

TOWN OF FORESTBURGH

PLANNING BOARD

May 30, 2017

Meeting called to order at 7:00 p.m. by Chairman Richard Robbins at the Town Hall.

Members Present: Richard Robbins, Chair
Karen Ellsweig
Robert Sipos
Susan Hawvermale
Vincent Galligan

Absent: Eugene Raponi

Attorney Present: Jacqueline Ricciani

Recording Secretary: Nicole Lawrence

Approval of Minutes

Vinny Galligan makes the motion to approve minutes. Richard Robbins seconds the motion. Richard Robbins would like it to be reflected in the minutes that all concurred on Richard's suggestion of a change on item #12, his suggestion that the chairperson or code enforcer be responsible for final review, and Karen Ellsweig's suggestion to reorder the paragraphs in the Subdivision Law. All members agree.

Vote: all in favor as amended
Susan Hawvermale abstained.

Public Comment on Agenda Items

Dan Hogue states that the Town Board has, at the request of the county, declared themselves as lead agency for the code regarding indoor recreational purposes. It is still a work in progress and is not yet ready to be passed down to the planning board. Richard Robbins states that the Planning Board, as an involved agency, will have the opportunity to comment on it. Dan Hogue says the Planning Board is welcome to review the Town Board's work on this when ready. There are no other public comments.

Review of law of Draft of a local law regulating the Development and Operation of Solar Systems in Forestburgh and Providing for PILOT agreements for Certain Solar Energy Systems in Chapter 153 (taxation) of Forestburgh's Town Code

Richard Robbins has provided members with copies of the local solar law, which was drafted by a committee advised by Jacqueline Ricciani. The law has not yet officially been presented to the Town Board; the Planning Board will provide their comments and feedback to the Town Board because the Town is drafting this code to establish zoning definitions, standards and procedures under the time pressures imposed by our current moratorium, and the goal is to get this done as quickly as can be properly done.

A clearly stated policy on solar energy is the objective and Richard Robbins states that abandonment of equipment/facilities is a major concern; they must be decommissioned properly. Vinny Galligan explains

that the average lifespan of solar panels is currently 15-20 years. Richard Robbins informs Karen Ellsweig there are only residential solar panels in Forestburgh at this point and none on a commercial scale. Susan Hawvermale questions the 15 year pilot agreement, stating that it is a long period. Richard Robbins explains that it was based on real property tax law, section 487, which provides an automatic 15 year tax exemption for solar facilities. On a commercial scale, the exemption could have a substantial impact on the town's revenue, therefore the committee was advised to establish parameters. Susan Hawvermale says that the language regarding the pilot allows the Town Board flexibility to approve a pilot agreement for less than 15 years. Karen Ellsweig asks why the law states that the town elects not to opt out of the tax exemption provisions of section 487. Richard Robbins explains all solar panels qualify for the exemption and the town wishes to allow private residents the benefits of adding panels without their being reflected in the property's assessed value, but unlike commercial installations, not being subjected to the requirement of a PILOT.

Pg. 19: There are two sections labeled "D"; all members agree the second "D" should be changed to "E".

Page 3, subparagraph 4: Karen Ellsweig asks if "building envelop system" is a term of art. Richard Robbins says that it is and it means the actual substance on the walls collects and generates electricity. Karen asks if it should be defined but the general consensus is that it's a construction term and does not need to be defined in the law.

Susan Hawvermale asks if the local fence law should be supplied to applicants seeking to install solar panels but Richard states applicants are not constrained by the law, as this law supersedes the fence law.

Page 4, section B: Karen asks why anyone would invest in putting in a solar system if there was no guarantee that a neighbor cannot build construction that will impede on the solar system. Richard Robbins explains that holding a permit for a solar farm cannot diminish other people's rights regarding their property or prevent neighbors from building; this is not to say an agreement cannot be made between neighbors or that rights cannot be purchased.

Page 5, paragraph 5A: Karen Ellsweig asks why this section mentions that failure to meet notice requirements puts them in violation of this chapter but the language does not specify the consequences. Jacy Ricciani says that it is self-evident, as with any violation of town code, that it can lead to an enforcement action by the code officer. Karen holds that it is not clear and may lead to confusion, as it is the only place in the law where violation is mentioned without specifying consequence. Susan Hawvermale suggests striking the sentence entirely and leaving the remedy. All members concur.

Page 15, paragraph C: "Use of herbicides shall be prohibited without the expressed prior written authorization of the planning board." Karen Ellsweig wants to know why this issue would come before the planning board. Richard Robbins explains that the run-off may carry onto other people's property and be hazardous. Vinny Galligan affirms that it is a preventative measure to protect surrounding properties. Robert Sipos asks how the Planning Board would have knowledge of such unauthorized use. Vinny says the rule is meant to serve as a deterrent, but in cases where it is not followed and this leads to significant damage, it may serve to implement punitive action.

Karen Ellsweig notes that the code enforcement officer has a lot of responsibility with this law and questions if a part-time code enforcement officer has the time and ability to enforce all aspects of this law if a large-scale solar panel project were to come to Forestburgh. Richard Robbins states that Glenn Gabbard, the code enforcement officer, was an active participant on the committee and has said the responsibility is within reason. Richard adds there is not much responsibility in the short term because the town does not have the electrical infrastructure to support many commercial solar panel projects at this time. Vinny Galligan adds that much of the inspection process is handled by other agencies and the code enforcer is only responsible for overseeing that work.

