



Planning Board Meeting Agenda

Wednesday, November 7, 2018 6:30 PM
Main Street, Hubbardston, Slade Building

Planning Board meetings are broadcast live and also digitally recorded for broadcast at later times

- Call to Order
- Review and Approve Previous Minutes
 - August 20, 2018, September 5, 2018, September 10, 2018, September 26, 2018
- Contact Emails – ‘Test’ of Town email. Use of Town Email.
- Member Assignments - Status:
 - Craig Boissoneau – follow up with Scenic Road “Flagging” Project and Inter-Board Communication
 - Bill Homans – follow up with Annual Gravel Pit Report
 - Alice Livdahl – review of planning board fees
 - Kendall Daily – Noise report
 - Tom Robinson – Economic Development status. SBA and other funding agencies.
 - Master Plan updates by chapter
- Correspondence
- PB Accounts – Christina Sutcliffe presenting status of current Planning Board Accounts
- Response from Seaboard Solar and further action (True Green Energy)
- Planning Board Website –
 - Goals and Purpose
 - Fee Schedule – posting online
 - Master Plan – last plan, current chapters
 - Other aspects the board feels would be helpful, beneficial to link to
- Board Organization – CB - Information Review - Oath, etc.
- Associate Member Update
- Matters Not Reasonably Anticipated by Chair
- Adjourn

Agenda Attachments:

1. DRAFT Alice Fees Report
2. DRAFT Christina Accounts Report
3. Master Plan Chapters List
4. October 11, 2018 PB letter to Seaboard Solar
5. October 18, 2018 response - Seaboard Solar to Planning Board
6. Complaint: Mr. Leblanc’s letter and photos
7. PB Letter to Town Administrator with attachment re Associate Member Process

DRAFT

FEE COMPARISON HUBBARDSTON AND ABUTTING TOWNS

10/17/2018 as researched by Alice Livdahl

Town	Application Fees for ANR Plans
Barre	\$100 first lot + \$25 for each additional lot
Gardner	\$25 first lot + \$25 for each additional lot
Hubbardston	\$200 per lot per clerk (web form says \$175)
Petersham	\$100 per lot
Phillipston	\$100 per lot
Princeton	\$100 per lot
Rutland	\$300 + \$50 per lot and/or parcel altered or created
Templeton	\$300 per lot
Westminster	\$100 per plan w/2 or fewer lots, \$100 + \$100 per lot for 3 or more lots

Town	Subdivision Fees
Barre	Form B (Preliminary Plan) \$200 + \$25/lot technical review + professional engineering (PE) costs Form C (Definitive Plan) if B filed \$500 + \$100/lot + PE Form C if no B filed \$1000 + \$200/lot + PE
Gardner	Form B \$100 + \$.50/ft ² Form C if B filed \$250 + \$2/ft ² Form C if no B filed \$500 + \$3/ft ²
Hubbardston	Form B \$25/lot w/\$100 minimum + consultants & engineers (SRR p.6) Form C \$200/lot + advertising & postage + consultants & engineers (SRR p.7)
Petersham	Form B \$250 per lot + advertising & postage Form C \$450 per lot + advertising & postage
Phillipston	Form B \$250 Form C if B filed \$200 per lot Form C if no B filed \$500/lot (excl. not buildable lots)
Princeton	Form B \$100 + \$50 per lot + expenses Form C if B filed \$1000 + \$100/lot + expenses Form C if no B filed \$5000 + \$250/lot + expenses
Rutland	Form B Residential filing fee \$3000 + \$250/lot and

	review fee \$5000 + \$500/lot Form B Non-Residential: filing fee \$1000 and review fee \$1000 + \$75/acre Form C Residential if B filed \$3000 + \$250/lot and review fee \$5000 + \$500/lot Form C Residential if no B filed \$5000 + \$500/lot and review fee \$10,000 + \$1000/lot Form C Non-residential \$1000 + \$4/ft rd + \$1000 if retention/detention Subdivision where no ways created \$1000 and review fee \$5000 Senior Housing filing fee \$2500 + \$250/unit and Review fee \$5000 + \$250/unit
Templeton	Form B \$500 + \$200/lot Form C (if B filed) \$500 + \$200/lot Form C (if no B filed) \$700 + \$300/lot Modification of Preliminary Plan/change ownership \$600 + \$300/lot affected or created Modification of Definitive Plan \$600 + \$300/lot affected or created
Westminster	Form A \$500 + \$50/lot + ad Form B \$1500 + \$5/ft rd + advertizing Modification \$500 + \$1/ft rd Extension of time to complete road \$200

