

JUN 26 '23 PM 1:59
REC'D AMHERST TOWN CLERK



AMHERST Massachusetts

TOWN HALL • 4 BOLTWOOD AVENUE • AMHERST, MA 01002-2302

Zoning Board of Appeals APPLICATION

For Office Use Only:

Application #: ZBA FY2023-18 Received by Planning Dept: 5/14/2023
 Reference #: 60187 Filed with Town Clerk: 6/26/2023
 Fee Paid: \$ 800.00 (65 days from date filed): _____
 Public Hearing Date: August 24, 2023
 Decision Date: _____
 Book #: 119 Page #: 2023-18

Susan Rudette
Town Clerk

APPLICANT INFORMATION:

Applicant: ASD Shutesbury MA Solar LLC
 Address: 518 17th St
Suite 950
Denver, CO 80202
 Telephone: 303-598-7192
 Fax: _____
 Email: cmccandless@amp.energy

ATTORNEY/DESIGNER/CONSULTANT:

Thomas R. Reidy, ESQ
 Address: Bacon Wilson, P.C.
6 South East St, Amherst, MA 01002
 Telephone: 412-256-6701
 Fax: 413-739-7740
 Email: treidy@baconwilson.com

TYPE OF APPLICATION:

- Special Permit Variance
 Comprehensive Permit
 Appeal from Decision of Building Commissioner

APPLICABLE ZONING BYLAW SECTION(S): 3.340.0

PROPERTY INFORMATION:

Property Address/Description: Between 187 and 201 Shutesbury Road
 Parcel Identification Numbers: 9B_11, 9B_12, 9D_27

PROPERTY OWNER:

W.D. Cows, Inc.
(if different from applicant)
 Address: P.O. Box 9677
N. Amherst, MA 01059
 Telephone: 412-539-1741
 Email: forestry@cowls.com

DEED OF PROPERTY RECORDED IN:

Hampshire Cty. Reg. of Deeds Mass. Land Court
 Book: 1213 Page: 346
 Map/Parcel: 9B_11, 9B_12, 9D_27
 Zoning District: R-O

DocuSigned by:
Corina McLandless
 Signature of applicant(s)

[Signature]
 Signature of property owner(s)

To be filled out by Amherst Building Commissioner:
6-22-23
 Date Received

[Signature]
 Amherst Building Commissioner

NATURE OF REQUEST AND BRIEF DESCRIPTION OF PROJECT:

Pursuant to the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts and the Amherst Zoning Bylaws, application is hereby made to the Amherst Zoning Board of Appeals to do the following:

WAIVER(S) ARE REQUESTED FROM:

If you are requesting a waiver from any of the plan requirements, please list them below, along with your reasons. The Board shall have the right to modify or waive any of the submittal requirements, or to request additional information necessary to render a decision.

Checklist for the ZBA Application Process:

It is best to review the requirements with the Zoning staff before you begin your application.

It is the responsibility of the applicant to furnish all supporting documentation with the application. Please check items on this list to indicate that you have done so, or indicate your requests for waivers at the end of the list.

One hard copy of the following shall be submitted:

- Application:** Every application shall be submitted on the official application form of the Board, provided by the Planning Department. Please provide only the original application form, no copies are needed. All information must either be typed or printed clearly.
- A **request for a certified list of abutters** must accompany all site plan applications. The **Planning Department will submit the application** for an Abutters List to the Assessor’s Office and send out the abutters notices. It may take up to 10 business days for your certified list to be produced.
- Fees:** All applications filed with the Town Clerk shall be accompanied by cash or check made payable to the Town of Amherst in the specified amount. See schedule of fees in this application packet.
- Electronic submission:** Every application shall be accompanied by one hard copy of all submitted materials, including full size plans, to scale. All applications shall include one electronic copy of all information (except the Certified List of Abutters and fee) in a PDF form. All PDF’s and electronic information should be labeled. Submissions may be accepted via email, thumb-drive, or on CD/DVD.

