

**TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363**

A request for a permit was made to the Board by: **Jim and Jane Saulnier**

Owner/Applicant(s) Mailing Address: PO Box 233, West Dover, VT, 05356

Address of the subject property: **85 West Main Street, Wilmington, VT, 053XX**

Tax Map: # **020-20-036**

Application # **2018-005**

A copy of the request is filed in the office of the Board.

Description of Case per Public Notice:

Application # 2018-005: Owner: Jim and Jane Saulnier. Agent: Solar Sense LLC (Will King). Application is being made for Conditional Use review to allow a 500 kw solar array. Residential zoning district: Sections 710, 721, 722, 730 & 732i; Location 85 West Main Street.

Notice for a public hearing was published in the Valley News on: **March 15, 2018**

Notice was posted in three public places on: **March 15, 2018**

A copy of the notice was mailed to the applicant on: **March 15, 2018**

A copy of the notice was mailed to the abutters on: **March 15, 2018**

A site visit was held at 3.00pm on **Friday May 4, 2018.**

Public hearings were held on: **April 2, 2018 and May 7, 2018**

For the hearing dated April 2, 2018The following presented testimony as agent on behalf of the Applicant:

- **Will King, Solar Sense LLC**

The following persons were identified as “Interested Persons”:

- Sharon and Tim Brissette
- Janet Nido – 81 West Main Street (Nido’s Service Station)
- Greg Nido - 79 West Main Street (rental)
- Robert Grinold - 67 West Main Street
- Christopher Cimino - 27 Heights Spur
- William Charon (By mail) – 118 Ray Hill Road

In addition to the above Interested Persons, the following attended the hearing, providing no testimony.

- Craig Ohlson, Zoning Administrator
- Scott Tucker, Town Manager

EXHIBITS

The following Exhibits were placed on record and considered by the Board:

- 1. Application of 5 pages including abutters list**
- 2. An email from William Charon dated March 28th 2018 regarding subject “Application #2018-005 Main Street”**
- 3. Letter Dated March 2nd 2018 from Will King of SolarSense outlining Project location and description**
- 4. An Environmental Assessment dated January 29th, 2018**
- 5. Town of Wilmington Joint letter of support for 500 kw Net Metered Photo Voltaic Electric generation facility. Designation as “Preferred Site” under Rule 5.103 dated December 26th, 2018**
- 6. Letter from Windham Regional Commission dated February 12th, 2018**
- 7. A 45 day notice service list**
- 8. A plan entitled “Project summary” with Plan ID SK-1**
- 9. A site plan of 85 West Main Street ref: 20-20-036.000.**

SYNOPSIS

On April 2nd 2018, an application was placed before the Development Review Board (the “Board”) for the approval of a 500 kW net-metered solar array to be located on a 30 acre parcel of land owned by the Jim and Jane Saulnier at 85 West Main Street. The project is located northerly of Route 9 above Nido’s Service Station.

It was explained to the owner’s agent, Will King, that there had been correspondence received from an abutter, William Charon, asking for the hearing to be adjourned as he was away travelling and could not attend the hearing. The Board advised Mr. King that it was minded to acquiesce to Mr. Charon’s request. However the Board required that a site visit take place to allow the Board to consider the sighting of the solar array and its relative visibility. This would delay the formal hearing.

A motion was received from Fred Houston to request a site visit to be held on Friday May 4th 2018, at 3pm on Fairview Avenue at the bus turnaround site. The motion was seconded by Jessie Couture and carried unanimously. For that site meeting the Board requested that the owners have the site marked with some form of highly visible signage showing the area of the intended array and its height, this to be erected prior to the site visit but in any event not later than April 30th 2018. A motion to adjourn the meeting to Monday May 7th 2018 at the Wilmington Town Hall at 6.00 pm was received from Wendy Manners-Seaman and seconded by Fred Houston. The motion carried unanimously.

A site meeting was held on 5th May 2018, with the following people in attendance:

Fred Houston

Wendy Manners Seaman
Jessie Couture
Greg Nido
Paul Lockyear
Will King
Dave Buckley
Cheryl LaFlamme

The visit started at Fairview Avenue, and terminated at the site.

