

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2018-9) & SITE PLAN APPROVAL
Construct a Solar Electric Generating Facility**

43 Estabrook Avenue, Grafton MA

Estabrook Valley, LLC (Applicant)
Knowlton Farms Nominee Trust, Patricia K. Knowlton Trustee (Owner)

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Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Estabrook Valley, LLC, 111 Huntington Avenue, Boston, MA 02199 (hereinafter the Applicant), for a Special Permit and Site Plan Approval under Section 3.2.3.1 (Use Regulation Schedule) of the Grafton Zoning Bylaw (ZBL) to construct a solar electric generating facility on property located at 43 Estabrook Avenue, Grafton, MA 01519 (hereinafter the Site), and shown on Grafton Assessor's Map 49, Lot 6 and owned by Knowlton Farms Nominee Trust, Patricia K. Knowlton, Trustee (hereinafter the Owner) by deed recorded in the Worcester District Registry of Deeds in Book 35401, Page 337.

I. BACKGROUND

The application for the above referenced Special Permit and Site Plan Approval (hereinafter Application) was submitted on July 11, 2018. Notice of the public hearing and the subject matter thereof was published in the Grafton News on July 26, 2018 and August 2, 2018 and posted with the Town Clerk's Office and abutters were notified by First Class Mail. The public hearing on the Application was held on August 13, 2018, continued to August 27, 2018. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on August 27, 2018.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Linda Hassinger, Clerk Sharon Carroll-Tidman, Members David Robbins, Michael Scully, and Associate Member Paul Monroe. At the hearing the following people presented the Application: David Kelley, P.E. of Meridian Associates, Inc. and Andrew Pierson of Estabrook Valley LLC. During the Board's deliberation on the decision on August 27th, Chairman Hassinger appointed Mr. Monroe to vote on the decision due to the absence of Ms. Carroll-Tidman.

II. EXHIBITS

The following items were submitted to the Board for its consideration of this application:

1. Original Application Submission, received July 11, 2018 to include the following:
 - Application for Special Permit; signed by Paul R. Knowlton, received by Town Clerk July 11, 2018; 1 page.
 - Application for Site Plan Approval; received by Town Clerk July 11, 2018; 1 page.
 - Certificate of Good Standing, signed by Treasure/Collector's office June 20, 2018; 1 page.
 - Certified Abutters List; signed by Assessor's Office dated June 22, 2018; 1 page.

- Project Narrative prepared by Meridian Associates, Inc.; dated June 26, 2018; 4 pages.
 - Waiver Request prepared by Meridian Associates, Inc.; dated June 26, 2018; 1 page.
 - Plan Set: “Knowlton Farms Solar Development, 43 Estabrook Avenue (Pilot Project), Assessor’s Map 49 – Lot 1” ; prepared by Meridian Associates, Inc.; 11”x17”; dated June 26, 2018; received July 11, 2018; 5 11”x17” sheets to include the following:
 - Sheet 1: Cover Sheet & Locus Context Map
 - Sheet 2: Record Conditions Plan
 - Sheet 3: Sediment and Erosion Control Details
 - Sheet 4: Site Details
2. Stormwater Analysis & Calculations Report prepared by Meridian Associates, Inc.; dated June 26, 2018; received July 11, 2018; 122 pages.
 3. Email Correspondence: Re: 43 Estabrook Ave. – SP2018-9; Board of Health; dated and received July 11, 201; 1 page.
 4. Email correspondence: Re: 43 Estabrook Avenue – Knowlton Farm – Pilot Solar Development; Zoning Board of Appeals; dated and received July 12, 2018; 1 page.
 5. Correspondence: Re: Knowlton Farms Solar Development from Grafton Police Chief; dated and received July 19, 2018; 1 page.
 6. Public Hearing Notice; received by Town Clerk July 23, 2018; 1 page.
 7. Correspondence: Graves Engineering, Inc. - Knowlton Farms Solar Development (Pilot Project), 43 Estabrook Ave., Special Permit, Site Plan, Stormwater Management Regulations and Wetland Regulations Review; dated August 7, 2018; received August 7, 2018; 3 pages.
 8. Correspondence: Meridian Associates, Inc. – Re: Knowlton Farms Solar Development (Pilot Project), 43 Estabrook Ave., Special Permit Site Plan, Stormwater Management Regulations and Wetland Regulations Review; dated August 8, 2018; received August 9, 2018; 3 pages.
 9. Revised Plan Set: “Knowlton Farms Solar Development, 43 Estabrook Avenue [Pilot Project], Assessor’s Map 49 – Lot 1” ; prepared by Meridian Associates, Inc.; 11”x17”; black and white; revised August 8, 2018; received August 9, 2018; includes the following five (5) sheets:
 - Sheet 1: Cover Sheet & Locus Context Map
 - Sheet 2: Record Conditions Plan
 - Sheet 3: Permit Site Plan of Land
 - Sheet 4: Sediment and Erosion Control Details
 - Sheet 5: Site Details
 10. Revised Stormwater Analysis & Calculations Report; prepared by Meridian Associates, Inc., dated August 8, 2018; received August 9, 2018; 122 pages.

