

ZONING BOARD OF APPEALS

TOWN OF GREENFIELD, MASSACHUSETTS
14 Court Square, Greenfield, MA 01301

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Zoning Board of Appeals Minutes of June 29, 2009 High School Cafeteria 1 Lenox Avenue

Chairman Roy Cowdrey called the meeting to order at 8:00 a.m. with the following members present:

PRESENT: Roy Cowdrey, Chairman Thomas McLellan, Clerk Susan Welenc
Mark Maloney Scott Cote Howard Barnard, Alternate
Scott Conti, Alternate

ALSO PRESENT: Attorney Maurice Cahillane representing the Town; Eric Twarog, Senior Planner/GIS Coordinator; Jeff Terrell from WHAI; and members of the public.

Public Hearing Continued:

7:00 p.m. Pioneer Renewable Energy, LLC – Request for special permits to allow: i) the construction of a 47 MW biomass-fired power plant, including ancillary buildings and structures, access roads, fuel storage areas, parking area and utility construction, ii) the height of the structures and buildings to extend above fifty (50) feet, and iii) activities exceeding the noise standards set forth in Section 200-6.8(C2) of the Zoning Ordinance within the Planned Industry (PI) Zoning District.

Zoning Board of Appeals Chair Roy Cowdrey called the meeting to order and stated that this is a continuation from the June 25, 2009 meeting. Members sitting were Roy Cowdrey, Tom McLellan, Mark Maloney, Susan Welenc, and Scott Cote. Also in attendance were ZBA Alternates Howard Barnard and Scott Conti, Matthew Wolfe of Madera Energy, Cliff Orvedal of Madera Energy, Eric Nelson from SVE Associates, Tony Wonseski from SVE Associates, and Ellen W. Freyman, Esq. from Shatz, Schwartz and Fentin, P.C.

McLellan read the following list of proposed conditions on the project:

1. The power plant, including the related project elements, will be constructed and the power plant and attendant activities will be operated in accordance with the plans submitted to the ZBA dated April 17, 2009 and revised May 14, 2009 and in accordance with testimony given by the applicant during the course of the Zoning Board of Appeal's meetings/hearings on June 15, 2009 and June 25, 2009.
2. Painted or treated wood shall not be accepted at the facility. Additionally, construction demolition materials which are currently classified as "solid waste" pursuant to Massachusetts Department of Environmental Protection ("MassDEP") Regulations shall not be accepted at the facility. All fuel, with the exception of diesel fuel used for start-up, back-up, and flame stabilization, must meet the current definition of "Wood Fuel" as defined by MassDEP (310 CMR 7.00).
3. All wood fuel received at the site shall be subject to the applicant's stated Quality Control procedures.

4. Deliveries of wood fuel shall be accepted only between the hours of 6 a.m. and 8 p.m. Monday through Friday, 8 a.m. and 6 p.m. Saturdays, Sundays and all legal holidays. No queuing of trucks will be allowed outside of the site gate.
5. Deliveries of wood fuel to the facility shall access the site via Route 2 and Adams Road south of Butternut St. Deliveries shall not utilize Lovers Lane, Adams Rd. north of Butternut St., High Street, or West Gill Rd (in the town of Gill) as wood fuel delivery routes. Exceptions shall be made for wood fuel generated directly from properties along these streets.
6. All trucks carrying loose material to or from the site must have their load covered.
7. Outdoor chipping and grinding of wood shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday. No outdoor chipping shall be allowed on legal holidays or weekends.
8. Equipment operating on site shall not utilize noise producing back-up alarms during nighttime hours.
9. The applicant shall be required to resurface Adams Road from the Route 2 intersection to Butternut Street according to the Greenfield Department of Public Works specifications and time frames.
10. The area where ash is collected and stored on site shall be enclosed.
11. The applicant shall complete the traffic improvements recommended by MDM Transportation Consultants, Inc. in their traffic evaluation report dated November 7, 2008 and as conditioned under the Planning Board's approval of the Butternut Street Extension Definitive Subdivision Plan.
12. If the noise level projections as specified in the applicant's special permit application and given in the applicant's testimony at the Zoning Board of Appeals meetings/hearings of June 15, 2009 and June 25, 2009 area exceeded by a determination of the Town, the applicant shall come before the ZBA to consider additional noise abatement measures.
13. The applicant shall submit written documentation to the Zoning Board of Appeals informing them of the date that site improvements are completed.
14. Within ten (10) days after the first 6 and 12 months of operation and annually thereafter, the Applicant shall submit a written report on environmental compliance to the Mayor, Zoning Board of Appeals, Board of Health, Fire Department, and Department of Public Works and shall post the same on the Applicant's website.
15. Prior to the issuance of a certificate of occupancy for the power plant, the Applicant shall have obtained all applicable local, state, and federal permits required for the power plant.
16. Current forestry along the perimeter of the site shall remain.