For the hearing dated May 7th, 2018, the following presented testimony as agent on behalf of the Applicant:

- **Will King, Solar Sense LLC**
- **Tom Flynn,**

The following Interested Persons were in attendance:

- Janet Nido – 81 West Main Street (Nido’s Service Station)
- Greg Nido - 79 West Main Street (rental)
- Robert Grinold - 67 West Main Street
- Cheryl LaFlamme (Planning Commission)
- Craig Ohlson (Zoning Administrator)

In addition to the above Interested Persons, the following attended the hearing, providing no testimony.

- Scott Tucker, Town Manager

Enforcement of this decision shall be made by the Public Utility Commission in accordance with 24 V.S.A. Section 4414 (15)(C).

STATUORY POSTURE

To facilitate the construction of renewable energy resources, the Vermont Legislature has prohibited towns from regulating new power generating plants by Zoning By-Law. 24 V.S.A. Sections 2291a and 4413 (b). However, an exception to this prohibition has been made allowing the adoption of screening requirements for ground mounted solar plants so long as they are no more restrictive than similar requirements applied to commercial development and do not prohibit or interfere with the functional use of such a plant. 24 V.S.A. Section 4414 (15). The Town of Wilmington has adopted screening provisions under this statute as Section 730 F 2 v of the Zoning By-Law. The Public Utility Commission also requires certain minimum setback requirements under 30 V.S.A. Section 248(s). These setback requirements are incorporated in Section 732 I of the Wilmington By-Law.

APPLICABLE DISTRICT

Findings of Fact: Subject property is identified as Parcel ID # 020-20-036.

Conclusions of Law: The proposed land development is in the Residential District, Section 450 C.

USES - Section 450 C 3 & 4

Findings of Fact: The present use of the parcel is forest land consisting of scrubby bush and crab apple trees. The intended use under this application is a solar array for the production of electricity. This use is not provided for under Section 450 C 3 or 4. However, a Municipal Utility is allowed as Conditional Use in the Residential District. The board finds that the proposed use is of the same general character as a Municipal Utility and will not be detrimental to other uses within the district or to the adjoining land uses.

Conclusions of Law: While the proposed use is not provided for in Section 450 C 3 or 4, the Board concludes that the proposed use can be considered as a Conditional Use under Section 426, Uses Not Provided For. The Board further concludes, as discussed above, that it is restricted by statute to consider only screening (Section 730 F 2 v) and setbacks (Section 732 I) and not other requirements for Conditional Uses contained in the By-Law.

SITE CRITERIA

Findings of Fact: The dimensional requirements of Section 732 I, and 30 VSA 248 (s) Solar Projects exceeding 150 kilowatts of capacity, are:

Front Setback: 100 feet from any state or municipal highway.

Side & Rear Setback: 40 feet from the property boundary.

The dimensions for proposed land development are set out in Exhibits 1, 3, 8 and 9 as follows:

Lot Coverage: less than 25%. Exhibits 3, 8 and 9.

Structures/Uses: The plot is not currently in use therefore this application is for a single use.

Front Setback: in excess of 100 feet of any road. Exhibit 3.

Side Setback: in excess of 40 feet. Exhibit 3.

Rear Setback: in excess of 40 feet. Exhibit 3.

Conclusions of Law:

Dimensional requirements of lot size, frontage and front, side, and rear setbacks are met for Solar Projects. The sole use of the premises as a solar array for the production of electricity is a Conditional Use under Section 424. The other requirements of Section 424 are met.

ARTICLE VI: FLOOD HAZARD DISTRICT

Section 602: Lands to which these regulations apply

- A. These regulations apply for development in all areas of the Town of Wilmington identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Dept. of Homeland Security (DHS), FEMA and the National Flood Insurance Program, as provided by the Agency of Natural Resources pursuant to 10 VSA 753.
- B. The base flood elevations and floodway limits (zones A1-A30, AE and AH) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.

Findings of Fact: The property is not in the flood hazard area. (Zoning Administrator testimony)

Conclusions of Law: Flood Hazard Regulations do not apply to this Lot.

ARTICLE VII: STANDARDS

Section 710: Use Performance Standards

Pursuant to 24 V.S.A. § 4414(5) Performance Standards, the following standards on Vibration, Noise, Air Emissions and Injurious or Noxious Practices shall apply to all Uses and Land Development in the town. Notwithstanding the foregoing provisions of this Section, the Board finds that under the provisions of 24 V.S.A. 2291a and 4413(b), it cannot apply the standards of this Section to the current application.

