

**TOWN OF SHEFFIELD  
PLANNING BOARD  
June 9, 2021  
TOWN HALL & VIRTUAL MEETING  
7:00 PM**

Board Members Present:     Kenneth Smith, Chairman  
   George Oleen  
   Robbie Cooper  
   Sari Hoy

Members Absent:             Caitlin Marsden McNeill

Others Present:              Members of the Public  
   Lori Neil, Administrative Assistant

Chairman Smith began the Public Hearing at 7:05 pm.

The Sheffield Planning Board, as the Special Permit Granting Authority, will hold a virtual Public Hearing for BVD Solar, LLC, located at 560 South Main Street, Sheffield, to act on the Special Permit Application for a Large Scale Solar Photovoltaic Installation, per Section 7.4 of the Sheffield Zoning Bylaws. The property is the Commercial District, Tax Map No. 20, Block & Lot 2-23.1 Book 2350 & Page 118. Chairman Smith and the Board reviewed the application and documents. Discussion: The size requirement is anything over 1/8 of an acre or 5,000 square feet of solar area, is where we draw the definition of small or large. This solar array is clearly over 5,000 feet which makes it a large solar array and that is why it is going through the Special Permit process. The applicant has provided all the documentation. It is already installed. The applicant is not present during this hearing. The size is a 322.6 kilowatt system. It is significantly larger than a normal house-type system. The Board has viewed this location. The applicant will be storing equipment and supplies under these structures and the panels will be making a roof. They are not mounted on a roof. Chairman Smith asked the Board if they had any questions or comments. S. Hoy spoke to say, this area had been long used for parking. It was a field in early 2000's. R. Cooper asked about the boundaries and mentioned it didn't look like there would much visibility. Chairman Smith agreed and said you can see it from Route 7. Chairman Smith explained the Special Permit process. Deliberations will happen during normal session. With no further questions, G. Oleen made a motion to close the public hearing with regards to the 560 South Main Street application for a Large Scale Solar Photovoltaic installation. S. Hoy seconded the motion. Motion carried.

4-0.

Chairman Smith opened the regular Planning Board meeting at 7:15 pm. He asked the Board their opinions on the Special Permit. G. Oleen stated the bylaws need to have a back bone. They have come forward after the fact. If someone else came along and built something twice as big, and came after the fact to say, oh, I need a permit. Again, it's after the fact and it's too late. They should be denied.

Chairman Smith said we need to strongly look at the definitions for our photovoltaic. This was portrayed as a roof top which is allowed, but it was not clear that the solar panels were the roof. If our bylaw says large scale solar is 1/8 of an acre or, 5,000+ square feet and larger, you are considered a large scale solar. S. Hoy asked if the 1/8 of an acre is the fenced-in area. Chairman Smith said the 1/8 acre is the actual panels. He stated, it is definitely not clear. When they came in for a building permit they applied for a roof top solar installation. G. Oleen stated, a roof top insinuates a building is there. I think they are trying to get around the bylaw by saying it is a solar carport when there was a roof top installation, when actually, it was neither. If it needs to be taken down, it needs to be taken down. I think we need to uphold our bylaw.

R. Cooper asked if this permit is denied, can they disassemble a section. Chairman Smith stated, the construction had started sometime in 2020. It is unclear if it is operational at this time. Their entire building is covered with solar panels.

Chairman Smith and the Board began the deliberation process.

**9.4.2.2.1** - Thinking about social, economic and community needs, they are not seeing a benefit, but do you they outweigh any adverse impacts? Just because there isn't a benefit does not mean it's a negative. Chairman Smith stated, all other large scale solar, the town assigns a value to the equipment. That would be the only economic value to the town. I am not sure if the town has done this. Maybe the Select Board has an agreement that I'll need to follow up with.