McLellan stated that he would like to incorporate Scott Conti's proposed list of conditions to include:

1. No antennas, sensors, lighting, cameras, or other visible devices (other than required by state or federal agencies) shall be installed on the stack or structures above the fifty (50) foot level without a special permit from the Zoning Board of Appeals.
2. No modifications shall be made to the color or appearance of the stack or structures above the fifty (50) foot level other than that required for normal maintenance without a special permit from the Zoning Board of Appeals.

3. Material accepted at the facility shall only be received from contracted suppliers and municipalities complying with all federal and state laws and regulations. No materials shall be accepted from private individuals.
4. The applicant, its contracted suppliers and municipalities transporting materials to the facility shall comply with all current and emerging regulations for in-state and interstate transportation of invasive species including but not limited to: US Code Title 7, Chapter 104 (Plant Protection Act), and Massachusetts General Laws Chapter 128, Section 2 and Sections 16 through 31A.
5. The applicant shall submit for approval a plan for separate and safe storage of materials suspected or confirmed to be containing invasive plant or animal species that includes an impervious membrane or material and provides reasonable protection against spreading by wind.
6. The applicant shall accurately record the volume of water withdrawn from any and all onsite groundwater sources and include this data in all reports to the Mayor, Zoning Board of Appeals, Board of Health, and the Department of Public Works.
7. The applicant shall apply for appropriate licenses and permits for the storage of any fuel or potentially hazardous chemicals or gasses in excess of 500 gallons to be stored or consumed onsite.

Cote recommended the following two additional conditions:

1. The applicant shall post a bond in the amount of \$400,000 in an account in the name of the Town of Greenfield to be used by the Town of Greenfield if the project goes bankrupt or fails for other unforeseen circumstances.
2. The applicant shall perform street cleaning of Butternut Street and Butternut Street Extension for dust control purposes a minimum of three (3) times per year except during drought conditions determined by the state Fire Marshall at which time the applicant shall control the dust at that time through watering and street cleaning.

Chairman Cowdrey asked the Board if they would like to make a motion to approve the project with these conditions. The Board discussed the hours of operation for the wood chipper as well as hours of operation for truck deliveries. Maloney suggested the following amended conditions of approval:

1. Deliveries of wood fuel shall be accepted only between the hours of 7 a.m. and 8 p.m. Monday through Friday, 9 a.m. and 5 p.m. Saturdays and holidays. Deliveries of wood fuel shall not be accepted on Sundays. No queuing of trucks will be allowed outside of the site gate.
2. Outdoor chipping and grinding of wood shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. No outdoor chipping shall be allowed on legal holidays or weekends.

It was the Board's consensus that all ten (10) criteria of approval under Section 200-8.3(F) of the Greenfield Zoning Ordinance have been met and that all eleven (11) approval guidelines under Section 200-8.4(E) of the Greenfield Zoning Ordinance have been met. The Board discussed possible motions.

MOTION **Moved by McLellan, seconded by Cote, and voted 5:0 that in accordance with the preceding findings and the conditions previously stated to allow the applicant to exceed the noise standards of the Greenfield Zoning Ordinance Section 200-6.8(C2) as requested by the applicant with the following condition:**

If the noise level projections as specified in the applicant's special permit application and given in the applicant's testimony at the Zoning Board of Appeals meetings/hearings of June 15, 2009 and June 25, 2009 area exceeded by a

determination of the Town, the applicant shall come before the Greenfield ZBA to consider additional noise abatement measures.

MOTION Moved by McLellan, seconded by Cote, and voted 5:0 that in accordance with the preceding findings to allow the applicant to exceed the Greenfield Zoning Ordinance height requirements as per the applicant's submitted plans.

MOTION Moved by McLellan, seconded by Cote, and voted 5:0 to approve the application of Pioneer Renewable Energy, LLC for property located at 37 Butternut Street for a special permit pursuant to Sections 200-4.12(C5), 200-8.3, and 200-8.4 of the Zoning ordinance to allow the construction of a 47 MW biomass-fired power plant, including ancillary buildings and structures, access roads, fuel storage areas, parking area and utility construction with the following conditions:

1. The power plant, including the related project elements, will be constructed and the power plant and attendant activities will be operated in accordance with the plans submitted to the ZBA dated April 17, 2009 and revised May 14, 2009 and in accordance with testimony given by the applicant during the course of the Zoning Board of Appeal's meetings/hearings on June 15, 2009 and June 25, 2009.
2. Painted or treated wood shall not be accepted at the facility. Additionally, construction demolition materials which are currently classified as "solid waste" pursuant to Massachusetts Department of Environmental Protection ("MassDEP") Regulations shall not be accepted at the facility. All fuel, with the exception of diesel fuel used for start-up, back-up, and flame stabilization, must meet the current definition of "Wood Fuel" as defined by MassDEP (310 CMR 7.00).
3. All wood fuel received at the site shall be subject to the applicant's stated Quality Control procedures.
4. Deliveries of wood fuel shall be accepted only between the hours of 7 a.m. and 8 p.m. Monday through Friday, 9 a.m. and 5 p.m. Saturdays and holidays. Deliveries of wood fuel shall not be accepted on Sundays. No queuing of trucks will be allowed outside of the site gate. An average of 60 tractor trailer truck loads calculated on a weekly basis shall not be exceeded.
5. Deliveries of wood fuel to the facility shall access the site via Route 2 and Adams Road south of Butternut St. Deliveries shall not utilize Lovers Lane, Adams Rd. north of Butternut St., High Street, or West Gill Rd (in the town of Gill) as wood fuel delivery routes. Exceptions shall be made for wood fuel generated directly from properties along these streets.
6. All trucks carrying loose material to or from the site must have their load covered.
7. Outdoor chipping and grinding of wood shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. No outdoor chipping shall be allowed on legal holidays or weekends.
8. Equipment operating on site shall not utilize noise producing back-up alarms during nighttime hours.
9. The applicant shall be required to resurface Adams Road from the Route 2 intersection to Butternut Street according to the Greenfield Department of Public Works specifications and time frames.

10. The area where ash is collected and stored on site shall be enclosed.
11. The applicant shall complete the traffic improvements recommended by MDM Transportation Consultants, Inc. in their traffic evaluation report dated November 7, 2008 and as conditioned under the Planning Board's approval of the Butternut Street Extension Definitive Subdivision Plan.
12. The applicant shall submit written documentation to the Zoning Board of Appeals informing them of the date that site improvements are completed.
13. Within ten (10) days after the first 6 and 12 months of operation and annually thereafter, the Applicant shall submit a written report on environmental compliance to the Mayor, Zoning Board of Appeals, Board of Health, Fire Department, and Department of Public Works and shall post the same on the Applicant's website.
14. Prior to the issuance of a certificate of occupancy for the power plant, the Applicant shall have obtained all applicable local, state, and federal permits required for the power plant.
15. Current forestry along the perimeter of the site shall remain.
16. No antennas, sensors, lighting, cameras, or other visible devices (other than required by state or federal agencies) shall be installed on the stack or structures above the fifty (50) foot level without a special permit from the Zoning Board of Appeals.
17. No modifications shall be made to the color or appearance of the stack or structures above the fifty (50) foot level other than that required for normal maintenance without a special permit from the Zoning Board of Appeals.
18. Material accepted at the facility shall only be received from contracted suppliers and municipalities complying with all federal and state laws and regulations.
19. The applicant, its contracted suppliers and municipalities transporting materials to the facility shall comply with all current and emerging regulations for in-state and interstate transportation of invasive species including but not limited to: US Code Title 7, Chapter 104 (Plant Protection Act), and Massachusetts General Laws Chapter 128, Section 2 and Sections 16 through 31A.
20. The applicant shall submit for approval a plan for separate and safe storage of materials suspected or confirmed to be containing invasive plant or animal species that includes an impervious membrane or material and provides reasonable protection against spreading by wind.
21. The applicant shall accurately record the volume of water withdrawn from any and all onsite groundwater sources and include this data in all reports to the Mayor, Zoning Board of Appeals, Board of Health, and the Department of Public Works.
22. The applicant shall apply for appropriate licenses and permits for the storage of any fuel or potentially hazardous chemicals or gasses in excess of 500 gallons to be stored or consumed onsite.

23. **The applicant shall post a bond in the amount of \$400,000 in an account in the name of the Town of Greenfield to be used by the Town of Greenfield if the project goes bankrupt or fails for other unforeseen circumstances.**
24. **The applicant shall perform street cleaning of Butternut Street and Butternut Street Extension for dust control purposes a minimum of three (3) times per year except during drought conditions determined by the state Fire Marshall at which time the applicant shall control the dust at that time through watering and street cleaning.**
25. **The Special Permit and all conditions of the Special Permit shall apply to any subsequent owner or operator of the site.**

Adjournment:

MOTION: Moved by Maloney, seconded by McLellan, and voted 5:0 to adjourn the meeting at 9:06 a.m.

Respectfully submitted,

Eric Twarog, AICP
Senior Planner/GIS Coordinator