

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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CITY CLERK'S OFFICE
GARDNER MA

NAME: BCC SEA QALICB II, LLC c/o Boston Community Capital
ADDRESS: 56 Warren Street, Boston, MA 02119

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:

Parcel R12-2-7 Mill Street

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

BOOK 50732 PAGE 67

ON APPLICATION DATED July 16, 2013 FOR A **Special Permit** TO:
Construct a solar electricity generation facility on Parcel R22-2-7 Mill Street, Gardner, MA, owned by the Gardner Redevelopment Authority, 115 Pleasant Street, Room 201, Gardner, MA. (Denied a building permit by the Building Commissioner because it does not comply with Section 4, Use Regulations, 415 Table of Uses, Industrial Uses #66; "All other industrial uses not expressly referred to above or not expressly prohibited", in Industrial I Zoning District of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its September 9, 2013 meeting voted unanimously to grant with conditions a Special Permit to BCC SEA QALICB II to construct a solar electricity generation facility on Parcel R22-2-7 Mill Street, Gardner, MA.

The application for Special Permit was filed with the office of the City Clerk on July 16, 2013.

Public Hearing held on August 27, 2013. A site visit was held on September 7, 2013.

The Applicant proposes to construct a 986.48 kW solar array farm on property owned by the Gardner Redevelopment Authority. The property was once part of a furniture manufacturing facility that had closed several years ago. The City of Gardner had acquired title to the property through tax title and subsequent transfer of title to the Gardner Redevelopment Authority. Through efforts of the Redevelopment Authority, the site has received remediation of hazardous materials. In September 2012, a Urban Renewal Plan for the Mill Street Corridor was developed and approved and encouraged a solar generating facility for this site. The Plan described solar as an interim use of the property as an economic development effort for the area. Currently, the area is a vacant wasteland.

The property in question is bounded by Mill Street to the north, Winter Street to the east, Ramsdell Pond to the south, and private property to the west. The work required to make the property suitable for placement of a solar generating field would require the removal of a currently wooded area of the property, regrading of the property, installation of security fencing and the installation of the necessary appurtenances to connect the array to the electric grid.

At the Public Hearing, the Applicants and their representatives addressed the nine conditions outlined in Section 1182 of the Ordinance and are summarized below:

The proposal is compatible with the use in the neighborhood. The area is zoned Industrial I. The proposed use is a solar generating facility.

The proposal will provide convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets, properties and improvements. Aside from the initial construction of the facility, the project does not require vehicular movement within the site aside from infrequent operations and maintenance visits. Only O&M personnel are expected to be on site. No public access will be allowed. The area will be secured with a perimeter fence.

The project provides parking for the necessary Operations and Maintenance vehicles. No other parking requirements are required.

The project as proposed will contain adequate facilities for sewerage, refuse and waste products and surface drainage. As designed, the project is unmanned therefore does not require water, sewer, or waste disposal services. During construction, a solid waste roll off type dumpster as well as portable rest room facilities will exist. Surface runoff will drain to Ramsdell Pond and Greenwood Brook as current. The area under the panels will be loamed as seeded to stabilize the soils and will receive periodic mowing throughout the growing season. Currently, the area is partially gravel.

The Applicant indicated and the Board generally concurs that the proposal will not constitute a nuisance due to air or water pollution, erosion, flood, noise, odor, dust, vibrations, lights, or visually offensive structures or site features. The Board recognizes that noise from the construction phase will exist. The Applicant indicated the hours of construction will be Monday through Friday 7AM – 5 PM and Saturday 8 AM to 3 PM. Post construction noise will be limited to equipment associated with the array and will be negligible and periodic maintenance at the facility.

The project shall not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians. The Board recognized that during construction, construction vehicle traffic will be greater on Mill Street. To warn vehicles traveling on Mill Street, the Board sets as a condition of the granting of this Special Permit the installation of appropriate warning signage.

The construction of a solar generating facility shall be in harmony with the general purpose and intent of the Ordinance. This use is not specifically prohibited in an Industrial Zone of the Ordinance. Additionally, MGL, Chapter 40A, Section 3 specifically prohibits Ordinances or regulations that “prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.”

The construction of the solar power generating facility will not have a detrimental impact on city services, tax base, and employment opportunities. It will provide additional property tax revenue to the city and lease revenues to the Redevelopment Authority for the duration of the lease period.

The construction of the Solar generating facility is part of the Mill Street Urban Renewal Plan adopted in September 2012.

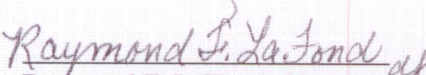
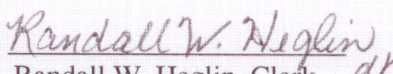
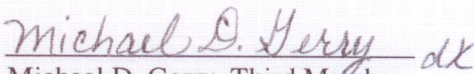
A Special Permit is granted with the following conditions:

- Installation of appropriate construction warning signs on Mill Street providing adequate warning to traveling public.
- Applicant or successor to lease to maintain landscaping buffer along Ramsdell Pond and solar panels as shown on plan on file with the Board. Plan of reference entitled : Planting Plan; L-1; Prepared by: Michael P. Radner, No. 1206; Project Number: 905-0345 for BCC SEA QALICB II LLC; dated: 03/12/2013 (revised: 06/06/13). Plantings shall be maintained for the duration of the lease. In the event of catastrophic natural occurrence (e.g. hurricane, ice storm) which causes significant damage to the buffer, a new revised plan shall be developed and approved by the Redevelopment Authority, with the intent of the plan to provide adequate screening of the panels from concerned abutters.
- Hours of construction to be
 - M-F 7 AM – 5 PM
 - Sat 8 AM – 3 PM
 - No work on Sundays, Holidays, or beyond these hours unless approved in advance by the Building Commissioner.

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

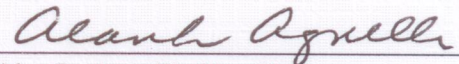
A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 12th DAY OF September, 2013

 at  at  at
 Raymond F. LaFond, Chairman Randall W. Heglin, Clerk Michael D. Gerry, Third Member

I, Alan L. Agnelli, City Clerk, City of Gardner, hereby certify the attached decision by the Zoning Board of Appeals was filed with my office on September 12, 2013 and that twenty days have elapsed since the filing of said decision with my office and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

October 3, 2013
Dated


Alan L. Agnelli, City Clerk