

**DECISION OF THE ZONING BOARD OF APPEALS
of the
TOWN OF WESTWOOD**

PROPERTY OWNER(S): Peter & Theresa Wierzbinski

PETITIONER(S): Boston Solar Company, LLC
55 Sixth Road
Woburn, MA 01801

LAND AFFECTED: 461 Sandy Valley Road
Westwood, Massachusetts 02090
Map 15 Lot 010

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of the Commonwealth of Massachusetts on Wednesday April 27, 2022 at 7:00 P.M. via remote participation to consider the Petitioner’s request to amend a Special Permit issued by the Zoning Board of Appeals following a public hearing on July 21, 2021, for which a Decision was recorded in the Office of the Town Clerk on August 3, 2021. The Petitioners request changes to the Special Permit condition regarding landscape screening of the installed solar array. The property is located in the (SRE) Single Residential E zoning district.

BOARD MEMBERS: John Lally, Chairman
Danielle Button
Mark Callahan

APPLICABLE SECTIONS OF THE WESTWOOD ZONING BYLAW

	DISTRICTS												
	SRA	SRB	SRC	SRD	SRE	GR	SR	LBA	LBB	HB	I	IO	ARO
4.3.2 ACCESSORY USES IN ALL DISTRICTS													
4.3.2.7 Ground Mounted & Other Solar ³	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA

FINDINGS

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

1. The Subject Property is located at 461 Sandy Valley Road. The property is located in the (SRE) Single Residential E zoning district.

2. The Petitioner recently installed a ground mounted solar array pursuant to a Special Permit which was issued by the Board of Appeals as the Special Permit Granting Authority pursuant to Section 4.3.2.7 of the Westwood Zoning Bylaw, following a public hearing on July 21, 2021.
3. Condition 2 of the previously granted Special Permit decision, which was recorded in the Office of the Town Clerk on August 3, 2021, requires the Petitioners to install a sufficient number of evergreen trees on the east, north, and west sides of the solar array, which trees shall be of sufficient height at the time of planting to adequately screen the solar array from view at normal eye level from neighboring properties and from Sandy Valley Road.
4. The Town's Building Commissioner visited the site on several occasions and found that the planted evergreen trees do not adequately screen the solar array from view at normal eye level from neighboring properties and from Sandy Valley Road.
5. In accordance with the Building Commissioner's recommendation, the Petitioners filed a new petition with the Board to request an amendment of the previously issued Special Permit to change the above-referenced condition regarding landscape screening.
6. The Board opened a public hearing on the Petitioners' request on February 16th, at which time the Petitioners proposed installing an interim screening measure until the height of the planted evergreens is sufficient to adequately screen the solar array from view at normal eye level from neighboring properties and from Sandy Valley Road.
7. The Board continued the public hearing to March 16, 2022, in order to allow the Petitioners sufficient time to discuss the proposed interim screening measure with the Building Commissioner, and to display said interim screening measure on a plan which the Board could then incorporate into an amended Special Permit.
8. The Petitioners consulted with the Building Commissioner in early March and obtained his recommendation in favor of the proposed interim screening measure. The Building Commissioner then authorized the final inspection of the solar array with the understanding that the Petitioners would submit a plan displaying the interim screening measure and return to the Board on March 16th to present said plan and request an amendment of the Special Permit.
9. The Petitioners neglected to submit the required plan displaying the interim screening measures and failed to return to the Board for the continued hearing on March 16th.
10. The Board determined that there was insufficient information upon which to grant the requested Special Permit amendment and issued a denial that was recorded in the Office of the Town Clerk on April 11, 2022.
11. The Petitioners filed a new petition with the Board to request an amendment of the previously issued Special Permit to change the above-referenced condition regarding landscape screening.
12. At a public hearing on April 27, 2022, the Petitioner presented a revised landscape plan to the Board to include five (5) additional plantings to the south side of the array.
13. The Board determined the proposed landscape plan indicates sufficient screening of the solar array to neighboring properties from normal eye level on the east, west, north and south sides and does not require interim screening measures.

14. Any adverse effects of the Petitioner's construction, as conditioned herein, will not outweigh its beneficial impact to the Town, or the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site.
15. The Petitioner's proposal, as conditioned herein, is not detrimental to public health, safety or welfare, and will not have a material adverse effect on the value of the land and buildings in the neighborhood, or on the amenities thereof, or be detrimental to the normal use of the adjacent property, and it will not be injurious or dangerous to the public health or hazardous because of traffic congestion, or other reason, and any adverse effects of the proposed use do not outweigh its beneficial aspects, all in view of the particular characteristics of the site and of the proposal in relation to that site.
16. The Petitioner has met all the requirements for a Special Permit pursuant to the Westwood Zoning Bylaw.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request to amend the Special Permit pursuant to Section 4.3.2.7 of the Westwood Zoning Bylaw and upon the following conditions:

1. The Applicant shall install evergreen trees on the east, north, and west sides of the solar array, as well as two (2) holly bushes and three (3) emerald green arborvitae on the south side of the array as shown on the planting plan titled "461 Sandy Valley Road-Final Planting Plan" prepared by Boston Solar Company dated June 21, 2021 and last revised 4/27/22. Said evergreen trees are intended to screen the solar facility from view at normal eye level from adjacent properties. The trees should be sufficient in size and number to form a substantially impervious screen within three (3) years of planting. The minimum height of the evergreen trees, measured three (3) years from the date of planting, shall at all times be higher than the highest point of the solar array. Said trees shall be continuously maintained by the property owner and any dead or dying trees shall be replaced in kind for so long as the solar array remains in place.
2. The Applicant shall pursue completion of the Project with reasonable diligence and continuity.
3. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address. A copy of these recordings shall be provided to the Building Commissioner, Town Clerk and the Board of Appeals.
4. **The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**
5. This Special Permit shall lapse within a specified period of time, of not more than two (2) years, which shall not include such time required to pursue or await the determination of the appeal referred to in Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such

date except for good cause. Prior to the expiration of the Special Permit, the Applicant may apply for an extension of the Special Permit for a period not to exceed one (1) year if the substantial construction or use thereof has not commenced for good cause.

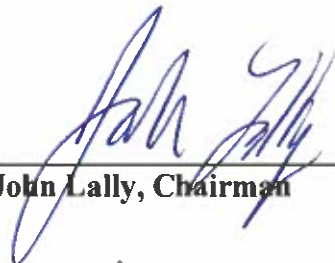
RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Special Permit for the above-mentioned project: John Lally, Danielle Button and Mark Callahan

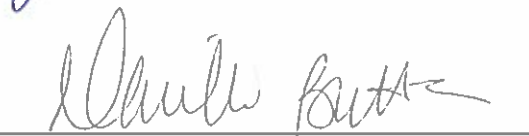
The following members of the Board of Appeals voted in opposition to the grant of the Special Permit: None.



WESTWOOD ZONING BOARD OF APPEALS



John Lally, Chairman



Danielle Button



Mark Callahan

5/13/22
Date

461 Sandy Valley Road