Section 721: Conditional Use – General Standards

Under 24 V.S.A. 2291a and 4413b Towns are prohibited from regulating the construction of solar array requested by the applicant except for screening under 24 V.S.A. 4414(15), therefore the Board cannot apply the criteria for Conditional Use contained in this Section to the application. These standards are reviewed for information only.

A. The capacity of existing or planned community, municipal or educational facilities;

Findings of Fact: There will be no employees permanently on the site. It is anticipated that visits to the site will be twice yearly for brush hogging the array and maintenance. (Will King and Tom Flynn testimony).

Conclusions of Law: There will be no undue impact on municipal or educational facilities.

B. Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity;

Findings of Fact: The property is currently scrubland. There will be minimal employee presence as there will be no permanent employees on site. See 721 A above. During construction there will be some disruption due to traffic in and out of the site. After construction is completed there will be little if any impact on traffic, roads, highways and transportation systems. Access for pedestrians will not be encouraged. (Will King and Tom Flynn testimony).

Conclusions of Law: This condition is satisfied.

C. By-laws and ordinances in effect at the time;

Findings of Fact: There is no anticipated impact on other town ordinances.

Conclusions of Law: Not applicable.

D. Utilization of renewable energy resources;

Findings of Fact: The sole purpose of the project is to create electricity through solar power, a renewable energy resource.

Conclusions of Law: This condition is satisfied.

E. Air quality – See Findings and Conclusions in Section 710 C above.

F. The character, aesthetics, and scenic value of the neighborhood and area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of this ordinance and the Town Plan.

Findings of Fact: The purpose of the Residential Districts to provide areas for dwellings and low impact uses. Section 450 C 1. The solar array as proposed is a low impact use requiring little employee maintenance. The site is located just northerly of Route 9 West above Nido's Service Station. The Planning Commission and the Select Board have designated the site as a "Preferred Site" under Code of Vermont Rules 30 000 5.103 (7). With regard to the vista in general, while

there will be a clear adverse impact on the vista of one neighborhood, the lower portion of Boyd Hill Road, this provision is not enforceable by the DRB. Any vista impacts are referred to the town for their consideration as an Interested Party in the Public Utility Commission review process. (Will King and Tom Flynn testimony and DRB observations from site visit).

Conclusions of Law: This condition is satisfied.

Section 722: Conditional Use – Preserving the Character of the Town

Under 24 V.S.A. 2291a and 4413b Towns are prohibited from regulating the construction of a solar array as requested by the applicant except for screening under 24 V.S.A. 4414(15). Therefore the Board cannot apply the criteria for Conditional Use contained in this Section to the application. These standards are reviewed for information only.

A. Preservation of the Town’s Character: Business development shall, to the extent reasonable and possible, occur in a manner that preserves the rural and agricultural character and ambiance of the community and the historic downtown.

Findings of Fact: The project is utilizing essentially scrub land for a renewable energy project in a remoter section of town. See also Section 721 F above.

Conclusions of Law: This standard is met.

B. Economic Development Contributing to the Character of the Town: Merchandise or services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.

Findings of Fact: The project is a renewable energy solar array for the production of electricity. It is located on scrubland to the North of Route 9. It will not detract from the historic nature of the town as a family destination and is an appropriate use for the property

Conclusions of Law: This condition is satisfied.

C. Development Consistent with the Rural, Agricultural and Historic Nature of the Town:

Construction, reconstruction, or land development, whether allowed, Permitted or Conditional shall, to the extent possible, reflect and/or compliment the historic nature of the town and the rural and agricultural appearance of the neighborhood and region.

Findings of Fact: See Sections 721 F and 722 (A) and (B) above.

Conclusions of Law: This standard is met.

D. Formula Businesses: The visual appearance of Formula Businesses (see Article X for a complete definition), including signage, shall project an appearance harmonious with the character of the rural, agricultural and historic nature of the town, reflecting the distinctive and unique character of the town, consistent with the Site Plan and Design Guidelines of Appendix I.

Findings of Fact: The project is not a “Formula Business”.

Conclusions of Law: Not applicable.

E. Maximum Square Footage for Retail: Retail stores exceeding two thousand (2000) square feet may be approved by the Development Review Board in the event that the business:

1. is Consistent with the character and ambiance of the community.
2. is found to be in the best interest of the community.
3. is the minimum size required to reasonably accommodate the business.
4. will enhance or preserve the economic base and economic diversity of the town as a whole.
5. will create economic stability and viability for the community.

