

Town of Uxbridge
Planning Board
 21 South Main Street
 Uxbridge, MA 01569
 (508) 278-8600 ext. 2013

Posted by
 Uxbridge
 Town Clerk

DECISION

SPECIAL PERMIT APPLICATION
 SOLAR ELECTRICAL GENERATING FACILITY
 FY18-04, FOREFRONT POWER, LLC/Ed Switzer
 Newell Road Associates/James D. Schwartz
 Uxbridge Realty Development Trust/George Kurzon
 Blackstone Trust/Joel Kurzon

Date: June 13, 2018

Name of Applicant: ForeFront Power, LLC/Ed Switzer

Address of Applicant: 12 East 49th Street, 11th Floor
 New York, NY 10017

Owners: Newell Road Associates/James D. Schwartz
 Uxbridge Realty Development Trust/George Kurzon
 Blackstone Trust/Joel Kurzon

Addresses of Owners: 30 Meeting St., Cumberland, RI 02864
 P.O. Box 454, Peterborough, NH 03458
 P.O. Box 454, Peterborough, NH 03458

Location of Properties: 0 Depot Street, 0 South Main Street, & 25 Newell Road
 Uxbridge MA 01569

Assessors Map/Parcel: Map 25, Parcels 2065 & 4434,

Deed Book/Page: Deed Book 17112, Page 323

Site Plan Dated: April 5, 2016; Revised June 9, 2016

Engineer: TRC Engineers
 4900 Ritter Road
 Mechanicsburg, PA 17055

Surveyor: Land Planning, Inc.
 1115 Main Street
 Hanson, MA 02341

Zoning District(s): Industrial Zone, Agricultural Zone, & Groundwater Protection Overlay District

BACKGROUND/SUMMARY

On December 4, 2018 the application for a Special Permit, to construct a 4.0-MW^{AC} photovoltaic solar generating facility, associated equipment, an access driveway, fencing, and stormwater management system pursuant to the Uxbridge Zoning Bylaws §400-20, §400-50 and Uxbridge General Bylaws Chapter 290 at 0 Depot Street, 0 South Main Street, and 25 Newell Road, was duly filed with the Uxbridge Town Clerk, and submitted to the Planning Board. The named Applicant of record is ForeFront Power, LLC, and the Owners of the land are Newell Road Associates/James D. Schwartz, Uxbridge Realty Development Trust/George Kurzon, and Blackstone Trust/Joel Kurzon. Notice of the Public Hearing was scheduled and published in the "Worcester Telegram & Gazette" on November 22nd and 29th, posted in the Uxbridge Town Hall, and abutters were notified by way of certified mail.

The properties contain approximately 100± acres of land and are shown on the Uxbridge Assessor's Map 025, Parcels 2065 and 4434. The deed for said parcels are recorded in the Worcester Registry of Deeds Books 16649 & 14490, Pages 142 & 163 and said land is free from encumbrances. The sites lie within the Industrial Zone, Agricultural Zone, and the Groundwater Protection Overlay District.

FILINGS

The Planning Board has received the following written materials:

1. The application submitted by TRC Environmental Corp. on behalf of ForeFront Power, LLC consisted of a Special Permit Application Form, Project Narrative, a copies of the Deed, a copy of the Application for Certified Abutters List, a copy of the Abutters List Report, Locus Map, Long Term Operation and Maintenance Plan, Stormwater Analysis Report, Post Development Hydrologic Analysis, Access Easement letters, Municipal Lien Certificate, associated fees, and a Site Plan.
2. Plans, titled UXBRIDGE NEWELL ROAD ASSOCIATES KURZONE PERMIT PLANS CIVIL SHEETS, Project No. MA-15-0251 & MA-15-0252 prepared by TRC Engineers, Inc., dated August 16, 2017, twelve revisions listed, and a final revision dated June 5, 2018, included the following plan sheets:
 - C-000 Civil Title Sheet
 - C-001 Overall Property and Layout Plan
 - C-002 Civil Notes, Legends, Abbreviation
 - C-003 Grading, Erosion, & Sediment Control Notes
 - C-004 Overall Existing Conditions
 - C-004.1 Existing Conditions
 - C-004.2 Existing Conditions
 - C-100 Overall Clearing and Demolition
 - C-101 Clearing and Demolition Plan
 - C-102 Clearing and Demolition Plan
 - C-200 Overall Site Landscape Plan
 - C-201 Site & Landscape Plan
 - C-202 Site & Landscape Plan
 - C-300 Overall Grading and Stormwater Management Plan
 - C-301 Grading and Stormwater Management Plan
 - C-302 Grading and Stormwater Management Plan
 - C-400 Overall Erosion & Sediment Control Plan
 - C-401 Erosion & Sediment Control Plan
 - C-402 Erosion & Sediment Control Plan
 - C-501 Road & Grading Details
 - C-502 Erosion & Sediment Control Details
 - C-503 Fence & Gate Details
 - C-504 Overall Color Exhibit
 - C-505 Color Exhibit
 - C-506 Color Exhibit
 - C-507 Overall Phasing Plan
 - C-508 Phasing Plan