**G. Oleen made a motion to abstain from the first question. S. Hoy seconded the motion.**

**Motion carried, Vote: 4-0.**

**9.4.2.2.2** - Traffic impact, flow and safety, parking and loading an accommodation to pedestrian and non- automotive transportation. G. Oleen mentioned doesn't see how there is any effect it is a distance off the road. The Board agreed. We found that the beneficial effects of the proposed use **do outweigh** any potential adverse impacts to the town or neighborhood and it applies to the general characteristics of the site and relation to that site. **VOTE: 4-0.**

**9.4.2.2.3** - Adequacy of utilities and other public services. This is adding to the public utilities of the area. I don't feel it is impacting them in any other way. It is not using water. It's on town water. The beneficial effects of the proposed use **do outweigh** any adverse impacts to the town or neighborhood. **VOTE: 4-0.**

**9.4.2.2.4** - Appropriateness to proposed location, the neighborhood character and town land use objectives. The Board agreed it big and out of character for this town. The beneficial effects of the proposed use **do not outweigh** any potential adverse impacts to the town or neighborhood as it applies to the particular characteristics to the site and any relation to that site. **Vote: 4-0**

**9.4.2.2.5** - Environmental impacts including but not limited to visual effects, noise, odor, dust, vibration, fumes, smoke, light intrusion, glare, impacts on natural habitats, views, water pollution erosion and sedimentation. S. Hoy mentioned this area was once a field. The damage was done when it was made into a parking lot. Chairman Smith stated, none of the other items are coming into play, but it is visually unattractive. G. Oleen said based on the fact of where it is located it could cause a lot of water forced down on the ground. There are no gutters, as there would be on a house. S. Hoy mentioned, you could quite easily drive pass it and not know it is there. The beneficial effects **do outweigh** any adverse impacts to the town or neighborhood.

**VOTE: 4-0.**

**9.4.2.2.6** – Potential fiscal impact including town services, tax base and employment. At this point that is unknown. Town services will not be increased. We may get into a tax agreement. It will not benefit employment. We find that the beneficial effects of the proposed use **do not**

**outweigh** any potential adverse impacts to the town or neighborhood as it applies to this particular characteristic. **VOTE: 4-0.**

Chairman Smith said without anyone indicating their vote, I am seeing this is potentially going to be denied, or, do we grant it with a condition they remove enough panels to get beneath 1/8 of an acre. S. Hoy spoke to say that would be their decision. If they want to be a large scale then they have to appeal and go to the town to get an agreement where they do pay, Chairman Smith said the tax agreement is a whole separate thing. If we issue them a special permit, I would immediately email Rhonda LaBombard and Rene Wood to say please enter into a tax agreement with this applicant because we have deemed it's a large scale solar. If we are flat out denying it, I am not sure if they have to remove everything or if we say, you can keep it but make changes so you are in a small scale solar. Once they get in into a small scale solar, then we no longer enter into tax agreement with the town. If they had followed the proper channels based on other solar arrays, they probably would have been approved. Chairman Smith stated, if a special permit is denied, the applicant cannot apply on that particular property again for two years. G. Oleen stated, you either follow the bylaws as they are written or you don't. I think we should deny their permit. Chairman Smith said we will be costing the town some money. The Building Inspector did grant a building permit. The Board decided to make a vote tonight. If we deny we don't necessarily need to give them decisions. In order to use this system you go under to a small scale.

**Conditions:**

#1.) Solar Panels in excess of town bylaw must be removed.

#2.) After two years, of this decision, you may apply to a special permit to resume full scale operation as a large scale photovoltaic operation.

**Vote:** G. Oleen – Denied, S. Hoy – Denied, R. Cooper – Denied, Chairman Smith - Denied

**FINAL VOTE: DENIED, 4-0.**

There were no ANR's.