Findings of Fact: The business is not retail.

Conclusions of Law: Not applicable.

F. Building Scale Conformity: Development shall conform to the scale of the established neighborhood.

Findings of Fact: The project consists of 17 lines of fixed tile solar panels on ground mounted racks, underground conduit and wiring, string inverters and metering and disconnect equipment. A line extension connecting the solar array to three pole mounted electric transformers will be buried from the array to a new riser pole on West Main Street and proceed overhead to an existing Green Mountain Power distribution system. The project will cover a 3 acre area of the larger 30 acre parcel. Exhibit 3.

Conclusions of Law: This standard is satisfied.

G. Utility Placement: to preserve the aesthetics and natural beauty of the area, underground utilities are encouraged where possible, particularly in areas of natural scenic beauty and in the Historic Design Review District.

Findings of Fact: The project is not in an area of natural scenic beauty and is, in fact, scrubland. It is not in the Historic Design District. The solar array will be connected to the electrical grid through underground conduit and wiring until it reaches a new riser pole on Main Street. (Exhibit 3).

Conclusions of Law: This standard is satisfied.

Section 730: Conditional Use – Specific Standards

As 24 V.S.A. Section 4414 (15) restricts a Town's regulation of Solar projects to screening and setbacks, the Board will review the application under Section 730 F 2 v Screening and Buffering Areas for Ground Mounted Solar Arrays only. The remaining standards of this Section are reviewed for information only.

A. Lighting and Glare: All exterior lighting in all districts shall be shielded and downcast. Interior and exterior lighting, glare or reflection are prohibited if they:

1. Constitute an unreasonable nuisance.
2. Are found not to contribute to the aesthetics, scenic value or character of the area and community.
3. Are found to impair the vision of pedestrians or the driver of a motor vehicle or an aircraft.

Findings of Fact: No lighting is proposed.

Conclusions of Law: Not applicable.

B. Safety: Shall minimize physical hazards where there are potential safety hazards.

Findings of Fact: Produced electricity is conveyed by wires in conduits between racks to inverters and transformers and thence to the utility line. The inverters and transformers are protected by perforated metal panels or netting known as "scrim". It was suggested that the east and west sides of the site be left unfenced in order to present wildlife with unfettered access and passage through the site. Testimony was received that in past conversations the town considered it had been advised that the whole site would be fenced.

Conclusions of Law: Whilst safety is not strictly within the purview of the Development Review Board, Section 730F "Landscaping, Screening and Buffer Areas" allows for "Natural features characteristic of the town's rural and agricultural character shall be used in Landscaping and Screening to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties" and as such there are potential safety issues of public access

to solar panels and related electronic devices. While safety issues are not within the purview of the DRB in this instance, screening required under Section 730 F will also serve to protect the public from panels and electronic devices.

C. Traffic and Pedestrian Safety: Development shall provide for pedestrian walkways to ensure safe and efficient navigation by foot or bicycle. Special consideration shall be made for children’s safety. Traffic patterns will be reviewed for safety, ease of traffic flow and efficiency.

Findings of Fact: This is a project for the production of electricity. There is a public walkway that runs along the southern border of the site. Fencing is to be provided to restrict pedestrian access.

Conclusions of Law: In view of the close proximity of pedestrians to the site the Board considers that their safety should be paramount. See “F” below

D. Commercial Parking and Loading Areas: Pursuant to 24 V.S.A. Section 4414 (4) All commercial parking and loading areas in all districts in the town shall adhere to the following standards:

Findings of Fact: There will be no employees on premises on a regular basis. There will be brush hogging of the property two or three times a year. No parking is required. (Will King and testimony).

Conclusions of Law: Not applicable.

E. Road Development: New roads, public and private, shall conform to the town’s Highway Ordinance.

Findings of Fact: No new roads are proposed.

Conclusions of Law: Not applicable.

F. Landscaping, Screening and Buffer Areas: As defined in Section 722(A) development shall “preserve the rural and agricultural character and ambiance of the community”. Natural features characteristic of the town’s rural and agricultural character shall be used in Landscaping and Screening to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties. In particular:

F 2 v. Screening & Buffer Areas for Ground Mounted Solar Arrays and Related Unaesthetic Features: When a ground mounted solar array and/or related unaesthetic features create an undue adverse impact on the aesthetics of an abutting property, neighborhood or state, municipal, or private road, screening of the solar array and/or related non-aesthetic features shall be provided. All reasonable effort shall be made to maximize the visual aesthetics of ground solar development. For ground installation of solar arrays and related unaesthetic features larger than 200 square feet and within 50 feet of a road or abutting property, a minimum Buffer Area of 10 feet in depth shall be provided.