- C-509 Phasing Plan
- C-510 Phasing Notes
- C-511 Driveway Profile

3. File Correspondence:

- 11/29/17, 12/7/17, 1/23/18, & 2/6/18 –Board of Health
- 12/19/17, 2/15/18, 3/5/18, 3/26/18 –Fire Chief
- 10/6/17, 2/6/18, & 3/26/18 –Dept. of Public Works
- 9/19/17, 11/6/17, 12/19/17 –Conservation Commission
- 11/14/17, 12/18/17, 2/15/18, 3/6/18, 3/26/18, 5/3/18 –Graves Engineering Reviews

The Public Hearing was opened on December 6, 2017. The Planning Board members in attendance were Chairman James Smith, Vice Chairman Barry Desruisseaux, Member Joseph Leonardo, Member Justin Piccirillo, Member Eli Laverdiere and Alternate Member, Barry Hauck. The Chair read the notice of the hearing into the record. Presenting on behalf of the Applicant, ForeFront Power, was Mr. Ed Switzer, of TRC Engineers.

Mr. Ed Switzer, project manager for the proposed solar project, gave a brief history of the company stating they were based in San Francisco, had projects in 23 states & Puerto Rico, 10 years of experience in the renewable energy industry and other company statistics. Juliet Caplinger, the engineering and environmental consultant for the project, described the project to the Board as an approximately 4 megawatt AC solar project with access to the property from Depot Street. She stated they were proposing to construct on two parcels, one on Newell parcel & the Kurzon parcel. It was described as North to South access, with existing road heading east, an existing gravel drive that they would upgrade for construction traffic and emergency vehicles with a turnaround. All panels and equipment would be fenced in with locked gates. Mr. Desruisseaux asked where the frontage to the property was located. Mr. Switzer replied that it was land-locked and that there was no frontage on a public access road. He stated that access was through an easement on Depot Street.

Discussion was had regarding proof of easements and ownership. The Chair questioned the applicant's access over the Town's sewer easement. Also questioned was easement of New England Power Company. Additional details were requested to be included on the Site Plan for clarity: abutters' homes, railroad, streets, easements, and proposed screening. Emergency vehicle access and the turnaround was discussed. Discussion also had regarding whether solar panels are a building or a structure since a building permit is needed and whether or not it's a buildable lot according to the zoning bylaws.

Mr. Switzer said the panels would be 2' to 8' and the fence would be 8' plus evergreen covering/screening. No abutters wished to speak.

The Public Hearing was continued through a span of meetings and ultimately closed on May 23, 2018

DECISION

MOTION: to endorse the Decision for the Special Permit for the solar field for ForeFront Power with the addition of the condition for the confirmatory test holes for the catch basins made by Mr. Desruisseaux. The motion was seconded by Mr. Leonardo. The Motion carried 5-0-0.

