

Topsfield Planning Board

March 15, 2011

Chairman Winship called the meeting to order at 7:30 PM. Board members present were Robert Winship, Janice Ablon, Gregor Smith and Ian DeBuy Wenniger. Roberta Knight, Community Development Coordinator was also present.

Visitors: Selectmen Martha Morrison and Dick Gandt; Holger Luther, Jolene Guerra, Steven Hall.

Minutes:

Clerk Janice Ablon made the motion to approve the minutes of March 1, 2011 as amended; seconded by Member Gregor Smith; so voted 3-0.

Clerk Janice Ablon made the motion to approve the joint meeting minutes of March 1, 2011 as written; seconded by Member Gregor Smith; so voted 3-0.

PUBLIC HEARING

Zoning Amendment Articles for the May 3, 2011 Annual Town Meeting

At 8:00PM, Chairman Winship opened the public hearing to consider the following proposed amendments to the Topsfield Zoning By-law for the May 3, 2011 Annual Town Meeting. Clerk Janice Ablon read the legal notice for the record.

1. **Article I, Definitions:** amends definitions section by adding definitions for Renewable Energy and Alternative Energy, and related Research and Development (“R&D”) Facilities.
2. **Article XVII, Ground Mounted Solar Photovoltaic “PV” Installations:** adoption of new bylaw to establish standards for said installations to the extent allowed under Chapter 40A, the Zoning Act.
3. **Article XVI, Wind Energy Conversion System – Large Scale:** adoption of new bylaw to regulate wind energy conversion systems (wind turbines) with a rated nameplate capacity of more than 30 kilowatts (kW).
4. **Article XV, Section 15.02:** deletes the following sentence: ‘Wind energy conversions systems with rated nameplate capacity of more than 30 kilowatts (kW) are prohibited in the Town of Topsfield’.
5. **Article II, Section 2.12:** new section that establishes by legal description a new overlay zone designated as the “Wind Energy Overlay District (WED)”, and further amends the Zoning Map accordingly.

6. **Article II, Section 2.01:** amends this section to include the new Wind Energy Overlay District for a new total of nine zoning districts within the Town.
7. **Article II, Section 2.08:** amends this section to include notations concerning town meeting actions that amended the Zoning Map; and the modification of the reference concerning the periodical update of said Map by the Board of Assessors and its reprinting.
8. **Article III, Section 3.02:** amends the Table of use regulations as follows:
 - a. Amends Section 5.10 to read “5.10A” and change use description by deleting “office” and adding “General” to read “Research and Development Facilities, General”;
 - b. Addition of Section 5.10B “Research and Development Facilities, Alternative and Renewable Energy” with the insertion of use for all districts; further, allows said use as a permitted use in the BP which would meet the requirement for “Green Communities” designation;
 - c. Addition of Section 4.37A “Ground Mounted Solar PV (SPV) 500 sq. ft. or less use” for all districts;
 - d. Addition of Section 4.37B “Ground Mounted Solar PV (SPV) over 500 sq. ft. use” for all districts;
 - e. Amends Section 4.32 to read “4.32A”; adds to the Table the “Wind Energy Overlay District” and Section 4.32B “Wind energy conversion system – large scale” which would only be permitted in the said overlay district.

Chairman Winship then noted that the Planning Board plans to take no action on proposed zoning amendments that relate to wind energy as published in the legal notice that includes: **Article XVI, Wind Energy Conversion System – Large Scale; Article XV, Section 15.02; Article II, Section 2.12; Article II, Section 2.01; Article III, Section 3.02 as it relates to the Table of Uses Section 4.32**, and will formally withdraw these amendments at the close of the public hearing.

The Board then reviewed the following zoning amendments:

- Article I, Definitions: amends definitions section by adding definitions for Renewable Energy and Alternative Energy, and related Research and Development Facilities.
- Article XVI, Ground Mounted Solar Photovoltaic Installations: adoption of new bylaw to establish standards for said installations to the extent allowed under Chapter 40A, the Zoning Act.