11. Correspondence: Graves Engineering, Inc. - Knowlton Farms Solar Development (Pilot Project), 43 Estabrook Ave., Special Permit, Site Plan, Stormwater Management Regulations and Wetland Regulations Review; dated August 10, 2018; received August 13, 2018; 3 pages.
12. Rendered Plans: “43 Estabrook Avenue,” prepared by Meridian Associates Inc.; 24”x36”; dated June 26, 2018; received August 13, 2018; includes the following two (2) sheets:
 - Sheet 2: Record Conditions Plan of Land
 - Sheet 3: Permit Site Plan of Land
13. Correspondence: Paul Knowlton - Proposed Dual-Use Solar Projects on Estabrook Avenue; dated August 20, 2018; received August 21, 2018, 2 pages.
14. Project Narrative: Re: Excerpt from Knowlton Farm’s 2017 Ag-Energy Grant Application to MDAR; no date, received August 21, 2018; 3 pages.
15. Letter of Transmittal, from David S. Kelley, of Meridian Associates, dated & received August 24, 2018; 1 page.
16. Correspondence: Re: Knowlton Farms Solar Development (Pilot Project), 43 Estabrook Ave., Special Permit, Site Plan, Stormwater Management Regulations and Wetland Regulations Review, prepared by Meridian Associate, Inc., dated August 22, 2018; received August 24, 2018; 3 pages.
17. Revised Operation and Maintenance Program for a Proposed Stormwater Management System, located at 43 Estabrook Avenue, Grafton, Massachusetts; prepared by Meridian Associates, Inc.; dated August 22, 2018; received August 24, 2018; 8 pages.
18. Revised Project Narrative prepared by Meridian Associates, Inc.; dated August 22, 2018; received August 24, 2018; 4 pages.
19. Revised Plan Set: “Knowlton Farms Solar Development, 43 Estabrook Avenue [Pilot Project], Assessor’s Map 49 – Lot 1”; prepared by Meridian Associates, Inc.; 24”x36”; black and white; revised August 22, 2018; received August 22, 2018; includes the following five (5) sheets:
 - Sheet 1: Cover Sheet & Locus Context Map
 - Sheet 2: Record Conditions Plan
 - Sheet 3: Permit Site Plan of Land
 - Sheet 4: Sediment and Erosion Control Details
 - Sheet 5: Site Details

III. FINDINGS

At their meeting of August 27, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Hassinger) voted 5-0 in **FAVOR** to make the following Findings:

1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and materials submitted and presented in association with the Application.
2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
3. That per ZBL Section 3.2.3.1, the proposed use of a Solar Electric Generating Facility is authorized with the issuance of a Special Permit within the Low Density Residential (R40) zoning district.
4. That the Site, as identified by the Applicant and shown in Exhibits #1, #9, #12 & #19 of this Decision, is located within the Low Density Residential (R40) zoning district. The site is not located within the Water Supply Protection Overlay District.
5. That during the public hearing the Board and Applicant discussed the nature of the application. The Site is 55.26 acres consisting of open fields, forested areas, uplands and limited wetlands. Presently on the Site are the Owner's family farm house, several outbuildings associated with their previous farming operation, a previously approved cell tower (SP 2008-14) and a previously approved fifteen (15) acre solar electric generating facility (SP 2014-6) and its appurtenant equipment, stormwater basin and gravel access road.
6. That during the public hearing the Applicant discussed the proposed solar electric generating facility. The Applicant stated that they are pursuing the State's SMART grant to create a "Dual-Use" facility, which in collaboration with The Stockbridge School of Agriculture would allow for trial crops to be grown under the panels and hung from the front and back of the panels. The Applicant is proposing to elevate the panels so the lowest end is between eight (8) and twelve (12) feet. The aisle spacing would also be expanded to 16.7 feet to allow farm equipment to pass unimpeded (Exhibit #1, #9, #12, #14 & #19).
7. That during the public hearing the Applicant discussed the components of the proposed solar electric generating facility. The project will be a total of 2.55 acres of the site which consists of 210 solar panels, 8 - 30 kilowatt (kW) inverters and one 300 kVA pad-mounted transformer. The Project will generate a total of 331 kilowatts of direct current and 250 kilowatts of alternating current. The electricity will connect to the National Grid system via an underground cable from the transformer to power poles on site to the Estabrook Avenue Right of Way.
8. That during the public hearing the Board and Applicant discussed that the existing gravel access road was in disrepair and not built to the standards conditioned in the previous decision (SP 2014-6). The Board noted that the existing gravel access road be expanded to a width of eighteen (18) feet and repaired. The Board noted that the access road be maintained year round to ensure all season access to the site as required by the Town's public safety departments. It was further noted that the Applicant had submitted an Operations and Maintenance program which addresses some of the maintenance issues discussed at the public hearing.

9. That during the public hearing the Board and Applicant discussed the a portion of the Site not covered by the existing solar electric generating facility was still enrolled in the State's Chapter 61A protection and that the owner would be removing 2.55 acres to construct the proposed solar electric generating facility.
10. That during the public hearing the Board and the Applicant discussed the need for some form of surety that could be accessed by the Town in the event that the facility is abandoned or requires decommissioning. The Applicant stated that they were working on the "Option Agreement" between Estabrook Valley, LLC and the Owner and that it will have provisions for the eventual decommissioning or abandonment of the facility and therefore an additional surety with the Town would not be needed. The Board noted that they would require that this document be submitted before the start of any construction on the Site.
11. That ZBL Section 1.3.3.2, requires that the procedure for Site Plan Review be incorporated into the procedure for reviewing Special Permits.
12. That ZBL Section 1.3.3.3 defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure.
13. That pursuant to Section 1.3.3.4 of the ZBL, the Applicant requested waivers from the following requirements for preparing site plans, as follows (Exhibit #1):
 - Section 1.3.3.3 (d) – Scale of Plan at 1"=40 feet,
 - Section 8.2.1 – Traffic Study
14. That with respect to the nature of this particular Application (Exhibit #1), the waivers requested, and the resulting site plan are not contradictory or inconsistent with the intent and purposes set forth in Section 1.2 and 1.3.3.1 of the ZBL.
15. With regard to Section 1.5.5(a) of the ZBL that based upon the Findings stated within this Decision ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, is adequate.
16. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
17. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.

