TOWN CLERK

Donna M. Girouard
Town Clerk

TOWN OF GRAFTON

GRAFTON MEMORIAL MUNICIPAL CENTER
30 PROVIDENCE ROAD
GRAFTON, MASSACHUSETTS 01519
(508) 839-5335 ext. 1195
www.clerks@grafton-ma.gov

2016 00115347
Bk: 56109 Pg: 117
Page: 1 of 8 10/11/2016 10:32 AM WD

CERTIFICATE OF NO APPEAL

APPROVAL:	PLANNING BOARD Special Permit (SP 2015-13.2) & Site Plan Approval Modification #2
PETITIONER:	Clean Energy Collective (CEC) Solar #1056 LLC 146 West Boylston Street, Worcester, MA 01606
OWNER:	Robert & Karen Kell 207 Providence Road, Grafton, MA 01519
DEED REFERENCE:	207 Providence Road Assessors Map 99, Lot 10 Book 9564, Page 221 Worcester District Registry of Deeds

This is to certify that a copy of the Decision of the Planning Board of the Town of Grafton on the petition for a second Modification of a Special Permit (SP 2015-13) and Site Plan Approval regarding the construction of a solar electric generating facility on property located at 207 Providence Road, Grafton was received and filed in the Office of the Town Clerk on September 16, 2016 at 9:54 A.M.

No Notice of Appeal of the Decision was filed within the twenty days next, the appeal period ending on October 6, 2016.

A true copy,
Attest:
(Seal)

Act. Town Clerk / Grafton, Massachusetts

DECISION
GRAFTON PLANNING BOARD

SPECIAL PERMIT (SP 2015-13.2) & SITE PLAN APPROVAL
MODIFICATION #2
To Relocate Access Road

207 Providence Road, Grafton, MA

Clean Energy Collective (CEC) Solar #1056 LLC (Applicant)
Robert & Karen Kell (Owner)

RECEIVED TOWN CLERK
GRAFTON, MA
2016 SEP 16 AM 9 54

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of the Clean Energy Collective (CEC), LLC, 146 West Boylston Street, Worcester, MA 01606 (hereinafter the APPLICANT), for a second Modification of Special Permit (SP 2015-13) and Site Plan Approval regarding the construction of a solar electric generating facility on property located at 207 Providence Road, Grafton MA and shown on Grafton Assessor's Map 99, Lot 10 (portion) and owned by the Robert & Karen Kell, 207 Providence Road, Grafton, MA, Grafton, MA 01519 (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds in Book 9564, Page 221. Special Permit (SP 2015-13) & Site Plan Approval was recorded at the Worcester District Registry of Deeds on February 3, 2016 - Book 9564, Page 221. Modification #1 of Special Permit (SP 2015-13.1) & Site Plan Approval was recorded at the Worcester District Registry of Deeds on August 23, 2016 – Book 55847, Page 391.

I. BACKGROUND

The above referenced application for a Modification of Special Permit (SP 2015-13.) & Site Plan Approval, Modification #2 (hereinafter APPLICATION) was submitted on July 27, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on August 11 and August 18, 2016, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on August 29 2016. During the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on August 29, 2016.

The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk David Robbins, Members Linda Hassinger and Tracy Lovvorn. At public hearing it was noted that Clerk David Robbins would not be available when the Board took action on a draft Decision. Ms. Carroll-Tidman noted that she would be prepared to vote by watching the meeting video and signing a Mullin Certification. At the time of DECISION Chairman Michael Scully was participating via remote access and was disqualified from appointing the Associate Member as a voting member. Vice Chairman Robert Hassinger was present and serving as the Chairman. He appointed Associate Member Sharon Carroll-Tidman as a voting member under the terms of the Mullin Rule (see EXHIBIT #11).

II. SUBMITTALS

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

EXHIBIT 1. Application Packet; Special Permit & Site Plan Approval Application Package; prepared by Field Engineering Co., Inc.; dated July 27, 2016; includes the following:

- Application for Modification of a Special Permit; dated July 25, 2016, 1 page.

- Application for Modification of a Site Plan Approval; dated July 25, 2016; 1 page.
- Certified Abutters List; Signed by Assessor's Office on June 14, 2016; 1 page.
- Certificate of Good Standing; Signed by Treasurer/Collector's Office on June 10, 2016; 1 page.
- Correspondence; Proposed Site Development, CEC Solar #1056 LLC 207 Providence Road, Modification to Site Plan Approval/Special Permit; prepared by Field Engineering Co., Inc.; dated July 26, 2016; 1 page.
- Stormwater Management System Report, Addendum 3, CEC Solar #1056 LLC, Proposed Solar Panel Array Installation; prepared by Field Engineering Co., Inc.; dated July 22, 2016.
- Plan Set; Proposed Site Development CEC Solare #1056 LLC, Site Drawings; prepared By Field Engineering Co., Inc.; 11" x 17"; black and white; dated July 22, 2016, revised August 12, 2016; 13 sheets.