Findings of Fact: As shown on Exhibit 5, the solar panels will be contained in an array of 17 rows covering an area of approximately 3 acres. The array is located approximately 270 feet from the nearest property. There will be vegetative clearing around the installation. To mitigate potential adverse views from the Valley Trail and any adjacent property SolarSense have suggested ways forward a) to completely fence the array or b) to fence the north and south boundaries and “scrim” the individual solar panels allowing unfettered access at the sides for wildlife. (Scrim provides protection around any potential electrical hazard on each solar panel). SolarSense will install vegetative screening where appropriate. There is minimal impact to the east due to natural contours

of the land and to the west the array is deeply embedded in the land parcel to prevent any impact. There is visual impact on the property to the north and the Valley Trail to the south. (Exhibit 3, Will King and Tom Flynn testimony)

Conclusions of Law: Section 730 F2.

This decision will be conditioned on continuous fencing of 8 feet in height surrounding the entire array with gate access sufficiently secure so as to reasonably prevent public access with vegetative screening on all but the western boundary.

Consistent with the agreement between the Applicant and the Planning Commission, the southern border will include a continuous fence 8 feet high along the entire southern border with full 4 season vegetative covering from the first day following completion of the project, covering side to side and top to bottom. The northern border will be similarly screened, with the exception that vegetation may fill in within a 5 year period. The east side may have limited vegetative coverings. No additional planning is envisaged on the westerly aspect.

G. Land and Water Management: Pursuant to 24 V.S.A. Section 4414(1)(G) and 24 V.S.A. Section 4414(9) the development plan shall protect properties, transportation systems and public safety by:

- a. Providing for safe and appropriate water management including but not limited to water supply quality/availability, storm water retention/absorption, and impervious surface runoff management.
- b. Preventing and controlling against water pollution.
- c. Making appropriate provision for management of erosion, preservation of rivers & streams, river/stream banks wetlands, waterways, channels, and agricultural lands.
- d. Preserving and promoting scenic or aesthetic features and open spaces.

Findings of Fact: No water supply is required by the project. However, there is runoff from the area down the hill to the properties below and Robert Grinold expressed concern in this regard. Testimony was received from Will King and Tom Flynn that substantial work to minimize runoff from the area will be undertaken which will achieve less runoff than is experienced presently. A Storm Water Permit will be obtained through the Agency of Natural Resources.

Conclusions of Law: While the DRB does not have authority to enforce this provision, water and runoff concerns are referred to the town in their role as an interested party in the public utility commission review process. Additionally, a Storm Water Permit is required.

H. Wastewater and Potable Water: Pursuant to 24 V.S.A. Section 4414 (13), the Zoning Administrator may issue an initial Permit conditioned upon receipt of evidence of a wastewater and potable water supply Permit, if none is provided with the submitted application. A final Permit may be issued by the Zoning Administrator after receiving evidence that a Permit has been issued, as applicable, under chapter 64 Title 10. Development Review Board decisions shall instruct the applicant of their responsibility in obtaining state and federal Permits and may condition their decision on obtaining such a Permit if none has been obtained.

Findings of Fact: The proposed project is a solar array for the production of electricity. There will be no plumbing or running water.

Conclusions of Law: Not applicable.

I. Natural Resources and Features: Existing vegetation, native species, native trees, scenic views, river access and other natural features shall be preserved to the extent possible and to the

extent that they will enhance and promote the natural assets of the town. Clearing of land to create pastureland and scenic spaces/vistas is allowed provided it does not have an unreasonable impact on natural resources. Development shall blend with the topography, vegetation, and natural land features. It shall not have an undue adverse impact on natural features, natural resources or renewable energy. This includes no adverse impact on forested lands, streams and stream banks, steep slopes, wetlands, watersheds, floodplains, soil unsuitable for development, pervious surfaces essential to storm water detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

Findings of Fact: The proposed project will utilize approximately 3 acres of a 30 acre parcel. The land to be utilized presently contains second growth scrub and crab apple trees, and is located northerly of Nido's Service Station. There is a Class II wetland south westerly of the project area which is not impacted by the development. A 50 foot buffer area is provided for these wetlands. The development will not have an undue adverse impact on any of the items listed in Section 730 I above and utilizes the property for a renewable energy source.