Town Board's designation as Lead Agency in regard to a local law providing for Indoor Commercial Recreation as a Permitted Use and establishing Standards for Indoor Shooting Ranges

Richard Robbins recommends acceding to the Town Board's designation, as there is no one more appropriate to create such a code section. All members concur.

Gillian Kaiser suggests this opportunity be taken to consider all potential uses of indoor recreational facilities, not only indoor shooting, so the law does not need to be amended several times. Richard Robbins agrees that drafters should take this into consideration and suggests Gillian address the Town Board with this point at their next meeting.

Continuing Review of Draft of the Forestburgh Subdivision Code

Richard Robbins picks up at *Boundary Line Agreements* in article 3. (Page 20, subparagraph J) Richard feels the Planning Board has an obligation to make sure the local law is not subverted by an agreement between neighbors and asks Jacqueline Ricciani if the Planning Board has the jurisdiction to require proposed agreements to come before the board for review prior to being filed with the county. Once the agreement is filed with the Real Property department at the County Clerk's office, it is official and cannot be undone. Jacy notes that the law itself requires anyone engaging in such an agreement to comply with zoning laws, the concern being how the Planning Board would know if they were in compliance. She believes the requirement of a review process is within their jurisdiction. The following language is drafted for addition: "Proposed boundary line agreements shall be presented to the Planning Board for review and approval at a regularly scheduled meeting. The Planning Board's review shall be limited to assuring compliance with the zoning law. A party to the proposed agreement shall present documentation to the Planning Board to demonstrate continued compliance with the zoning law."

Page 8: Board decides to add "also known as a boundary line" to the definition of Lot Line.

Article 4 (Minor Subdivisions)

Paragraph A1: The board decides to add a semicolon and the word "and" after the letter C.

Page 12: Jacqueline Ricciani suggests that if there is going to be a time frame, the applicant should be notified that after the first minor subdivision, the second subdivision is treated as a major subdivision if it is adjacent to the first. Jacy will draft wording and this will be revisited at the next meeting.

Richard Robbins notes that the number of application copies to be supplied by applicant has increased. Susan Hawvermale suggests replacing a set number with "as specified in the application", as this number may change again in the future. All concur.

Page 22, item F: The board decides to add the words "well and septic" after the word "structures".

Page 23: The board decides to forgo listing a set number of days in the two blank spaces and write "according to the time schedules provided by the application".

Karen Ellsweig suggests switching the order of paragraph O and N. All concur.

Under paragraph O (now N) Jacy asks if #4 should state that the Planning Board Clerk or the Town Clerk is responsible for notifying the applicant of the availability of plat map. The consensus is the Town Clerk.

Jacy asks if the board wants to specify to whom proof must be provided. The board concurs that it should be written that the code enforcement officer is to receive the proof.

There is some discussion regarding time frames and the filing of maps; Jacqueline Ricciani shows concern that the process will be extensive and time-consuming, stating that some of the responsibilities are more appropriate for building inspector. The town engineer, Tim Gottlieb, and the building inspector, Glenn Gabbard, will be consulted before further evaluation of section N is conducted.

Richard directs attention to #5 and states that Forestburgh does not have a parkland fee. The board decides to strike #5 and the definition for "Parkland".

Richard Robbins proposes new language regarding plats, which he will circulate for consideration. Richard and Vinny stress the importance of maintaining consistency in language on pages 16 and 26.

The board left off at the top of page 27.

Planning Board Member Comments on items not on the agenda

Susan Hawvermale asks how the minutes are being processed since the March discussion; she asks Nicole Lawrence whether or not the drafted minutes are being distributed to all members simultaneously for initial viewing (before changes). She states there have been comments in the past that were not documented in the minutes. Nicole says it is her understanding that the chair person, Richard Robbins, was advised by the town attorney to review drafts prior to distribution so he may offer feedback or point out blatant errors. Susan asserts that counsel has no part in this Planning Board matter. Richard explains that, as chair person, he has the authority to direct the secretary in the function of her job. Susan compares the Planning Board's protocol to that of the Town Board and says that the Town Clerk does not provide the Town Supervisor with drafts of minutes prior to the rest of the members. Richard affirms that he will not make changes but will continue to review drafts, as he understands Susan to have done in her time as chair. Susan maintains that she did not; she reiterates that the March minutes were lacking. Nicole explains that she has made omissions in the past, on Richard's suggestion, to remove details he deemed unnecessary or irrelevant to the agenda, but that Richard has never insisted on changes beyond advisement. She states that she will take direction from the chair, as it was explained to her that the chair person is her boss. Vinny reminds members of their opportunity during meetings to request inclusion of anything they feel is important. The board members express that they wish to see most details included.

Susan Hawvermale states for the record that she objects to the way David Groskin was ceremoniously taken off the Planning Board. Richard Robbins says that David was not taken off. Susan says her statement sticks.

There are no other Planning Board member comments on items not on the agenda.

Motion to adjourn at 9:30 made by Richard Robbins, seconded by Robert Sipos.

Vote: all in favor