Mr. Daly said from 14 Clapp Street those frames will be seen, especially the sides of the frames.

Mrs. Haracz asked if the panels shadow the frames?

Garth responded they should shadow the frames.

Ms. Janice Heayden said, however, they won't be shadowed on the side and the back.

Mr. Weitzner stated trees were there and provided buffer and growing more will add more of a buffer. He did not see that they were visible.

Mr. Daly stated they are visible; he has seen them.

Mr. Beatty communicated those particular views to him are not as critical as from the Zwickers and funeral home.

Mr. Daly referenced a berm in back where it drops down.

Garth said he thinks someone had to do drainage and created that, but it was not him. They did not change the grade and a lot of the grade there is original. Discussion ensued.

Mr. Durant asked if Garth agreed with the limited visibility?

Garth replied they spoke to Janice and Kevin Heayden and addressed many things, however, Mr. and Mrs. Heayden won't approve it.

Mrs. Haracz asked about higher elevations?

Garth said they did discuss higher elevations and some of it did not make much sense to do because it was not cost effective.

Mr. Cummings of 37 Clapp Street stated they met Garth on Friday of last week and he invited him to his front doorstep (his point of reference) and he agreed to that point of reference and those trees would grow another two feet. System B is out of view. He said he and Garth agreed that regarding System A, something else had to be planted on that corner. He asked if that was missing from the newest plan?

Garth responded it appeared it was missing from the newest plan.

Mr. Cummings thought they had a good discussion and they agreed they would have engineering drawings and do a mark-up to see the line of site. If there is a significant loss because of project management, why cannot Town still get payments? This is a condition he wants everyone to think about. It appears the developer needs to meet the deadline and he did not want Town to have to lose this money.

Mr. Weitzner said he understood what Mr. Cummings was saying regarding the line of site and appreciated him being specific and something they do need to discuss. He heard the funeral home referenced and that is something they can discuss. He would like to explain the money

part of it. The Town has \$100,000 of their money to guarantee the property value of the abutters. The Town has \$25,000 of their money as a landscape guarantee or to use as the Planning Board sees fit. The \$300,000 amount is tax payments (\$15,000 per year) and if project becomes operational they will receive it. If there is a delay, and they don't meet mechanical completion, then that \$15,000 will decrease significantly because it is based on revenue the project generates. There are taxes and they have to pay the Town.

Mrs. Haracz referenced the Pilot Agreement was with and signed by the Board of Selectmen, therefore, the Planning Board was not part of these negotiations.

Mr. Cummings said he was looking at the business model; the bigger picture is the business model which shows this company won't be in business for very long. This is their one chance to raise their hand in order to protect properties. He added anything they agreed on was not included in this introduction.

Garth said they discussed adding those trees in and, after going over that, they discussed that might not be where they need them the most. They can go back and add those in; that would consist of going back in springtime and possibly doing that, and may need to add some on Mr. Cumming's side of road also. Where Mr. Cumming's site is located, there is a boundary line and conservation line and did not to create issues with that. They probably will need to add trees in springtime; he did not think that would be such a major issue.

Mr. Cummings said coming back in spring is what they had discussed.

Janice and Kevin Heayden indicated Garth did come out and he was very nice and they had an extensive conversation. She said she did not say she wouldn't be happy with what they would do. She has never seen Mr. Weitzner on her property, unless he trespassed, so someone chose sites to stand in her yard where it could not be seen. There is a solution; they planted 100 trees and planted much too low. Mr. Daly and Mr. Beatty were both at her property and as leaves fall she is seeing more and more of it (panels, etc.). She said they secured an outside consultant to come in and it was \$74,000 for 90 trees and plantings. Garth had indicated basically they could do the same thing but it was costly. The applicant wants this to be expedited, so they can turn it on. She said she has consulted an attorney but has not retained the attorney at this point. This was not a threat; she said she believed they are being victimized. They can see racks of it and not only System A, but also System B; she can see both of them. She said she can compromise with System B. Where these trees are planted, they are up against trees and provide so much shade and will grow toward solar array. There is a solution, however, she does not think they want to do it because it is expensive.

Mr. Heayden said in terms and conditions it says numerous times "in good faith" they will work with them. He spoke with Garth because he understood elevations and he understood the solution and they spoke of bringing them up a grade.

Ms. Heayden asked how it would be guaranteed they would come back in the springtime?

Mrs. Haracz responded they would include it as a condition.

Ms. Heayden said possibly some trees could be transplanted, however, she was not certain if it could be done. She believes their property needs the most extensive work and knew it would be cost prohibitive. She said her house is 26' higher than solar farm and she indicated she mentioned this time and time again. There is a solution and it is expensive.

Mr. Heayden discussed bringing plantings up in elevation. He also noted that the architect engineering was horrible.