Conclusions of Law: This condition is met.

J. Wildlife Protection: Development shall not have an undue adverse impact on wildlife habitats and wildlife corridors.

Findings of Fact: Testimony was received that there was concern for the wildlife in the area.

Conclusions of Law: No known wildlife habitats or corridors exist as shown on a map entitled "Natural Resources, Town of Wilmington, VT., Jan 2017" by Windham Regional Commission.

K. Shoreland Protection: Pursuant to 24 V.S.A. Section 441 (13) all development shall be in conformity with the Shoreland Protection Act (applying to all development within 250 feet of a body of water greater than or equal to 10 acres).

Findings of Fact: The premises are not "shoreline" as defined in 24 V.S.A Section 4414.

Conclusions of Law: Not applicable.

L. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District, if applicable. All floatables in any district and in an area which has historically flooded and all Flood Fringe Areas, shall be raised above the estimated Base Flood Elevation (BFE) or firmly secured so as to ensure they are not dislodged in the event of a flood. This includes but is not limited to propane, oil, and gas tanks, chemicals, explosives, flammable liquids, toxic or hazardous materials. (See Flood Hazard Regulations Section 620 (B) (12)). While hay bales and logs are protected Agricultural and Silviculture industries in Vermont, conformity with this provision is encouraged.

Findings of Fact: The property is not in the flood zone.

Conclusions of Law: Not applicable.

M. Energy Resources: Commercial Development shall comply with Commercial Building Energy Standards. Residential Development shall comply with Vermont Residential Building Energy Standards.

Findings of Fact: No building is proposed.

Conclusions of Law: Not applicable.

N. Technical Review Costs: DRB may require applicant pay reasonable technical review costs.
Findings of Fact: No technical review is required.
Conclusions of Law: Not applicable.

Section 732 I: Solar Projects Pursuant to 24 V.S.A. Section 4414(15) the Public Service Board shall enforce the requirements of this ordinance. No solar energy generation land development or facility shall be approved that is not in conformity with the following municipal requirements:

Setbacks: Ground mounted solar generation development with a plant capacity in excess of 150 kilowatts shall meet a minimum setback of:

- Front Setback: 100 feet from any state or municipal highway.
- Side & Rear Setback: 40 feet from the property boundary

For development plans with a plant capacity in excess of 150 kilowatts the following criteria apply:

- Max Lot Coverage: 25%
- Structures/Uses Per Lot: 1 Principal Structure and 1 Principal Use
- Min Lot Size: 1 acre
- Min Lot Frontage: 150 feet
- Min Lot Depth: 150 feet
- Height Maximum: 35 feet to the highest point of the ridge line (over 24 feet requires DRB review)

Findings of Fact: These setback proposals are shown on Exhibit 3, 8 and 9.

Conclusions of Law: These setback requirements are satisfied .

The application for development is **approved** with the following conditions, restrictions, requirements, limitations and specifications:

Conditions

Under the provisions of 24 V.S.A. Section 4414 (15) and 30 V.S.A Section 248(b)(1)(B), the following recommendation in this case is made to the Public Utility Commission to be adopted as a condition of any Certificate of Public Good issued there under: Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits and testimony. Any changes to the plans will require a review by the Development Review Board, in conformance with the Zoning Ordinance.

1. The site is to be fully fenced at a height of eight feet.
2. Screening will be supplied as follows:
 - a. The southern border will include a continuous fence along the entire southern border with full 4 season vegetative covering from completion of the project of solar panel construction completion, covering side to side and top to bottom.
 - b. The northern border will be similarly screened, with the exception that vegetation may fill in within a 5 year period.
 - c. The east side may have limited vegetative coverings.
 - d. The West side will not require to be screened.

3. A Storm Water Permit should be obtained prior to the commencement of any work.

The applicant is responsible for obtaining all state and federal permits.

If unused, this Approval expires 2 years from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval ***does not relieve you***, as applicant, from obtaining any and ALL applicable State and other local permits.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Fred Houston
Wendy Manners Seaman
Paul Lockyear
Jessie Couture

OPPOSED:

None

ABSTAINING:

None

For the Board: Wendy Manners Seaman, Chairperson

Date: June 21,2018

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.