Chairman Smith asked the Board if they had a chance to review the recodification of bylaws and what their thoughts were. There was a question of what a non-accessory sign is. The definition in the General Bylaw for a non-accessory sign is: one which does not advertise or indicate the person occupying the premise upon which the sign stands or the business transacted there on. R. Cooper mentioned a sign he drove by in Hudson regarding Governor Cuomo and vaccinations. It doesn't give any inclination of who resides in the house.

G. Oleen stated, there is a bylaw against billboards. There is one billboard on the north side of town, that came in before the bylaws. If you wanted to put a sign on the green, there was a maximum of 4' X 8'.

Questions for the Town Council:

- 1.) Do they feel our sign bylaw has this covered,
- 2.) If not give an example of a non-accessory sign.
- 3.) If referred back to question, # 1, if our bylaws cover non-accessory signs that it be moved to a regular town meeting.

Community Residences – The definition was clear and useable. It's clear on the number of residents as far the percent of town population. The yard requirements do not match our table of dimensional regulations; as far as the set-back, sizes and everything else. This would need to be looked at. We don't allow on-street parking. That is the town bylaw. Section 89-5, Special Permit would change from the Select Board to the Planning Board. If we want to change this to

our bylaws I am happy to do the editing. G. Oleen stated, we need some sort of hearing on community residences. We have had several when I was Board of Health Inspector. When I was an inspector, I had to inspect them but they were situated in such a way. They were old and if there was a complaint of cleanliness, Board of Health would enter the picture. Other than that, there are no regulations other than state. It was noted that it doesn't state the mental capacity of the residents, Assisted Living or otherwise. We need to find out if either of those wordings, community residences or group homes are covered by our Boarding House definition.

Approval of draft meeting minutes – The minutes show changes requested by G. Oleen.

G. Oleen made a motion to approve the May 12 meeting minutes. S. Hoy seconded the motion. Motion carried, 4-0.

S. Hoy made a motion to accept the meeting minutes of May 26, 2021, as written. G. Oleen seconded the vote. Chairman Smith abstained. Vote 3-0.

Planning Board Mail – None

Board member Items – S. Hoy asked if everyone agreed the bylaw wording should be adjusted so there is no confusion regarding the roof mount. Chairman Smith would like to make a recommendation that we do adjust those definitions so they are very clear and ready its ready to present at the next town meeting, next May. It doesn't matter how they mount it. If the solar is over 1/8th of an acre, they need to come before us for approval. It was agreed it needs be kept simple and clear.

Chairman Smith read a memo from Town Administrator, Rhonda LaBombard regarding opening to the public. The meetings are open to the public as of June 16<sup>th</sup>. The town hall will open to the public July 1, 2021. S. Hoy mentioned allowing virtual as well as in person is beneficial in getting more people to attend.

G. Oleen suggested having meetings at the Senior Center. Chairman Smith said the Town Hall meeting room is plenty large enough unless we have a large group expected.

Chairman Smith mentioned the stipend that was brought up by G. Oleen at the last meeting. Chairman Smith said if that is something The Board would like to pursue, then it should be brought to the Select Board when there is a budgeting discussion happening. This discussion starts in January. Chairman Smith asked if anyone from the public had any inquiries. T.

MacKenzie said he believes that having meetings both in person and virtual gives everyone more accessibility. He said his only suggestion as the Board moves forward with the denial, is to really research the permit that was issued and what documentation supported it. You want a case that protects the town.

Chairman Smith congratulated Lauren Hyde regarding the Citizen's Petition. He stated, it was great to see the turn out and to see people speak their mind. Chairman Smith also thanked her for the invitation to the committee meeting and asked her to keep the Board posted. He said a Board member will be available to share any insight we might have to share with the committee.

G. Oleen made a motion to adjourn the meeting. S. Hoy seconded the motion. Motion carried, 4-0.

The meeting was adjourned at 8:32pm.

Respectfully submitted by:



Lori Neil  
Administrative Assistant

Supporting Documents:

Special Permit

Site Map

Deliberation Guide

Draft Meeting Minutes