Please note: Prior to a public hearing, Town staff may request up to five hard copies of full size plans for distribution. This will be requested and coordinated by Town staff.

For the following plans, and any other supplemental materials submitted as part of an application, one full size original hard copy AND one digital copy shall be submitted.

- Site Plans:** Unless waived by the Board, all site plans shall be prepared by a Registered Engineer, Surveyor or Landscape Architect, and shall include the following:
 - name of property owner, developer and name of engineer/surveyor/landscape architect or builder
 - date, title and scale of plan
 - separate locus map showing site location and location of buildings on surrounding properties, north arrow

- all existing lot lines, easements, rights-of-way, size of property in square feet, as well as setback, side and rear yard dimensions as set forth in Table 3 of the Bylaw and zoning district
 - location and use of all existing and proposed buildings and structures, including dimensions and heights
 - location and names of existing or proposed streets, curb cuts, entrances and exits, parking areas, sidewalks, loading/service areas, utility systems
 - existing and proposed contours and finished grade elevations, including location and volume of significant filling or excavations
 - location of all natural features, including significant watercourses, wetlands, water bodies, bedrock outcroppings, stone walls and all trees, including drip lines, of eight (8) inch diameter at breast height (DBH) or larger on the subject property. In addition, all stone walls and trees, including drip lines, to be affected by clearing and/or construction within any portion of any public right-of-way immediately adjacent to the subject property shall also be shown, according to provisions of MGL Ch.40, Section 15C (Scenic Roads Act) and MGL Ch.87 (Shade Tree Act).
 - location of containers and enclosures for storage and disposal of waste, recyclables and, where applicable, waste kitchen oil
 - number and location of parking spaces required (2 parking spaces are required per unit)
 - calculation of total lot area, wetlands, building coverage and total lot coverage
- Building Plans** shall include accurate, scaled renderings of:
- Elevations, showing exterior facades indicating height, materials, architectural features and colors proposed.
 - Floor Plans with dimensions showing schematic layout, use of interior spaces and means of egress
- Management Plan:** Please see attached Management Plan Form.
- Landscape Plan** showing proposed vegetation to be planted, including street and shade trees, shrubs and other planting. Parking lot screening, by species and type shall be detailed. Existing vegetation of note (see “Site Plans” above) and any intermittent or year-round streams, ponds or other wetlands shall also be shown.
- Lighting Plan** showing location and type of outdoor lighting and lighting fixtures, said lighting to be designed to minimize glare and light spillover onto adjacent properties, streets and the night sky
- Sign Plan**, including, but not limited to, dimensions, color, graphics, placement, lettering and any sign lighting

In addition, the Board may require submission of the following information/plans:

- Soil Erosion Plan**, if applicable, showing measures to be taken to prevent or reduce erosion both during and after construction
 - Traffic Impact Statement:** Details may be found in Appendix A of the Board’s Rules and Regulations
 - Outside Consultants:** Details may be found in Appendix B of the Board’s Rules and Regulations
- If the property for which the permit is being sought has any tenants or lessees, they must be notified of the application. Please ask for the Planning Department’s “**Tenant/Lessee Notification**” instruction sheet.
- All applications shall be supported by a written project summary detailing all relevant facts of the application.
- All plans and information shall be labeled with the applicant’s name, project address and be dated.

The petitioner shall submit the application and accompanying documents outlined above to the Planning Department, who shall file the application with the Town Clerk for certification.

For time requirements pertaining to public hearings and Board actions, please see the *Zoning Board of Appeals Rules and Regulations*, which are available at the Planning Department or on the Town website at **amherstma.gov**.

From the Amherst Zoning Bylaw
SPECIAL PERMIT FINDINGS

10.38 Specific Findings Required

The Special Permit Granting Authority may grant a Special Permit authorized by this Bylaw if said Authority finds, when applicable, that:

- 10.380** The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority.
- 10.381** The proposal is compatible with existing Uses and other Uses permitted by right in the same District.
- 10.382** The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features.
- 10.383** The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians.
- 10.384** Adequate and appropriate facilities would be provided for the proper operation of the proposed use.
- 10.385** The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.
- 10.386** The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.
- 10.387** The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. If the Special Permit Granting Authority deems the proposal likely to have a significantly adverse impact on traffic patterns, it shall be permitted to require a traffic impact report, and the proposal shall comply with Section 11.2437 of this Bylaw.
- 10.388** The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use.
- 10.389** The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.

