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 00093642
Bk: 55847 Pg: 391
Page: 1 of 5 08/23/2016 03:26 PM WD

CERTIFICATE OF NO APPEAL

APPROVAL: PLANNING BOARD
Modification #1 SP 2015-13 & Site Plan Approval

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 for 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 was received and filed in the Office of the Town Clerk on July 26, 2016 at 4:11 P.M.

No Notice of Appeal of the Decision was filed within the twenty days next, the appeal period ending on August 15, 2016.

A true copy,
Attest:
(Seal)

Donna M Girouard
Town Clerk – Grafton, Massachusetts

DECISION
GRAFTON PLANNING BOARD

MODIFICAITON #1
SPECIAL PERMIT (SP 2015-13) & SITE PLAN APPROVAL
To Remove Condition #B3 - Solar Electric Generating Facility

RECEIVED TOWN CLERK
GRAFTON, MA
2016 JUL 26 PM 4 11

207 Providence Road, Grafton, MA

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

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of the Clean Energy Collective (CEC) Solar #1056, LLC, 146 West Boylston Street, Worcester, MA 01606 (hereinafter the APPLICANT), for Modification of Special Permit (SP 2015-13) and Site Plan 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 54902, Page 302.

I. BACKGROUND

The above referenced application for Modification of Special Permit (SP 2015-13) & Site Plan Approval (hereinafter APPLICATION) was submitted on June 15, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on June 23, and June 30, 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 July 11, 2016. During the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on July 11, 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 , and Associate Member Sharon Carroll-Tidman. At the hearing Greg Carey of Clean Energy Collective presented the Application.

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 June 15, 2016; received; includes the following:

- Application for Modification of Special Permit, Signed June 9, 2016; 1 page.
- Correspondence from Clean Energy Collective, Modification to Special Permit & Site Plan approval – Community Solar Project at 207 Providence Road; 1 page.
- Correspondence from Karen Kell to National Grid, no date; 1 page.
- Correspondence from Kather Worden to Greg Carey, Grafton NGRID Easements, dated May 18, 2016; 5 pages.

- Certificate of Good Standing signed by the Treasurer / Collectors Office on June 10, 2016; 1 page.
- Certified Abutters List signed by the Assessor's Office on June 14, 2016; 1 page.

EXHIBIT 2. Public Hearing Notice, stamped by the Town Clerk on June 21, 216, 1 page.

EXHIBIT 3. Public Hearing Sign In Sheet; July 11, 2016; 1 page.

III. FINDINGS

At their meeting of July 25, 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 Mr. Robbins, seconded by Mrs. Hassinger) voted 5-0 in favor to make the following Findings:

F1. That during the public hearing Mr. Greg Carey of CEC Solar presented the application on behalf of the Applicant. They are requesting that the Board modify the Special Permit Decision by deleting Condition B3 which states:

> *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.*

F2. That during the public hearing the Applicant provided an explanation for the request. The Applicant has been unable to obtain a building permit because they have been unsuccessful in obtaining the documentation required in Condition B3. The property owner, Karen Kell, has submitted a letter to National Grid requesting that the access drive for the solar project be allowed to cross the National Grid easement (see EXHIBIT #1). Mr. Carey provided documentation from his legal counsel which explains why National Grid's permission to use the easement area for the proposed solar project is not required and should not be a condition of approval of the Special Permit (see EXHIBIT #1). Mr. Carey noted that the proposed gravel road through the easement area would not restrict or impede access by National Grid. It was noted that the National Grid has not yet consented to allow access across the easement and that the Property Owner and CEC Solar are continuing to seek permission to install the gravel access road to the site as approved by the Special Permit & Site Plan Approval. Until the issue has been resolve the project cannot move forward.

F3. The Board acknowledged the information provided by Mr. Carey. It was noted that the removal of the Condition does not resolve the dispute between Applicant, Property Owner and National Grid.

F4. The Board solicited comments from Town Departments and the public during the public hearing. None were received.

V. DECISION and CONDITIONS

At their meeting of July 25, 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 Mr. Robbins,

seconded by Mrs. Hassinger) voted 5-0 in favor to **GRANT** this Special Permit and Site Plan Approval with the following conditions:

C1. This approval specifically removes Condition #B3 of Special Permit (SP 2015-13), dated January 11, 2016, and is recorded in the Worcester District Registry of Deeds, Book 54902, Page 302. The following language is to be considered null and void from the DECISION:

> *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.*

C2. This Modification of Special Permit (SP 2015-13) & Site Plan Approval shall not be construed as an endorsement for or supporting the Applicant and Property Owner's ongoing efforts to resolve the access conflict with National Grid.

C3. This Modification of Special Permit (SP 2015-13) & Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy provided to the Planning Board and the Building Department. Said copy will include recording information such as the WDRD Book and Page Number and/or Instrument Number.

C4. All other conditions and requirements of the Special Permit (SP 2015-13) shall remain in full force and effect.

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 eliminate Condition B.3 from the DECISION based on the information received at the public hearing and the aforementioned findings.

Michael Scully, Chairman	AYE	Linda Hassinger, Member	AYE
Robert Hassinger, Vice Chairman	AYE	Tracy Lovvorn, Member	AYE
David Robbins, Clerk	AYE		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD

Joseph Laydon, Town Planner

7-26-16
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.

Donna M Girouard
Donna Girouard, Town Clerk

August 16, 2016
Date

A true copy,
Attest:

Donna M. Girouard
Donna M. Girouard, Town Clerk
Grafton, MA

ATTEST: WORC. Anthony J. Vigliotti, Register