

Worthington Planning Board Meeting 12/16/2025

In-person Attendance:

Bart Niswonger

Nestor Mathews

Kate Bavelock

Kathy Ford

Anna Maunz

Trip Shaw

James Downey

Emily Larabee

Kevin O'Connor

Sarah McMullen

Catherine Rude-Sena

Timothy J Sena

Julia Sharron

Julie Woodruff

Helen Sharron Pollard

Dep Phillips

Ally Brown

Kyle Dempsey

Chris Landry

Deborah Shaw

Sam Gelinas

Mary

Virtual:

Brie

Steve Coyne

Charley Rose

Adriana Shaw

Steve Lipsitz

David Pollard

Dianna Fitzwilliam

Agenda

Nestor Mathews Statement: Request for respectful tone, respectful language

Bart: Reminder this is a public meeting

• Discussion of large scale solar project proposed for 190 Ridge Road

- **Agreement to combine Site Plan Review and Special Permit processes**

Agreement from Blue Wave LLC: Agrees to a continuance of time until January 8th and further continuances

Dates are combined for Site Plan Review and Special Permit Process. Render a decision under 2.6.D of zoning bylaw.

Explanation:

Our bylaws allow Solar projects by right in any place in the town.

Once application is submitted the planning board has 65 days. The 65 days feels short for a project such as a solar project. Because this project overlaps with the Water district, a special permit process is enacted.

The planning board would like a lot more time to consider the project. Rather than holding the planning board to a 65 day clock, it removes the clock and removes the time limit.

- **Determination of completeness of the Site Plan Review application**

Blue wave went through 2.6.4

We have document

Section 17: Solid waste in designated containers.

Item 18: look at email from Blue Wave

Nestor responds that their responses are appropriate with more conversation with fire Chief

Item 22:

Kathy Ford: Response is fine for the checklist, we will need more information as we move forward in the process.

Bart: Application Completion; conversation is not to be the end of the process, but this is the beginning of the process.

Kathy Ford: I have been very hesitant to deem this complete, as what is the risk.

We have gotten some good feedback from Town Counsel.

It is possible for us to deem this complete and still not approve the project on a whole.

Nestor: 8.4.5 is another checklist - which is required information prior to approval. This is just not part of the checklist to deem this complete.

Kate: This has been a discussion playing out over the last few weeks: administrative function. People in the community are concerned that this would reduce our abilities. We have listened very closely to both. We have to put some weight on town counsel. It's not possible to get a second opinion from lawyers at this time. It is primarily an administrative function.

Helen Pollard: Appreciate the Board and the Citizens time in this matter. Requests, that for the record, the board reiterates the legal standard of checking the box. She would like the Planning Board to put on the record officially what they need to do officially.

Nestor: Begin with 35 days. After we deem this complete, we send this to all the boards.

Bart: We told all the boards that this all was coming. Section 2.6.7 covers the review procedure for Site Plan Review. When does review procedure start? In my and town counsel's interpretation, the review process begins after the application is deemed complete. Then we can start the review procedure.

The structure of Site Plan Review is to protect the applicant in the case that the Planning Board is not responsive. With small residential projects its not a big deal. In this case, because there is a lot of information that need to be collected, there is not a maximum of 35 days.

Bart: Question of 14 days notice. Section C: We are not making a decision right now. We are determining the application complete or not. The final decision absolutely requires 14 days notice.

Section D: The site plan review is within 65 days. We are getting rid of this 65 days

Kevin O'Connor: Can we return to the agenda. Public Comment is down further in the listing.

It is not unusual in large scale projects to abide by the laws in this manner.

Julie: Resident on River Road. The planning board cannot lawfully deem this complete, due to procedures within wetland jurisdiction. Approving this complete today would open the town up to litigation.

Julie: looked at NOI filing: not submitted. Should require them to get an NOI, the planning board does not have the authority to supersede the Wetlands commission. It took 6 months for a solar company to get an OOC.

Bart: It is easy to conflate deeming an application complete vs getting an approval. Its a checklist. In this case I believe that they did.

Approval is very different, it comes at the end of the process vs. the beginning of the process. Additionally talked to Town Counsel about how these boards interact, and he said they don't.