- 10.390** The proposal ensures protection from flood hazards as stated in Section 3.228, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances.
- 10.391** The proposal protects, to the extent feasible, unique or important natural, historic or scenic features.
- 10.392** The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.
- 10.393** The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaries, light shields, lowered height of light poles, screening, or similar solutions.
- 10.394** The proposal avoids, to the extent feasible, impact on steep slopes, floodplains, scenic views, grade changes, and wetlands.
- 10.395** The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto. Within the B-L, B-VC, COM, OP, LI and PRP Districts, and any residential zoning district where the project in question occurs within the boundaries of a National Historic Register District, the Special Permit Granting Authority shall, if it deems the proposal likely to have a significant impact on its surroundings, be permitted to use the design principles and standards set forth in Sections 3.2040 and 3.2041, 1) through 9) to evaluate the design of the proposed architecture and landscape alterations. Within the B-G and abutting B-L districts, and for any Town project within any district, the provisions of Section 3.20, Design Review, shall remain in effect.
- 10.396** The proposal provides screening for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.
- 10.397** The proposal provides adequate recreational facilities, open space and amenities for the proposed use.
- 10.398** The proposal is in harmony with the general purpose and intent of this Bylaw.

APPENDIX B APPLICATION FEES

Fees accompanying applications to the Board of Appeals shall conform to the schedule below. **In addition to ALL application fees, a flat fee of \$75 dollars is required for legal advertisement.** Payment for legal advertisement must be submitted with application.

Please note: If and after a Special Permit is granted, there is a \$10 filing fee with the Town Clerk and a \$75 dollar filing fee at the Registry of Deeds.

High Impact Uses – **Non-residential = \$500**
Residential = \$300 + \$50/ new dwelling unit

- PURDs
- Residential uses with more than 6 units – e.g., Town Houses, Apartments, Subdividable/Converted Dwellings, Hotel or Motels, Inns, Hostel, Congregate housing for the elderly and disabled, fraternities/sororities
- Institutional Uses – e.g., Medical or residential institutions, cemetery, private lodge or club)
- Government and Public Service Uses
- Research and Industrial Uses

Moderate Impact Uses – **Non-residential = \$300**
Residential = \$150 + \$50/ new dwelling unit

- Residential uses with 6 or fewer total units – e.g., Town Houses, Apartments, Subdividable/Converted Dwellings, Hotel or Motels, Inns, Hostel, Two-family detached
- Dwelling units in combination with stores or other permitted business or commercial uses
- Lodgers/Boarders/Roomers/Bed and Breakfast
- Supplemental apartments
- Retail, Business and Consumer Service Uses
- Motor Vehicle Related Uses
- Extensive Uses
- Flag lots (\$150 per flag lot)

Low Impact Uses - \$50

- Applications for/by owner-occupied single family properties– e.g., accessory uses, other than supplemental apartments, fences, signs

Other:

- Variances = \$300
- Appeals from a decision of the Building Commissioner = \$110
- Amendments or modifications to existing permits = Same fee as use

Comprehensive Permits & Affordable Housing Projects * = \$500 + 50 / new dwelling unit

- Limited Dividend Organizations - \$9 per unit
 - Non-Profit Organizations - \$3 per unit
 - Public Agencies and Local; Local Initiative pursuant to 760 CMR 45.00 - \$0
- * Projects including 10% or more affordable units as defined under Section 12.20, Amherst Zoning Bylaw are considered Affordable Housing Projects.*

Town Projects – The application fee for certain Town projects may be waived administratively by the Director of Conservation and Development.

Fee change approved January 14, 2014 and effective on February 1, 2014