Town	Application Fees for Special Permit
Barre	\$100 (as "not listed")
Gardner	\$350
Hubbardston	\$150
Petersham	\$75
Phillipston	?
Princeton	\$100 + \$300 public hearing cost
Rutland	\$500 + review fee if needed
Templeton	\$500 (+\$400 for modification or extension)
Westminster	\$200 + advertising

Town →	Application Fees for Site Plan Review
Barre	Barre has environmental review no fee specified
Gardner	?
Hubbardston	\$150 per clerk + engineering and other professional fees (p.24 HZB says "as set by planning bd)
Petersham	?
Phillipston	?
Princeton	\$100+\$25/parking space + expenses + \$300 public hearing cost; -\$25 (for RPOD)
Rutland	\$
Templeton	\$.10/sq ft usable/leasable space excluding "disturbed land and parking spaces" Existing structures \$100 + planning bd. expenses (note: also very extensive "project review fees")
Westminster	\$

Town →	Application Fees for Gravel/Earth Removal
Barre	\$250
Gardner	?
Hubbardston	For two years: \$1000 small, \$2000 large
Petersham	\$1000
Phillipston	
Princeton	?
Rutland	?
Templeton	?
Westminster	?

At present the Planning Board has fourteen (13) outstanding accounts under its purview. Four (4) are general fund accounts voted in the Fiscal Year Budget. The other nine (9) are funds associated with projects or Planning Board fees. These accounts are listed below (see Notes for descriptions of account types).

¶

Account Number	Account Type	Funds Associated With
001-175-5110-0000	Planning Board Clerk Wage	General Fund Account
001-175-5700-0000	Planning Board Expense	General Fund Account
001-175-5700-0001	Montachusett Reg Plan Dist	General Fund Account
001-175-5300-002	Master Plan	General Fund Account
232-175-5380-0000	Standard Revolving Account	See Note 1
235-000-5380-0000	Standard Revolving Account	See Note 1
234-175-5380-0000	Consultant Funded Project Account	See Note 2
237-175-5380-0000	Consultant Funded Project Account	See Note 2
916-175-5780-0000	Escrow Account, See Note 3	Borrego
918-175-5780-0000	Escrow Account	Hubbardston Solar
919-175-5780-0000	Escrow Account	KS Solar
920-175-5780-0000	Escrow Account	Seaboard Solar
942-175-5780-0000	Escrow Account	Borrego-Williamsville

¶

Note 1: At present the Planning Board has two Standard Revolving Accounts (53-E-1/2). As only one is required, the suggestion is that account number 232 be consolidated with account number 235. All monies would be transferred into account 235 and account 232 will then be frozen against any further use.

Note 2: This type of account (53-G) is meant to have monies put in against specific projects (unlike the revolving account which may have funds (fees, etc) put forward to be used against future need).

Note 3: Escrow Accounts are to remain untouched. These are the monies put in by the company against the specific purpose of the future decommissioning of the solar sites.

Agenda Attachment 3



Master-Plan-Chapters	Planning-Board-Member-Following-up-with-the-Responsible-Contributor
Board-of-Health	WH
Select-Board	CB
Building-Comm	PB
Capital-Improv.-Plan-Comm.	AL
Community- <u>Preserv.</u> -Comm.	TR
Conservation-Comm.	WH
Council-on-Aging	AL
Dept.-of-Public-Works	CB
Economic- <u>Devel.</u> -Comm.	TR
Fire-Department	WH
Historical-Comm.	AL
Housing-Committee	KD
Library-Director	TR
Long-Range-Facilities-Plan.-Comm.	AL
Open-Space-Comm.	COMPLETE
Parks-Commission	CB
Planning-Board	TR
Police-Department	KD
School-Comm.	AL
Town-Administrator	TR
Town-Center-Committee	WH
Town-Clerk	KD



Agenda Attachment 4



OFFICE OF
The Planning Board
7 Main Street, Unit #7
HUBBARDSTON, MASSACHUSETTS 01452
PLAN@HUBBARDSTONMA.US

¶
¶
October 11, 2018 ¶

¶
¶
To: → Seaboard Solar Holdings LLC ¶
143 West Street ¶
Milford, CT 06776 ¶

¶
Re: → Land with Solar Generation System as described in Book 53458, Page 158 Worcester County
Registry of Deeds ¶