EXHIBIT 2. Interdepartmental Review Email Correspondence; Re: 207 Providence Road, Board of Health; received August 3, 2016; 1 page.

EXHIBIT 3. Interdepartmental Review Email Correspondence; Re: 207 Providence Road, Conservation Agent; received August 4, 2016; 1 page.

EXHIBIT 4. Correspondence from Graves Engineering, Inc.; Proposed Site Development, CEC Solar #1056 LLC, 207 Providence Road, Modification to Special Permit, Site Plan Review and Stormwater Management Permit; dated and received August 5, 2016; 2 pages.

EXHIBIT 5. Interdepartmental Review Email Correspondence; Re: 207 Providence Road, Police Department; received August 5, 2016; 1 page.

EXHIBIT 6. Correspondence from John Kell, 203 Providence Road; no date; received August 8, 2016; 1 page.

EXHIBIT 7. Public Hearing Notice, stamped by the Town Clerk on August 9, 2016; 1 page.

EXHIBIT 8. Site Layout Plan; prepare by Field Engineering Co., Inc.; 11" x 17"; black and white; dated August 12, 2016, revised through August 23, 2016; received August 24, 2016; 1 sheet.

EXHIBIT 9. Email Correspondence; Subject: 8/29 Planning Board hearing – 207 Providence Road; submitted by Greg Carey of CEC Solar, LLC; dated and received August 26, 2016; 2 pages.

EXHIBIT 10. Public Hearing Sign In Sheet, August 29, 2016; 1 page.

EXHIBIT 11. Mullin Rule Certification, Sharon Carroll-Tidman; dated and received September 16, 2016; 1 page.

III. FINDINGS

At their meeting of September 16, 2016 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 Mrs. Hassinger, seconded by Mr. Scully) voted 5-0 in favor to make the following Findings:

F1. That during the public hearing Mr. Greg Carey of CEC Solar (Applicant) and Bob Field of Field Engineering presented the application. They are requesting that the Board modify the Site Plan Decision to allow the relocation of the access road from the previously approved location further north (see EXHIBIT #1). The new access driveway location is proposed for the OWNER's frontage at 207 Providence Road and not at the previously approved location to the south which would require an access easement from National Grid (see FINDING #F2). The new location is on the northern side of the OWNER's lot which abuts the property at 203 Providence Road and is owned by Mr. John Kell who is the OWNER's son. Mr. Carey noted that he had met with Mr. Kell who had no objection to the location of the proposed access driveway and that he had submitted a letter of support (EXHIBIT #6)

F2. That during the public hearing the Applicant provided an explanation for the request. The approved access had originally crossed over land which required an access easement from National Grid. The original Special Permit and Site Plan Approval required that the Applicant submit documentation from National Grid that granted that easement. The Applicant had been unable to obtain the documentation. The Applicant then requested and received the first modification of the Special Permit and Site Plan Approval (SP 2015-13.1) which removed the language requiring the documentation (see Modification #1 granted on July 25, 2016). At that time the Applicant felt that they could proceed and would eventually receive the necessary easement to move the project forward. However that was not the case which necessitated the proposed relocation of the access driveway which is the subject of this Application.

F3. That during the public hearing the Board and the Applicant discussed the review by the Fire Department. Mr. Joe Laydon, Town Planner, noted that the Technical Review Committee had discussed the proposed change and that the Fire Department was part of that review. The issue of grades and slopes were discussed. A portion of the driveway is proposed to be graded at an 11% slope. The Fire Department noted that some of the emergency vehicles would not be able to traverse this slope on a non-paved surface and that their preference would be for a 10% slope. The Applicant agreed to pave the areas of concern and the Fire Department agreed to that modification. It was agreed that the proposed portion of paved area would resolve the problems identified by the Fire Department. The Board notes that the revised plan discussed at the public hearing showed the changes agreed upon by Town staff and the Applicant (see EXHIBIT #8).

F4. That during the public hearing the Board and the Applicant discussed the additional stormwater review required with this modification. The Applicant noted that they had received a modified Stormwater Permit from the Conservation Commission

F5. That during the public hearing the Board and the Applicant discussed the approved landscaping plan. Mr. Laydon noted no changes to the landscape plan proposed as part of this Application. He added that relocation of the access driveway does not negatively increase the visual impacts of the project

and would, in fact, improve the screening from Providence Road. He noted that the original access driveway would require cutting vegetation along Providence Road at an area lower than the solar site. By leaving that vegetation alone the site would be further screen from the road and in particular if one is travelling north on Providence Road.

F6. The Board notes that it received email correspondence from the Board of Health which noted that they had no comments at this time. (See EXHIBIT #2).

F7. The Board noted that it received email correspondence from the Conservation Agent as follows: "This project has a stormwater permit from the Conservation Commission. Any modifications to the design must also be submitted to Con Com for approval." (See EXHIBIT #3).