Garth responded his understanding was that Mr. Heayden's idea was to clear cut onto their property and build a berm and he thought that was extreme. Removing that to building a berm will be back to where they are, and said he got the sense the Heaydens would not approve whatever they did. It is not ideal to dig trees up because they don't transplant well; once they are in and unwrapped, it is not beneficial to juggle them around. They did have discussions regarding options, but it was unreasonable and not gaining much from the other option. These trees will grow up not down. He said they had a good back and forth conversation, but have not arrived at any plan that is perfect. He would like to think they could compromise on this and he did not mean any disrespect to the Heaydens.

Garth said Ms. Heayden suggested to plant some trees in the back, which is still an extensive project. He was not sure of liabilities regarding their property, etc., and said it has been a real brainteaser as to what they can do in that location.

Mr. Weitzner said there had been a number of suggestions offered and they started with the eight trees to be planted. He wanted to make a proposal, however, he was not comfortable with this newest proposal communicated by the Heaydens; and it does not seem equitable. He is proposing the eight trees, along with proposing three trees to be planted now or in spring 2017 at Mr. Cummings' discretion and they either pay for them upfront or make some sort of commitment.

Mr. Cummings responded he would like to work with Garth and referenced the area looking from his front door toward System A.

Mr. Weitzner said he did not think they will ever come to any type of agreement with the owners of 14 Clapp Street. He proposed they provide \$5,000 of cash to do plantings; roughly that would be ten trees on their property based on estimate he is hearing from Garth and would rather provide cash payment to them. If they did agree to the \$74,000 plan, he did not think they would have a different visual effect and it would not be solving anything. He said Mr. Cummings asking for trees, as well as the funeral home and Zwickers are all reasonable requests.

Mr. Zwicker said he was not sure if three trees would make an impact; he was also aware some of the Planning Board members have visited this area.

Mr. Daly confirmed there would be three trees for Mr. Cummings.

Mr. Weitzner said there would be three trees for Mr. Zwicker and to be planted either now or in spring 2017, and also three trees for Mr. Cummings. Mr. Weitzner asked Garth his opinion on this?

Garth responded it would probably work with three trees if they hit the right spots.

Garth noted these are 10-12 feet trees. If they need to do an extra one or two, they probably can do that.

Mr. Zwicker said they do need trees in that location and need three trees for Mr. Cummings.

Mrs. Haracz said they need to let the trees grow and they cannot be planted so tight they won't grow. She thought it was a reasonable approach to the issue. She did not think taking out trees to plant more trees makes sense, particularly adjacent to wetlands/conservation areas.

Mr. Cummings asked if berm needs to be added to get them higher would that be considered?

Mr. Weitzner responded, no, they need to let them grow.

Mr. Weitzner proposed three trees to Mr. Zwicker at his discretion; three trees to Mr. Cummings at his discretion; and and \$5,000 to Mr. and Mrs. Heayden.

Mrs. Haracz commented there will not be 100% coverage unless there is a wall built.

Mr. Jurczyk stated this appears to be a reasonable attempt for this issue and they need to let the trees grow and it will be beneficial if they relook at this in time.

Mrs. Haracz agreed with Mr. Jurczyk and said also the Town is holding surety.

Mr. Beatty said it sounds like the funeral home, the Zwicker residence, etc., will be covered, however, he is uncertain how they will solve issue at 14 Clapp Street. They do have \$25,000 for additional plantings if necessary.

Mr. Daly asked if that \$25,000 was for ten years for landscaping?

Mrs. Haracz responded the Town is holding \$25,000 for ten years, along with a one year guarantee.

Mr. Durant referenced the Pilot Agreement and asked what would happen if they did miss deadline?

Mr. Weitzner responded the Pilot Agreement would drop by 30-40% at least.

Mr. Beatty said he liked the proposal, except he still had concerns with 14 Clapp Street. He said unless they bring trees up out of gully there is no solution to that; he did not think putting trees there is going to work with elevations.

Mr. Weitzner responded the \$5,000 is the solution.

Ms. Heayden said this was the reason they sought an independent landscaper and \$5,000 would not cover the cost of a fence, etc., and said her husband is a contractor and could explain further if needed. There is a solution, however, it would cost them much more than \$5,000 to do this. She said this was not fair. Between their property and Wheaton's property there is a hump and that is where they need to plant trees and the \$5,000 offer was offensive. She said they were told they would not be able to have any visibility of this project.

Mr. Heayden referenced plan and said he did not suggest clearcutting field, however, the trees they won't see growing enough until ten or fifteen years. He said Garth did agree with him on some of his recommendations; along field is elevation of street and that was his suggestion to Garth. The wet zone would not come into that area at all.