¶
¶
Dear Seaboard Solar Holdings LLC, ¶

¶
¶
We have received notice of a 'Sheriff's Sale' of the Seaboard Solar Holdings LLC property at 91
Williamsville Rd., Hubbardston, MA scheduled for November 8, 2018. ¶

¶
This letter is to inform you that the Planning Board has received complaints regarding the requirements
of the Special Permit, specifically plantings and visual screening issues at this address. In addition,
there may be other concerns. It is our intention to conduct a review of the situation and provide you a
report of our findings regarding any additional concerns. ¶

¶
It would be most helpful if you or your representative could either attend the next scheduled Planning
Board meeting (we will inform you) or authorize the Planning Board in writing to spend up to \$2000
reviewing the situation and determining any un-resolved concerns. A report will be provided. ¶

¶
Pursuant to the Special Permit and Conditions, all such concerns are considered by the Planning Board
to be obligations of the existing owner and continue on as obligations of the new owner. ¶

¶
¶
Thank you, ¶

¶
¶
Tom Robinson ¶
Chair ¶
Hubbardston Planning Board ¶

Agenda Attachment 5



October 18, 2018

Office of the Planning Board
Town of Hubbardston, MA
7 Main Street, Unit #7
Hubbardston, MA 01452

Re: 91 Williamsville Road, Hubbardston; Special Permit



Dear Members of the Board:

We are in receipt of your letter to Seaboard Solar Holdings, LLC ("Seaboard") dated October 11, 2018 with respect to the above referenced solar project. We would like to make a number of points, to wit:

1. Seaboard Solar Holdings, LLC is not the existing owner of the solar array. The solar array was sold in 2015 to True Green Energy of Westport, CT. Seaboard is the owner of the land, and leases the land to the solar array owner, a (we believe) wholly owned subsidiary of True Green Energy of Westport, CT.
2. Neither Seaboard nor, to our knowledge, True Green has received any neighbor complaints regarding the landscape screening subsequent to the issuance by the Town of Hubbardston of the Certificate of Completion pursuant to the Special Permit. To our knowledge, the Certificate of Completion was issued after the screening was completed pursuant to the requirements of the Permit and presumably therefore in compliance with the Permit. Nevertheless, if complaints have been made, please forward them to True Green Energy, as they are responsible to meet the requirements of the Special Permit and they may take appropriate actions.
3. The sheriff's sale to which you refer involves a dispute over a lien filed against the contractor hired by Seaboard to complete the work initially. The contractor, Prime Solutions, Inc., became insolvent during the construction and fraudulently diverted moneys paid to it by Seaboard, for which actions Seaboard has obtained a court judgment. An unpaid subcontractor of Prime is attempting to collect its funds by foreclosing a mechanics lien filed against Seaboard's property. Although the unpaid funds are not debts of Seaboard, Seaboard expects to have the matter settled as of the sale date.
4. The dispute does not involve the ownership of the solar array, the efficacy of the land lease, or affect the Special Permit or operation of the solar project.

Please be advised that we do not authorize any expenditures for which you will require reimbursement from Seaboard. All correspondences or expenses regarding the solar project and its permits shall be directed to True Green so they can take appropriate actions.

Sincerely,


Pedro Rodriguez
prodriguez@seaboardsolar.com
(860) 717-2104

www.seaboardsolar.com

143 West Street, New Milford, CT 06776

(860) 717-2104

Agenda Attachment 6

Scott LeBlanc leblancsc@netscape.net

To **Tom Robinson** trobinson931@verizon.net

Cc **Scott LeBlanc** leblancsc@netscape.net

To: Planning Board Members

November 2, 2018

CC: Seaboard Solar LLC

CC: TGC Hubbardston LLC

CC: Scott LeBlanc

Subject: 91 Williamsville Rd. Solar Operations Concerns and Complaints,

in February 2013, Seaboard Solar COO David A. Thomas presented their proposal of a solar project to be located at 91 Williamsville Road in the Town of Hubbardston Ma. The solar field is located directly across the street from my home at 92 Williamsville Road, Hubbardston, Ma... Reference Site Plan Application For Seaboard Solar LLC, December 4, 2013 as presented to the Hubbardston Planning Board. Reference Assessors Map 4, Parcel 32. Worcester District Registry of Deeds Book 47120, Page 132.