F8. The Board noted that it received comments from its peer review engineer, Jeff Walsh of Graves Engineering (see EXHIBIT #4). The review indicated that most design issues associated with the relocation of the access road had been addressed. Two comments regarding potential conditions for approval were made:

- *"Considering the grade and at construction is anticipated in the fall to early winter of 2016-2017, we recommend that erosion control blanket suitable for use in the swales be placed within the swale that will be located along the side of the new driveway (from the base of the driveway at station 0+20+/- to the terminus of the riprap at station 7+50+/-."*
- *"Providence Road is under MassDOT jurisdiction and as such the new driveway entrance will require MassDOT Access Permit. Nevertheless, the plans must address sight distances where the proposed driveway will intersect with Providence Road. Based upon observations during our site visit, the clearing of small-diameter vegetation will be required in order to provide adequate sight distance for drivers exiting the site and looking either north or south."*

F9. The Board notes that it received email correspondence from the Police Department which noted that they had no comments or objections. (See EXHIBIT #5).

F10. No public input was received during the public hearing.

V. DECISION and CONDITIONS

At their meeting of September 16, 2016 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 Mrs. Hassinger, seconded by Mr. Scully) voted 5-0 in favor to **GRANT** this Special Permit and Site Plan Approval with the following conditions:

A. <u>Standard Conditions</u>

1. This Special Permit (SP 2015-13.2) and Site Plan Approval (Modification #2) specifically authorizes the relocation of the access driveway and associated work as described within the EXHIBITS and FINDINGS of this Decision (EXHIBITS #1 and #8). All other conditions within Special Permit (SP

2015-13) and Site Plan Approval as modified by the first Modification (SP 2015-13.1) shall remain in full force and effect unless modified by this DECISION.

2. The work authorized by this DECISION shall be solely for the purposes noted within Condition #A1 of this Decision. Changes to 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 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.

3. Construction of the improvements shown on the Plans approved as part of this Decision is subject to approval by the Grafton Conservation Commission. Any Order of Conditions and/or permits which result in substantial modifications to the plan approved as part of this DECISION may require a modification of this Decision by the Board. The Board shall first make a determination if the proposed changes are substantial in nature, are of public concern, and/or substantially alter the plans.

4. This second modification of Special Permit (SP 2015-13.2) and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.

5. By recording this DECISION in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

B. <u>Conditions to be Met Prior to the Start of Construction</u>

1. The Applicant shall revise the plan set to reflect the following:
   a. Each sheet shall be inscribed with the current revision date.
   b. Plans shall be revised to comply with Special Permit (SP 2015-13) and Site Plan Approval Conditions #B.1.b, #B.1.c, and #B.1.d.
   c. The Conditions set forth in this DECISION shall be inscribed on a sheet of the Plans suitable for recording at the Worcester District Registry of Deeds.

2. The Applicant shall record the revised plan set (see CONDITION #B1) at the Worcester District Registry of Deeds (WDRD). The Applicant provide the Planning Board and the Building Department with a copy of the recording information, including the WDRD Plan Book and Plan Number.

3. Prior to the commencement of work, the Planning Board shall be provided with the following:
   a. Five (5) full size, 24" x 36", sets of the recorded plans.
   b. An electronic copy of the recorded plan set. The electronic copy shall be in a "PDF" compatible format.

4. The Applicant will not commence construction of the solar facilities until the access has been completed to the satisfaction of the Planning Board and/or its agent in order to ensure that emergency access requirements are met.

5. The Applicant shall arrange a pre-construction site visit with the Planning Board and/ or its agent to review the location of the access driveway, review vegetation to be removed in order to achieve maximum sight distances as recommended by Graves Engineering (see EXHIBIT #4 and FINDING #8) and other requirements as set forth in the original Special Permit (SP 2015-13) and Site Plan Approval.

C. <u>Conditions to be Met During and After Construction</u>

1. The Applicant shall install and maintain an erosion control blanket in accordance with the recommendation made by Graves Engineering (see EXHIBIT #4 and FINDING #8).

2. The Applicant, Owner and/ or future owners or assigns will ensure that the maximum sight distances are maintained through regular vegetation cutting and management.

VI. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 to **GRANT** the Applicant's request to modify Special Permit (SP 2015-13) to relocate the access driveway based on the information received at the public hearing and the aforementioned findings.

Michael Scully, Chairman	AYE	Tracy Lovvorn, Member	AYE
Robert Hassinger, Vice Chairman	AYE	Sharon Carroll-Tidman, Assoc. Member	AYE
Linda Hassinger, Member	AYE		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD

Joseph Laydon, Town Planner

9-16-16
Date

cc: Applicant / Owner
Conservation Commission
Board of Assessors
Jeff Walsh, Graves Engineering

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Kandy L. Lavallee
~~Donna Girouard~~, Town Clerk Asst
Kandy Lavallee

10/7/16
Date

A true copy,
Attest:
Kandy L. Lavallee
Kandy L. Lavallee Asst
~~Donna M. Girouard~~, Town Clerk
Grafton, MA