18. With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are not applicable to this Application based on the nature of the proposal.
19. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect are not applicable to this Application based on the nature of the proposal.
20. With regard to Section 1.5.5(f) of the ZBL that based upon the Findings stated within this Decision the required yards and other open space requirements do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
21. With regard to Section 1.5.5(g) of the ZBL, that the proposed sign and its use (as presented in the Exhibits stated within this Decision and by the Applicant during the public hearing) is generally compatible with adjacent properties and properties in the district.
22. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply.
23. With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant or cumulative impact upon municipal water supplies.
24. With regard to Section 1.5.5(j) of the ZBL that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development does not change. The Board and Applicant discussed the historic significance of the Knowlton Farms and the importance of preserving the historic landscape of the area. The Owner submitted a letter stating that this project will aid in the diversification of agricultural uses on the site (Exhibit #13) in order for the family to continue the historic use of the farming operations.

IV. WAIVERS

At their meeting of August 27, 2018 after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, and based on Findings stated within this Decision, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Hassinger) voted 5-0 to **GRANT** the Applicant's request for waivers from the following Sections of the ZBL:

1. Section 1.3.3.3 (d) Preparation of Site Plan: Scale of Plan 1 inch = 40 feet. The Board noted that that granting this waiver was based on the lack of objection from the peer review engineer and the Board as well as the absence of specific concerns during the public hearing.
2. Section 8.2.1 – Traffic Study. The Board noted that the vote to grant this waiver was based on the scope of the project as well as the absence of specific concerns during the public hearing.

V. DECISION and CONDITIONS

At their meeting of August 27, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Hassinger) voted 5-0 to **APPROVE** this Special Permit (2018-8) and Site Plan Approval with **CONDITIONS** as follows:

A. Standard Conditions

1. This Special Permit and Site Plan Approval specifically authorizes the construction of an electric generation station that captures energy from the sun, associated equipment, installation of an access road, and security features as described within the Exhibits and Findings of this Decision.
2. Any changes to the plan presented in this Application may be made only upon authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change(s) requested by the Applicant is not substantially different than the plan presented within the Exhibits of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board. Any proposed change deemed substantial in nature shall require a modification of the original Special Permit and Site Plan Approval application and decision. Any modification shall be made pursuant to Section 1.3.3 of this Bylaw.
3. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with, and conform to, the Town of Grafton Zoning Bylaw. This Decision shall not be construed as approving or authorizing any such signage.
4. The Applicant shall provide the Planning Board with an updated plan for the operation and maintenance of the solar electric generating facility, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the facility.
5. Notice of change of Ownership shall be sent via certified mail to the Planning Board within thirty (30) days of sale.
6. In accordance with ZBL Section 1.5.8, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit and Site Plan Approval, and such request shall be filed and reviewed in accordance with the procedure specified in ZBL Section 1.5.
7. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy of the recording provided to the Planning Board and the Building Department to include the WDRD Book and Page Number and/or Instrument Number within thirty (30) days.

8. Unless specifically modified by this Decision, the solar electric generating facility and appurtenant equipment authorized by this Special Permit shall be installed in accordance with, and maintained to conform to, the Conditions stated within this Decision, all applicable requirements of the Grafton Zoning Bylaw, and all applicable Federal, State and Local regulations.
9. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision. Any inability, failure or refusal by the Applicant to comply with the requirements of this Special Permit Approval, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