Initially my wife and I welcomed the project since it would be a clean energy operation but would later ask that certain conditions be in place so that we would not have to look at the initial configuration of the solar field. We were told that there would be a 100' buffer in place from Williamsville Road to the front facing security fence. Sometime in the Fall of 2013 the land was cleared and the 100' buffer zoned was totally clear cut and we now had a full view of the entire solar panel configuration. This went totally against what we agreed upon to support the solar field. At a later meeting it was brought to our attention on how the developer planned to solve the breach of the 100' buffer zone. The project engineer named Jason DuBois from Bertin Engineering, Inc. presented to the board the solution for the buffer zone. It would be comprised of a berm, six feet in height and have a quantity of twelve, 12 foot non-deciduous trees planted in an offset manner. Together the two would have a total height of 18 feet. The berm would be placed at the street frontage of Williamsville Road and run the width of the solar field.

Many changes were made to the initial site configuration due to wet land conditions and it was approved by the Planning Board on December 3, 2013 and posted on December 9, 2013.

In 2014 we brought forward to the Planning Board concerns that certain Site Plan Approval Findings had been violated. Reference Site Plan Approval, Findings, Conclusions, Waivers and Conditions, Findings 7.12, 7.15, and 7.23.

My complaint again today Planning Board members is that Seaboard Solar LLC and TGC Hubbardston LLC has not kept to their agreement with the Town of Hubbardston. There are at least four concerns that I would like to have addressed and brought to closure.

- #1 The non-deciduous trees planted are in poor shape and there are a number in need of replacement.
- #2 The Williamsville Road frontage is not esthetically pleasing or properly maintained.
- #3 The total height of the berm and trees (18') have not after five years blocked our view of said solar field.
- #4 The flowering bushes planted in the front of the berm have been destroyed by the maintenance subcontractor and have not been replaced.

My wife and I are very concerned the market value of our house has declined because of these irregularities. It is a major detractor if and when I put my house on the market.

I would appreciate if the Planning Board would address these concerns and communicate back to me with the action plan to these issues..

Regards,

Scott J. LeBlanc and Michelle J. LeBlanc

> On Oct 24, 2018, at 3:16 PM, Tom Robinson <trobenson931@verizon.net> wrote:

>

> Scott,

>

> You visited the PB a while back and mentioned your concerns/complaints about the Solar across the street from your home. Please put your complaint in writing to the PB so the PB can communicate it, along with any other concerns, to the facility owner.

>

> Thanks very much,

> Tom

Scott LeBlanc LeBlancSc@netscape.net[Hide](#)

To **Tom Robinson** trobenson931@verizon.net

Scan of 91 Williamsville Road ...pdf (1.4 MB) – Documents from File as provided by Christina S

Scan of 91 Williamsville Road ...pdf (727 KB) – Documents from File as provided by Christine S

Tom,

These are PDF copies of 91 Williamsville Rd Solar Field layout. What I was looking for and still can't place my hands on are the Maintenance Instructions/Conditions.

They are however specified in the Site Plan Application. Sections 7.12, 7.15 and 7.23.

Scott Photos: Pictures taken from 100' from inside of 91 Williamsville Rd. access road. This what they removed and were not supposed to.

Photo 1



Photo 2



Thomas Robinson <trobinson@hubbardstonma.us>
to Ryan, Kendall, Craig, William, Alice, Christina

Thu, Nov 1, 3:57PM

Ryan,

In the September 26, 2018 Planning Board Meeting it was moved and voted that we report to you regarding the Planning Board associate member appointment process.

Attached please find “Hubbardston Planning Board – Associate Member Appointment Process” dated October 31, 2018. This document describes the appointment process, its basis in law, the current status, and prescribes the remedial ‘next steps’ to conclude this effort.

Town Boards only have access to the Town attorney through you. The attached is for your use and may be submitted to the Town attorney as you see fit. Furthermore, you have stated in a SB meeting that bringing this issue to Town Attorney is not in the best interest of the Town, i.e., “it is a waste of money” and fully I agree.

The attached is offered to clarify how both the Planning Board and the Select Board can work together to advance this appointment process in accordance with the applicable laws. It is not meant to cause friction. It does not challenge the Select Boards authority. It simply describes what process steps are necessary to abide by the laws and avoid precedent setting action where laws are ignored.

Failure to uphold state law and town bylaws, mandated with a two-thirds majority at town meeting, undermines the independence of the Planning Board and is a disservice to the townspeople.

The Town Charter (ref. para. 4-2-4) declares you, the Town Administrator, to be the town’s liaison to all boards where such boards, working with you, can seek to ensure effective and ongoing collaboration and cooperation to ensure regular communication and shared understanding of the Town’s needs.

