



Peru Zoning Board of Appeals ♦ Meeting

ZBA Meeting Minutes of August 8, 2019 at 6:30 P.M.

TOWN HALL | 3 EAST MAIN ROAD | PERU, MA 01235 ♦ COMMUNITY CENTER

Board Members Present: Sam Haupt, Chairman of the ZBA Board introduces Members of the ZBA present David Strzepa, Bonny DiTomasso, Peter Shelsy, Graham Sturz, Alternate

Guest: Alex Fox, CVE of North America

Recording status: Irene Morrison, Administrative Assistant

Call to order & Open Meeting Law Statement

Chairman Haupt called the ZBA Public Meeting to order, and read the Open Meeting Law Statement at 6:30 P.M

Item1: Elect a Chair

Bonny DiTomasso motions to nominate Sam Haupt as Chair. David Strzepa seconds. **Vote: Unanimous**

Bonny DiTomasso motions to close the nominations. David Strzepa seconds. **Vote: Unanimous**

All in favor of Sam Haupt being Chair of the ZBA. **Vote: Unanimous**

Item 2: Consider the request of CVE North America, Inc. or it's successors or assigns for a minor technical amendment to the Special Permit granted 9/24/18, by changing the form of surety required under Condition #8, which secures the obligation of the Petitioner to restore the site in the event of a decommissioning or abandonment and to consider any other business related thereto

For the benefit of Graham Sturz, Alternate Member of the ZBA, Chairman Haupt provided background information explaining that in order to proceed with the development of any commercial enterprise in Peru, with a few exceptions which can be done "by right" such as a home based business, you need to apply for a Special Permit through the ZBA. He explained that the ZBA issued a Special Permit to CVE North America, Inc. for property located at 43 W. Main Rd. to construct a large scale 4.2 MW (DC) Solar Energy Facility. One of the conditions of the Special Permit is to provide surety in the event that between now & 20 years from now or at the end of 20 years, the site is abandoned or decommissioned and the Permit holder does not restore the property, there would be funds to deconstruct and remove the array. He said the existing Permit provides that the Petitioner will provide a Surety Bond in an amount and form satisfactory to Town Counsel that would secure the obligation of the Petitioner to restore the site in the event of a decommissioning or abandonment of the project and that said Bond will take into consideration and increase demolition site restoration crossover for the expected life of the project.

Mr. Fox spoke on behalf of the Petitioner, CVE which by right has assigned its interest to a new LLC. Mr. Fox said he's not sure if the Permit was in the name of Sunrise on West Main Rd. Chairman Haupt told him it was in the name of CVE, but all the conditions apply to the successor entity they form to do business and to get their financing, etc.

Subsequent to the issuance of the Special Permit, Mr. Fox reached out and requested that we consider changing the form of Surety, and prior to scheduling this meeting, Chairman Haupt did consult with Town Counsel and forwarded a draft of the proposed Escrow Agreement for review. He requested that Mr. Fox explain why he wants to change the form of Surety.

Mr. Fox explained that it's easier for CVE, because there aren't too many Insurance Products out there that cover this sort of decommissioning. That means that they have to put up all the money plus pay an insurance premium. From the perspective of CVE, it would be easier and quicker because they are closing in on their financing now which is required. The underwriting would be quicker and easier for them to just put up the money. What they propose is that they provide the monies that were outlined with their Permit Application (Decommissioning Plan) which includes the cost to decommission the system so they would provide those monies to the town. The town would could open an interest-bearing bank account and put the monies in there. Then the monies could be accessed by them or the town at such time as 20 years expires and if they're going to decommission the system then or if it meets the definition of abandonment. Within the Agreement in which he provided, if it meets the definition of abandonment, essentially, the town would notify them, and then they would take it down if after notification, and within a certain period it lapses, and it hasn't been taken down, the town can take the monies and pay someone to decommission.

Chairman Haupt indicates that Town Counsel said the Escrow Account is the best way to go, because the money is there. With Standby Letters of Credit or a Surety Bond, you have to appeal to a 3rd party. Either the insurance company in the case of the Bond or the bank in the case of a Letter of Credit. Bonny asked Mr. Fox if he has ever had to decommission a project. Mr. Fox said he's not aware of any of their projects that have been decommissioned.

After further discussion Bonny DiTomaso motioned to approve the request of CVE North America, Inc. and its successor, Sunrise on West Main Road, LLC, for a minor technical amendment to the Special Permit granted on September 24, 2018, by changing the form of Surety required under Condition #8 which secures the obligation of the Petitioner to restore the site in the event of a decommissioning or abandonment by the use of a decommission assurance agreement in a form approved by Peru Town Counsel. Peter Shelsy seconds the motion. **VOTE: Unanimous**

Adjourn

Bonny DiTomaso motions to adjourn the 8/8/19 ZBA Meeting. Sam Haupt seconds. **VOTE: Unanimous**

The ZBA Meeting of 8/8/19 was adjourned at 6:59 P.M.

Articles used

Decommissioning Assurance Agreement