B. Conditions to be Met Prior to the Start of Construction

1. The Applicant shall provide the “Option Agreement” signed by the Applicant and Owner that shall include provisions for the eventual decommissioning or abandonment of the solar electric generating facility to cover the cost of removal and remediation of the landscape (Finding #10).
2. If the Applicant fails to obtain an “Option Agreement”, a form of surety either through an escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Board, but in no event to exceed more than 125 percent of the cost of removal. The Applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and shall include a mechanism for calculating increased removal due to inflation.
3. Prior to the start of any construction activity on the Site, an initial inspection of the delineated limits of work, erosion control and site stabilization measures shall be performed by agents of both the Planning Board and Conservation Commission in the presence of a representative of the Applicant/developer, and notice of such inspection forwarded to both Boards.
4. No construction activity shall occur on the Site until the Applicant/developer received written authorization from both the Planning Board and Conservation Commission regarding the adequacy of the initial erosion control and site stabilization measures, The Planning Board reserves the right to require additional erosion control and site stabilization measures at any time during the construction process should the Planning Board, Conservation Commission, or their agent(s) deems such measure necessary. The Applicant/developer shall be notified in writing of the necessity for such additional measures, and shall complete all such requirements within ten (10) days of receiving said notice, or other time as may be agreed upon by both the Planning Board and Conservation Commission.
5. Prior to the issuance of the building permit, the Applicant shall submit a final plan set to be reviewed and endorsed by the Planning Board with the Conditions set forth in this Decision inscribed on a sheet of the Plans suitable for recording at the Worcester District Registry of Deeds.

6. Prior to commencement of work, the Planning Board shall be provided with the following:
 - Five (5) full size sets, 24" x 36", endorsed and recorded plan sets, one of which shall be sent directly to the Town's peer review consulting engineer.
 - An electronic copy, in a "PDF" compatible format, of the endorsed and recorded plan set.
7. The Applicant shall provide the Planning Board with written documentation from National Grid granting the Applicant the necessary permissions to cross their easement area for the purposes of construction and post construction maintenance of the site.

C. Conditions to be Met During Construction

1. Hours of construction and earthwork proposed shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m. and Saturdays from 8:00 a.m. and 5:00 p.m. There shall be no construction activity on Sundays or state and federal holidays.
2. All storage and parking during construction shall be on-site and shall not impede traffic along Estabrook Avenue at any time.
3. All grading and construction shall be performed in accordance with the approved Plans, as well as all applicable Local, State and Federal regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways or resource areas during construction, and after completion, from the site and its associated improvements.

D. Conditions to be Met After Construction

1. The access road, gate and security facilities shall be maintained at all times to the satisfaction of the Grafton Fire and Grafton Police departments to ensure that emergency services providers will have adequate access and maneuverability at all times. The emergency access road must be and remain a minimum width of eighteen (18) feet. The access road will be maintained at all times to ensure proper emergency service access including but not limited to snow removal.
2. The Applicant will not commence construction of the solar electric generating facility until the roadway has been completed to the satisfaction of the Town in order to ensure that the emergency access requirements are met.
3. Once the solar electric generating station has reached the end of its useful life or has been abandoned it shall be removed. The Owner or Operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The Owner or Operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of but not limited to:
 - Physical removal of all ground mounted solar panels, structures, equipment, security barriers and transmission lines from the site.
 - Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
 - Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

4. The Owner / Operator shall submit notice of proposed date of decommissioning. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar electric generating facility shall be considered abandoned when it fails to operate for more than one year without the written consent to the Planning Board.
5. The Applicant shall comply with all requirements of Section 1.3.3 – Site Plan Review – of the Grafton Zoning Bylaw. Pursuant to Section 1.3.3.9, all work shown on the approved site plan shall be completed and all related conditions of approval shall be satisfied prior to the issuance of an occupancy permit.

VI. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's Special Permit (SP 2018-9) and Site Plan Approval application to construct a solar electric generating facility as described in this Decision with Conditions on property located at 43 Estabrook Avenue, Grafton, based on the information received at the public hearing, exhibits, and the aforementioned Findings:

<u>Robert Hassinger, Chairman</u>	<u>David Robbins, Member</u>
<u>Linda Hassinger, Vice Chairman</u>	<u>Michael Scully, Member</u>
<u>Paul Monroe, Associate Member</u>	

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Layden, Town Planner

8-28-2018

Date

cc: Applicant/Owner Board of Health
 Building Inspector Conservation Commission
 Assessor Graves Engineering

To Whom It May Concern: This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavalley, Town Clerk

Date