You recently performed this role very well by defining the process for filling a Planning Board vacancy. In that case, the process you prescribed where both boards worked together, was followed and it worked very well.

In this case, the Planning Board Associate Member appointment process is clear and needs to be followed. If there are questions, please contact me.

Very Truly Yours,

Tom Robinson

CC: C Boissoneau, K Daly, W Homans, A Livdahl, C Sutcliffe

Attachment: “Planning Board Associate Member Appointment Process” dated October 31, 2018

Hubbardston Planning Board Associate Member Appointment Process

The Planning Board is an elected board and is answerable to the voters. The Planning Board is obliged by oath to exercise its authority, i.e., uphold the Law. The following outlines the obligations of the Planning Board and the Select Board with respect to the Planning Board associate member appointment process.

Reference MGL 40 A Section 9. Zoning ordinances or by-laws shall provide....

Paragraph 11.

Zoning ordinances or by-laws may provide for associate members of a planning board when a planning board has been designated as a special permit granting authority. One associate member may be authorized when the planning board consists of five members, and two associate members may be authorized when the planning board consists of more than five members. A city or town which establishes the position of associate member shall determine the procedure for filling such position. If provision for filling the position of associate member has been made, the chairman of the planning board may designate an associate member to sit on the board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the planning board or in the event of a vacancy on the board.

Thus the Planning Board designates the associate member per state law. Hubbardston has established the position and procedure to fill the position per Hubbardston's Zoning By-law. This does not void the state law. The Planning Board retains the rights stated in 40A.

The Zoning By-Law mandates, per a two-thirds vote of Town Meeting, the procedure for filling the Planning Board associate member position as follows:

ARTICLE 7 SPECIAL PERMITS

Section 7.1 Purpose

7.2 Application for Special Permit

7.3 Review by Other Agencies

7.4 Public Hearing

7.5 Decision and Enforcement

7.6 Associate Member:

There shall be one Associate Member, recommended by the Planning Board and appointed by the Selectboard. The associate member shall sit on the Board for purposes of acting on special permit applications in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. Amended: 12/3/2001

Thus, the Planning Board recommends and the Select Board appoints the recommended associate member.

The Planning Board associate member is not a Town-elected position, and thus not a vacancy per 'failure to elect' definition.

The role of the associate member of the Planning Board is limited to the purposes of a special permit, as stated above in MGL 40A.

The Hubbardston General By-Laws, as most recently voted at the June 2018 ATM by two-thirds majority, state in Chapter 1 (page 4); "Other Officers to be appointed by the Select Board: Planning Board, Associate Member of; per Town Zoning By-Laws Article 7.6"

The Select Board and the Planning Board are independent elected boards, neither of which organizationally reports to the other, but rather to the voters. While formed for different purposes, both Boards have equal status in the eyes of the voters. The above-listed laws, mandated by a two-thirds vote of the Town, provide a mechanism for two elected boards to work together to arrive at an associate member of the Planning Board.

The Planning Board has the right and obligation per the law mandated by the voters to recommend the associate member, thus a recommendation is provided by the Planning Board to the Select Board. The expectation is that the Select Board would respect the choice of the Planning Board and appoint the recommendation. This expectation is substantiated by the fact that since 2001, when the associate member Bylaw 7.6 provision was adopted, without exception, the recommended Planning Board associate member has been appointed by the Select Board. Thus, this process has been in effect and used every year for the last seventeen years. While no other board has an associate member, as far as can be determined there has been no instance when any other Town committee or board recommendation to fill a vacancy has been rejected by the Select Board.

If the Select Board publically motions and votes to reject the recommended associate member, the Planning Board should be informed of the vote and then provide another recommendation for appointment. This process would continue until agreement on the associate member is reached.

The Planning Board position is that the law prescribing the Planning Board recommending and the Select Board appointing the recommendation, should be followed. The Select Board is not free to designate an associate member of the Planning Board not recommended by the Planning Board. We disagree with the Select Board appointing a person not recommended by the Planning Board.

We must act in accordance with the above referenced laws, respect long-established Town procedures, and avoid precedent setting actions where bylaws are ignored.

Currently, the next step in this process is for the Select Board to publically vote on Mr. LeBlanc, the Planning Board recommended associate member per the Planning Board vote of July 11, 2018. If appointed, we go forward. If not appointed, the Planning Board advertises, reviews applicants, and votes a new associate member recommendation to the Select Board.

*Tom Robinson
October 30, 2018*