Mr. Durant asked if fence was put on their property, from their kitchen window, how high would fence need to be?

Mr. Heayden responded 26' is ground to ground and a "ballpark estimate" would be at least ten feet but probably would need to be 12 feet.

Mr. Durant referenced pine trees and said if there were ten trees planted, would that help visibility?

Mr. Heayden responded he would like to keep it clear for safety sake, especially with coyotes and other wildlife in area; that is why he suggested it be done on other side of fence.

Mr. Durant asked if there was an amount they would be satisfied with?

Mr. Heayden responded he would need to discuss this with his wife. He said, also, composition of the Planning Board has changed and they have accepted the fact this project will be there. They were told by VHB and others they would not have visibility of this project. He would like plantings put on back side of fence to screen. He said the \$5,000 was just a buyout.

Mrs. Haracz said the other option is to let the plantings grow.

Mr. Beatty said he would like a revised/up-to-date plan of everything and recommended they revisit 14 Clapp Street in springtime and if they need to use some of the \$25,000 they can do so.

Mr. Weitzner said a definitive plan was needed, and indicated he will add \$10,000 to landscaping guarantee, that in theory, the Town can do whatever they need to do with it.

Mr. Beatty suggested possibly bringing trees up on hill to help.

Garth said pine trees would provide the quickest coverage/fastest height. Discussion ensued on accessibility in that area; to get trees in, they would need a road to get trees planted in ground because it does slope.

Mrs. Haracz suggested smaller trees would grow faster.

Garth said possibly a combination could be used on the backside of the Heyden's yard.

Garth said if they go down in size regarding trees, they get more trees and they would need to hold a pole to decide placement/height of trees.

Mr. Heyden responded, yes, they could work with them on that.

Mr. Daly asked why not have it be done immediately?

Garth replied it will take a long time and there is prep work.

Mrs. Haracz said they would probably need to go to Conservation Commission (ConCom) as well.

Mr. Daly noted it was already flagged.

Mrs. Haracz said, however, work is not permitted and it is already November 1st.

Mr. Weitzner stated he proposed eight plus three plus three trees and \$10,000 to Town to take care of this.

Mrs. Haracz said the logistics of that would need to be worked out with Town Counsel and Town Manager.

Mr. Weitzner said that would be another permitting process they would need to go through; they need to reach some closure.

Mr. Daly stated everyone wants a resolution.

Mr. Jurczyk said they need a plan and price-tag and did not foresee that happening this evening.

Mr. Weitzner said this will just drag out the process for another year or two and he believed the original offer was very fair. Doing another option won't have a significant impact on visibility. If there is a potential legal battle, do they decommission it; does it just sit there?

Mr. Durant clarified it would be eight plus three plus three trees and \$10,000 added to \$25,000 guarantee.

Mr. Heayden stated he has provided a solution.

Ms. Heayden said she is aware they are on a timeline, but they have provided this same solution every single time for two years. Wheaton College does say they want to be good neighbors.

Mr. Weitzner said it appears any plan they come up with will not satisfy Mr. or Ms. Heayden.

Ms. Heayden responded they have not even tried once and felt they were painting her as being unreasonable and said she was not unreasonable. She said they should not have that financial burden; maybe VHB should assist and said possibly it is VHB's fault. She said Garth had some great ideas/solutions and he needs to come out and come up with a quote.

Garth said they would need to agree on height; he is not a surveyor.

Mrs. Haracz stated they needed to reach a resolution and appears they have resolved everything except for one site.

Brian Douglas, Executive Vice-President of Finance and Administration of Wheaton College, said he would defer to Mr. Weitzner regarding this. He believes they have worked extraordinarily hard to come up with a reasonable solution and there were hundreds of trees planted. They are trying very hard and not sure what number would ever work. In the spirit of being a good neighbor, they would match an allowance held by Town or another option, so would increase the \$10,000 to \$20,000.

Mrs. Haracz thought the solution may possibly be to have height closer to the Heayden's property.

Mr. Douglas said if it would be more helpful to plant on the Wheaton College side, they would be agreeable to that. Wheaton College would be happy to put trees on Wheaton side and closer to

house and may enhance screening that would be desired. This would be through Mr. Weitzner, but would be adding those additional dollars.

Mr. Weitzner responded he could agree to provide the money, but cannot agree on negotiating a plan. He could not come back before the Planning Board to negotiate how this will be done because they feel it is futile.

Mrs. Haracz responded it is not the Town's responsibility to do this.

Mr. Weitzner stated the \$20,000 would be available to the Heayden's and they have the right to access Wheaton's property, then they have available access to plant, and they could utilize Garth or someone else and see what \$20,000 would do for them.

Ms. Heayden responded they were not doing that; the applicant has a landscaper and they should have landscaper do it. Also, it was not inspected from site lines.