This decision is granted based on the following findings and conditions as noted herein. No waivers were sought for this Special Permit application. The conditions of approval are set forth below:

FINDINGS

In granting the Special Permit with conditions, the Board determined that any adverse effects of the proposed use of land will not outweigh its beneficial impact to the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The Board has also taken into consideration the following:

1. The social, economic and community needs which are served by the proposal are positive.

The proposed photovoltaic solar energy project based on the submitted materials together with all associated parking, facilities and infrastructure has been located in a manner consistent with the Uxbridge Zoning Bylaws, §400-10, §400-20, §400-50 Appendix A Table of Use Regulations, and Article X Definitions of the Uxbridge Zoning By-Law, including but not limited to, minimum applicable zoning setbacks, and open space and buffer requirements.

2. There is little to no impact on traffic flow and safety, including parking and loading.

The Applicant has submitted information to the Board which indicates that there shall be no anticipated traffic generation from the project.

3. There is no impact on utilities and other public services.

The Applicant has submitted information to the Board which indicates that there will be minimal demands placed on Town services and infrastructure. The project will not require municipal water and sewer service. The facility and all associated infrastructure shall be maintained by the Applicant.

4. There is little to no impact on the neighborhood character and social structures.

The project is located in the Agricultural and Industrial zones. The Board has determined that noise and air quality associated will meet applicable standards. Further, under the Revised Plans and this Board's conditions enumerated below, the project provides significant buffer areas to neighboring properties. The Board finds that the Development will not be injurious or detrimental to the neighborhood and such use is in harmony with the general purpose and intent of the Bylaw.

5. There will be a positive impact on the natural environment.

The Applicant has properly revised its plans to include the comments, suggestions, and corrections identified by the Planning Board and their engineering review consultant, Graves Engineering.

6. The potential fiscal impact on town services, tax base and/or employment is positive.

The project will provide revenue for the Town with no impact on Town services or the school system and utilize a land-locked property for a solar energy.

CONDITIONS

1. The Applicant shall comply with all applicable laws, regulations, and permit conditions required by the Uxbridge Conservation Commission, Board of Health, Building Department, Fire Department, and all other departments and agencies for this project.
2. The Applicant shall adhere to the conditions noted on the approved plan and this Decision.
3. The Applicant shall maintain screening, minimize erosion, & security barriers for the duration of the lease.
4. Prior to applying for an occupancy permit from the Building Inspector, the Applicant must notify the Planning Board to schedule a post-construction evaluation of the vegetative screening.
5. The parcels shall not be sold if doing so would make the project out of compliance with Uxbridge's frontage requirements. If at any time there is inadequate frontage, the Special permit will be null and void.
6. In the event the property is no longer used primarily for photovoltaic solar energy generation, the Applicant is responsible for the removal and disposal expenses of all installed equipment when the lease expires or terminates, whichever comes first. The land shall be restored to a useable condition. This work shall be completed within two (2) years after the facility is no longer used for solar energy generation. Work shall be completed to the satisfaction of the Town of Uxbridge. The use of the property will be governed by the then existing zoning and other applicable laws and regulations.
7. The Special Permit, including any attachments or appendices thereto shall be recorded at the Worcester Registry of Deeds within six (6) months or this Special Permit will become null and void. Said time shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17. The Applicant shall submit evidence of such recording to the Planning Board.
8. This Special Permit shall lapse in three (3) years on June 14, 2021, the filing date of the Special Permit approval, if a substantial use thereof has not commenced, except for good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause. Said time shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L Chapter 40A, Section 17.
9. A Town agent witnessed confirmatory test pit at the proposed catch basins is required.

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SAID SPECIAL PERMIT APPROVAL IS GRANTED PURSUANT TO M.G.L. CHAPTER 40A, SECTION 9. APPEALS FROM THIS DECISION SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 9.

UXBRIDGE PLANNING BOARD



James Smith, Chair

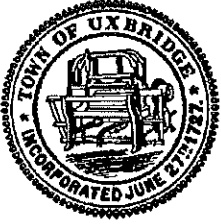
Justin Piccirillo, Member

Barry Desruisseaux, Vice-Chair & Clerk

Eli Laverdiere, Member

Joseph Leonardo, Member

Date



SPECIAL PERMIT DECISION

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I hereby certify that twenty (20) days has elapsed from the date this decision was filed and that no appeal has been filed in this office.

A true copy: ATTEST

Town Clerk/Assistant Town Clerk
(Town Seal Affixed)

Date