- Article III, Section 3.02: amends the Table of use regulations as follows:
 - Amends Section 5.10 to read “5.10A” and change use description by deleting “office” and adding “General” to read “Research and Development Facilities, General”;
 - Addition of Section 5.10B “Research and Development Facilities, Alternative Energy and Renewable Energy” with the insertion of use for all districts; further, allows said use as a permitted use in the BP which would meet the requirement for “Green Communities” designation;
 - Addition of Section 4.37A “Ground-Mounted Solar) 500 sq. ft. or less” use for all districts;
 - Addition of Section 4.37B “Ground-Mounted Solar over 500 sq. ft.” use for all districts;

- Article II, Section 2.08: amends this section to include notations concerning town meeting actions that amended the Zoning Map; and the modification of the reference concerning the periodical update of said Map and its reprinting.

The proposed amendments have been incorporated into four warrant articles for town meeting action. Due to the Board’s decision to withdraw wind energy related articles, the proposed amendment for the adoption of a new bylaw “Ground-Mounted Solar Photovoltaic Installations “ to establish the standards for said installation has been renumbered to Article XVI for incorporation into the Zoning Bylaw. The Board reviewed each zoning article and made further revisions to the articles, specifically to Article XVI. For specific details refer to the attached public Hearing Warrant Document dated March 15, 2011 and the revisions to Article XVI, Ground-Mounted Solar Photovoltaic Installations, as issued as Attachment B to the 2011 ATM Warrant.

Mr. Holger Luther of 294 Perkins Row, a former Planning Board member, specifically questioned the “by-right” permitting of research and development facilities in the Business Park zoning district. He noted that it was his understanding as a board member when the district was adopted that said district was an overlay district in which all uses require a special permit. The Board then reviewed the Section 3.02 Table of Use Regulations and noted that the current Bylaw does not designate the Business Park as an overlay district; further, the Board also reviewed Section 3.06 Uses in the Business Park.

Selectman Martha Morrison responded that uses in overlay districts do not necessarily required to require special permits. The State is presently encouraging the creation of overlay districts for permitted uses.

It was the consensus of the Board to request a review of this issue by Town Counsel. The members noted that upon reviewing the language of Section 3.06, the intent may have been to create an overlay district but it appears that it was never designated as such.

At 10:40PM, Clerk Janice Ablon made the motion to close the public hearing; seconded by Member Gregor Smith; so voted; 4-0.

Deliberation And Vote of the Board:

Withdrawal of Articles: Clerk Janice Ablon made the motion to withdraw the zoning amendments (Article XVII; Article XV, Section 15.02; Article II, Section 2.12; Article II, Section 2.01; Article II, Section 2.08; Article III, Section 3.02 referencing Section 4.32) that appeared on the public hearing legal notice related to wind energy; seconded by Member Ian DeBuy Wenniger; so voted 4-0.

Ground-Mounted Solar Photovoltaic Installations Bylaw: Member Gregor Smith made the motion to approve the Ground-Mounted Solar Photovoltaic Installations Bylaw as amended and renumbered as Article XVI; seconded by Clerk Janice Ablon; so voted 4-0.

Table of Use Regulations, Section 3.02, Addition of Sections 4.37A and 4.37B: Clerk Janice Ablon made the motion to approve the amendment to add Section 4.37A “Ground-Mounted Solar Installations 500 sq. ft. or less use” for all districts and Section 4.38A “Ground- Mounted Solar Installations over 500 sq. ft.” for all districts to the Table of Use Regulations; seconded by Member Ian DeBuy Wenniger; so voted 4-0.

Article I, Definitions and Article III, Section 3.02, Addition of Sections 5.10A and 5.10B: Clerk Janice Ablon made the motion to approve the amendment to add the definitions for Alternative Energy and Renewable Energy; and Research and Development Facilities; and further amend Section 5.10 to read 5.10A as Research and Development Facilities, General and add new 5.10B Research and Development Facilities for Alternative Energy and Renewable Energy to the Table of Use Regulations; seconded Member Gregor Smith; so voted 4-0.

Article II, Section 2.08: Member Gregor Smith made the motion to approve the amendment relative to clarifications to references concerning amendments to the Zoning Map; seconded by Member Ian DeBuy Wenniger; so voted 4-0.

The meeting was adjourned at 10:47 PM.

Respectfully submitted,

Roberta M. Knight
Community Development Coordinator