Mr. Weitzner said the legal definition is it should be visually protected from maximum extent possible. This is the only way to resolve this and it appears they don't agree to what is maximum extent possible, and said they cannot do the plans.

Mr. Jurczyk asked Ms. Heayden if she would be comfortable working with Garth?

Ms. Heayden responded she is comfortable with Garth's work and she said she honestly does not know what it will look like and doesn't expect it to be 100% covered. She does believe it can be corrected and said she felt bullied.

Mr. Weitzner responded he did not want her to feel bullied; they are not bullying her.

Ms. Heayden stated she did not want to see 125' of solar panels from her yard.

Mrs. Haracz reiterated more trees can be purchased if they are smaller in size.

Ms. Heayden referenced agreement and asked why were they told they would not see it from their first floor? She asked what if the \$20,000 does not cover it?

Mrs. Haracz stated it does not say anywhere it is a 100% guarantee the neighbors won't see any of it. They are offering a solution and she felt it was a reasonable solution to issue. The Heaydens would be more inclined to know where they want to specifically plant trees and they would be directing it since they know exactly where they want it. She said they need to balance out multiple interests as a Planning Board as far as the applicant and the residents, etc. She thought it was a reasonable offer and provides them the opportunity to do what works best for them.

Mr. Jurczyk agreed and thought it was a reasonable solution regarding adding plantings, etc., and nothing is 100% guaranteed.

Mr. Beatty said he agreed, but he believed the developer has the responsibility to do the plantings.

Mr. Jurczyk agreed with Mr. Beatty that the plantings should be done by developer.

Mr. Beatty said there was an element of plan that needs to be addressed.

Mr. Weitzner asked if they needed permits for that work? He still felt the best solution was providing the \$20,000 and Garth could go and discuss with the Heaydens so they can do whatever they desire to do.

Mrs. Haracz replied there would be no permits as long as they are away from buffer zones. However, she could not speak for a wetlands permit as she is not familiar with that type of permit, she could only speak for the Planning Board. She believes it would fall under a special permit.

Mr. Daly noted also once covers are on in the springtime, they will have a better idea of how things appear.

Mrs. Haracz said they will hold escrow-type of accounts; the Planning Board will hold the money.

Mr. Weitzner stated they will pay money to Planning Board into escrow.

Ms. Heayden asked what if the total amount equals more than \$20,000 (i.e., \$21,000); would they get \$1,000 more?

Mrs. Haracz replied she could not answer that question.

Mr. Jurczyk noted if there was a need for an extra \$1,000, they would reasonably try to obtain the money for the Heaydens from some option.

Mr. Weitzner noted if the \$25,000 is not used in ten years, they do get money back, but they are not counting on it.

Mrs. Haracz said they need to talk to and/or send letter to Town Manager regarding this type of account.

Motion: 3 trees for #19, 3 trees for #37 and 8 trees for along the edge of Clapp St.; and \$20k for plantings to reasonably screen #14 with the Norton Solars' contractor doing installation. Developer to do work no later than spring.

MOTION was made by Mr. Daly per Norton Solar's recommendation and guarantee there will be eight trees plus six additional trees in quantities of three for #19 Clapp Street, three for #37 Clapp Street, and eight along the edge as discussed, and \$20,000 for plantings to reasonably screen #14 Clapp Street per Norton Solars' installation no later than spring 2017 and work performed by developer. Second by Mr. Jurczyk.

Discussion: Mr. Zwicker of 15 Clapp street referenced the three trees plus the other three trees and questioned what happens if that does not take care of issue, especially for #19, the Norton Memorial Funeral Home? Will a total of six trees work? He said Garth has been wonderful to work with and asked the Board if he could ask Garth his opinion regarding this?

Mrs. Haracz said those trees are staggered and once they start growing they will fill in.

Garth replied those trees will cover a lot; they will fill in the gaps.

Mrs. Haracz indicated she will talk to Town Manager regarding this. This info needs to be put into letter form.

Mr. Weitzner asked to please include in the letter that this satisfies the developer's planting obligations.

Mrs. Haracz responded, yes, she could include that information.

Vote: Unanimous. MOTION CARRIES.

Mr. Weitzner offered to write letter/proposal.

Mrs. Haracz was agreeable to that and said Mr. Weitzner will write it and she will edit it as necessary.

Adjournment

MOTION was made by Mr. Beatty to Adjourn at 9:27 P.M. Second by Mr. Jurczyk. Vote: Unanimous. MOTION CARRIES.

Respectfully Submitted by:

Janet Sweeney
Planning Board - Recording Secretary

Minutes Approved by Committee

on: 1/10/17
(Date)

Signature: Joanne Haracz Chairman: JOANNE HARACZ