Asking us to ignore the advice of Town Counsel is not something that we can do.

Julie: Can we ask Town Counsel about these lines.

Bart: Some of the CMR regulations are spelled out in section 8.5

Kate: Only thing about the water on the checklist is for them to provide us a map/ plan - and they provide that.

Bart: Problem we have is about the BESS

Kathy Ford: Would it be useful to have a conversation on what the actual fear is to deem this complete. There is a perception that once we deem this complete its a done deal. I don't know how to change that perception.

Jim Downey: For purposes of moving beyond this obstacle. Completion is for purposes of commencing the procedural time line. We need to move beyond this for Mass General Law, and to satisfy some of the frustrations being raised by the towns people so we can gather more information.

Nestor: For site plan review we need to get past this marker, but also removing that 65 day time limit.

Julie: If the concern is how much time we have to review this application, if its up to the board to determine the application complete, in terms of this site's safety, wet lands protection act, why would we not make sure we need them to have that extra information.

Bart: Question is premised on the idea that these processes are tied to each other. If we fail to deem this complete then we have a real risk of constructive approval being passed down to the courts.

Emily Larabee: Wondering if the board received her email about KP Law
-We did-

She thinks KP law is trying to avoid lawsuits with solar companies, so are giving us
bad information. She thinks a good lawyer is everything.

Nestor: This is better for the public hearing.

Emily: Believes this is a procedural cornering by Blue Wave, it undermines our
defensibility. She thinks this is where “the Done Deal” attitude is coming from.
She thinks the town would be lucky to be sued by Blue Wave.

Steve Coyne: Has the Special Permit been filed?

Bart: It doesn't matter if its the landowner or the lessee submitting the application.
The landowner is often not the applicant. They have to demonstrate that they
have site control with a lease. January 8th we will be considering all these together.
The special permit was filed in September. We held the initial public hearing to
consider that application. Site plan review process.

Helen Pollard: I just want to make sure that this is on record, the Site plan review
allows the planning board to determine incompleteness.

Bart: That is there for a client who is unresponsive

Bart: Entertaining a motion to entertain this as complete.

Kathy: we are bound by how our bylaw is written

Sarah McMullen: That is the big concern people have, that you deeming this
complete will somehow allow grandfathering in to other large companies.

Kate: This application is grandfathered in no matter what we do. The process to
change the bylaws, starts with a hearing. As soon as a planning board notifies and
is noticed- the solar companies provide a solar subdivision plan. Zoning on that
parcel is frozen for 3 years.

Emily: If its deemed complete what prevents blue wave from not responding.

Bart: We're removing the clock.
Trip: Is someone from Blue Wave speaking today?

Worthington Ma has aquifers, highly vulnerable zones. Potential risk for our water supply. A town may not prohibit a town entirely, but may limit it to certain areas; gravel pits, Scenic or Historic areas. People should be celebrated for speaking up. Shame on Blue Wave. Aquifer protection zones: They shouldn't be here.

Nestor: We still have conditions we can put on this.

We are not just sitting back, we are working with consultants to see what we can do.

Kate Bavelock: I make a motion to deem the Application complete, having satisfied the application checklist in 2.6.4 of our bylaws, I move to deem this application complete for the purposes of starting the review process.

Nestor seconds

Planning Board: Votes unanimous

Bart: Id like to entertain a motion regarding our agreement to combine our Site Plan Review and Special Permit Process.

Nestor: I make a motion to accept the agreement between Blue wave and the town that is drawn out in the letter from December 15th, which is on file with town clerk and combines the Site Plan Review.

Kate: Second

Planning Board Vote: Unanimous.

- **Conversation with Beth Greenblatt, peer reviewer**

Conversation delayed, due to family emergency.

- **Proposals for Technical Review of application, if available**

Sent out 5 heard back from 2 definitively that they had conflicts of interest.

We want to have an environmental engineer on board.

Bart found their proposals not what he expected.

Proposals to review the application as completed. Hoping to find a way to have more of a sounding board.

Waiting for their response to talk about meeting.

Kate: I'm going to attend the American Citizen Planners. There are MA town that have tried to create a moratorium but they have not gone through for the BESS systems. MA has not allowed this. CA has, so hoping to get more information.

- **Opportunity for Public Comment**

Trip: Raised some concerns, properly not in the best manner. Aaron told him that he shouldn't be expressing his concerns. Trip called the state police and reported him. He feels that it wasn't right. He feels that they shouldn't come to the town.

- **Discussion of potential bylaw changes**

- **Possible solar moratorium petition**

Kate: Nothing we are doing is in conflict with the moratorium petition process

Bart: We are aware that there is a petition in town calling for a solar moratorium. I'm not aware of any town in the past couple of years that has passed a moratorium with the AGs review.

The hope for the the planning board is to propose a second Moratorium

If the broader one would pass, it would take precedent. If not, then we would still have something.

Hadley's bylaw passed in Fall 2024, and was approved in Spring of 2025. We know the restrictions placed on batteries passed.

Hadley: Allowed almost everywhere in town.

Large Energy Storage systems are allowed everywhere solar is allowed except for over their water overlay district. Limits to 50% of town, not 300' within residential unit. Size to 5 megawatts.

- **Alternate solar moratorium language**

Kate: Bart has been exploring sensitive areas in our town.

Bart shares maps from town.

What is not on this map is the water protection district.

We need a better map. PVPC responded that the circle is from the intermediate wellhead protection areas.

Kate: would like to include the water protection district.

Bart: Westfield River is considered a public water supply. Zones around surface water supplies. Can't do anything in Zone A

Zone C: includes the water shed. Anything that is in that will eventually end up in the stream. It feels defensible to say that we shouldn't have batteries in there.

The state and the Nature Conservancy created Bio Map:

Core and Critical Biomaps.

Green on Maps shows the Core habitat. Core really needs protections. Critical habitat seems a bit more vague.

Protected areas: 50%

Julia Sharon: Concerned about the water district. This feels very important. If something bad were to happen where would residents be getting water?

Looking at the Moratorium process as testing the AGs office

Map II: 300' setback from structures. Protected areas at 63.3% of town. Are we prohibiting solar, prohibiting batteries? Both?

Julie: On MASS mapper site: options of listing the wetlands APR land - you can build solar on - but only We need to include analysis to the AGs office - maps.

Tim Sena: You can't put solar on APR property.

Trip: You are allowed to put solar on APR land.

Bart reached out to Hadley to ask what kind of evidence they presented to the AG's office.

Julie: The local aquatic habitat buffers: 200'. Will send maps she created about the site.

Kate Bavelock; The idea of a moratorium to create more time so that we can change our bylaws.

Nestor: The goal would be that by town meeting we have the moratorium language.

Kate: Sounds very clearly like we want to designate some protected areas. addressing battery storage.

Designate areas where its not appropriate. Containment systems. Setbacks are also an issue.

2017 Solar bylaw, lists designated location. But there is no map currently, it could have been a place holder for future maps.

For moratorium: it may give us more legal stance.

Trip: How many swings do we get at change the bylaw with AGs office?

Kevin: There may have been audio recordings of 2017 - there was a lot of discussion about the bylaw. KP law may have record.

Nestor: questions are we able to pre-submit to AG's office.

Sarah McMullen: Have we talked to someone about Williamsburg.

Bart: Steve Smith is the chair of the Planning Board in Williamsburg- he will follow up about by law changes.

Emily Larabee: More than a map are we planning on putting more terms in? Can we change our bylaws so they are more protective to town members. Wondering about requirements.

Bart: Pressure from solar developers. Guidance around solar bylaws is to be very positive.

DOER just released a lot of regulations. But none of its finalized.

If we are going to propose a bylaw now, lets propose a moratorium but provides a start.

Kevin: Our marijuana bylaws are so prescriptive that a business left worthington and went to Plainfield instead.

Nestor: The AGs office is totally focussed on health, safety regulations. Those are the only things that are going to pass that review.

The historic character of Worthington does not pass muster at the moment.

DOER's proposed regulations get into water, there is some environmental piece, nowhere are aesthetics discussed.

Jim Downey: Could someone on the board address imposing a requirement that the towns people be given a reduction in cost of electricity. I don't know what latitude we have - that Blue Wave - could have to sell to a company that has community supported electric.

Bart: We cannot require. We can ask and we can make it a part of negotiations. Solar on all municipal buildings?

Kate Bavelock: Presenting Moratorium changes:

Moratorium: Can happen faster, - as we refine our bylaws.

Maps can be added as part of the Moratorium and By Law changes.

Trip: Blue wave mentioned that they weren't interested in either of these projects without the battery system.

Bart: There is a real distinction between solar and batteries.

Nestor: Confusing part : In MA the large solar installations need the battery.

Kathy Ford: The purpose with the moratorium with the map is to mark where we are in time. Do we want to share with them the language changes to our bylaws.

Nestor: They will approve and there will be an end date.

Bart: There is no difference in a Moratorium and Bylaw amendment.

Kate: We are asking for a moratorium on Large Scale Photovoltaic Systems?

Bart: Batteries are an easier restriction. There can also be ways to restrict solar.

Two different zones.

Legal severability clause

The idea of two different clauses

Jim Downey: Purpose of Moratorium is not to stop construction, but permitting and approval. Stop the clock. We are imposing a moratorium on accepting permits as well as beginning construction.

Bart: Problem with Worthington is there is only one zoning district.

Jim: Set back requirements, and modify existing bylaws.

Nestor: AGs office has rejected every moratorium that has done that for the whole town.

Jim: The real issue is the aquifer: the impact of these projects on the water. This is a town wide moratorium.

Emily Larabee: Could map just be on wetlands.

Bart: A reminder that this will not effect the current applications.

Kate: It won't directly effect it, but it is being heard. Our water district is very important and needs to be protected.

Trip: Bylaws won't apply to the current project, but just checking in about if we can still say no to current projects.

Bart: Doesn't want to get anyone's hopes up. If they are responsive, we need to pass it through.

In the case of site plan review: we can say that we reject it. Its very quickly going to be challenged.

Defensive mechanism: Idea is to negotiate conditions first and then deny it.

The process is to work with them for as long as we can.

Kevin O'Connor: Strayed from conversations of the meeting. The conditions will be discussed at the January 8th meeting. Still an ability to suggest conditions on January 8th.

Bart and Kate: The reminder that the conversation can continue.

Kate: We want to propose our own moratorium articles. That would happen when?

Bart: Once the citizens petition is submitted then the select board has 45 days to have a hearing. I think we can have the hearing and the town meeting on the same day. When the planning board holds its hearing - there has to be some kind of recommendation.

Kate: We have two moratoriums. 3 items for bylaw changes. Solar, Batteries, Site Plan Review. We need to work on our language alone.

Julie will send us an email about when the signatures are going to be submitted.

Kate: Taking a stab at dividing up the Moratorium language.

Nestor: Questions about utilizing the Hadley language to help frame as Energy Storage Systems.

Kevin: Moratorium; Bylaws Retroactive to time of vote.

Bart: Do we want to change our large Solar Plan to a special permit vs site plan review.

Kate: Education or Religion, Site plan review process.

Bart: Conversation with Town Counsel: The supreme court a special permit was required for solar: Question: Special Permits are required for solar and are protected use. Change Large Scale Solar under 8.5 - would be allowed under special permit.

Kathy: questions if there would be no site plan review then.

Bart responds: It would no longer be allowed by right.

Kate: It's not technically manufacturing. Another way of getting at the problem. Question about Commercial vs. Residential/ scale in terms of the Site Plan Review.

We could in Site Plan Review talk about things specific to Solar. Rather than make it generic.

Kathy Ford: I think it would be really useful at this point in time. How we are going through the moratorium vs. by law changes.

Kate: Would like to put this forward that we go through with this asap.

Bart: would like to have this passed in January and then return to it.

Egremont just passed a solar review. They're an interesting study because they're so rural. Kate- going to look at that more.

- **Changes to the Site Plan Review process**

We asked Town Counsel to get rid of the 65 day clock. Gets rid of constructive approval. Doesn't require notification in a newspaper.

- **Other business**

- **Approval of past minutes**

Planning Board Meeting: Possibility at 6:30 on the 22nd. If we got information back from the engineers/ Beth Greenblatt available.

Creation of Sub-committee to discuss bylaws: Kate Bavelock and Kathy Ford.

Bart will do gradations, of different maps.

Meeting moved to adjourn.

