

**TOWN OF MILLBURY, MASSACHUSETTS**  
*The Planning Board*

**NOTICE OF DECISION ON APPLICATION FOR  
DEFINITIVE SUBDIVISION APPROVAL**

**COLTON ROAD EXTENSION**

Applicant:  
Next Grid Colton, LLC  
P.O. Box 7775 #73069  
San Francisco, CA 94120-7775

Date: September 14, 2020  
Application Filed: July 6, 2020

Owner:  
Ragnar W. Gustafson III  
P.O. Box 226  
Millbury, MA 01527

On Monday, July 20, 2020, the Planning Board conducted a public hearing on the application of Next Grid Colton, LLC for Definitive Plan Approval relative to 7 Colton Road, Millbury, MA. The Applicant desires to extend Colton Road so as to obtain the frontage necessary to construct a 2.87 MW DC/2.29 MW AC ground-mount solar photovoltaic (PV) system. The public hearing was held virtually via Zoom due to the ongoing COVID-19 pandemic. The hearing was continued and a subsequent hearing was held on August 24, 2020 and September 14, 2020. Public hearings held on July 20, 2020, August 24, 2020 and September 14, 2020 were broadcast live on Millbury Public Access Television, live-streamed on the Millbury Public Access Television website, and live-streamed via ZOOM video and audio conferencing, allowing members of the public to follow the proceedings of the Planning Board while they were occurring and allowing members of the public to participate in the hearing through real-time active participation, in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20, dated March 12, 2020.

The Planning Board voted to GRANT Application for Definitive Plan Subdivision Approval pursuant to the Town of Millbury's Rules & Regulations Governing the Subdivision of Land subject to CONDITIONS, safeguards and limitations on time or use. VOTE: Members present: Richard Gosselin (yes), Mat Ashmankas (yes), Bruce DeVault (yes), Terry Burke Dotson (yes), and Paul Piktelis (yes).

The decision of the Board, together with a detailed record of its proceedings stating the reasons for the decision, shall be filed within 14 days after the hearing, in the office of the Town Clerk. Decision filed with Clerk September 16, 2020.

**IMPORTANT:** Pursuant to Article I, Section 12.49(f), of the Millbury Zoning Bylaw, any appeal from this Planning Board decision can be made only pursuant to M.G.L. c. 40A, Sec. 17, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

MILLBURY PLANNING BOARD

Mathew Ashmankas, Clerk

**TOWN OF MILLBURY, MASSACHUSETTS**  
*The Planning Board*

**RECORD OF PROCEEDINGS**  
**On Application For Definitive Subdivision Approval**

I, Mathew Ashmankas, Clerk of the Planning Board, hereby certify that the following is a detailed record of its proceedings relative to the application of Next Grid Colton, LLC (“Applicant”) for a Definitive Subdivision Approval pursuant to the Town of Millbury’s Rules and Regulations Governing the Subdivision of Land.

1. The Applicant desires to extend Colton Road so as to achieve the frontage necessary to construct a 2.87± megawatt (MW) DC/2.29± MW AC ground-mount solar photovoltaic (PV) system.
2. On July 6, 2020, the Applicant's *Application for a Definitive Subdivision* (the “Application”) was presented to the Planning Board. A true copy of the Application is attached hereto as Exhibit A and is part of the record of these proceedings;
3. A legal ad, a true copy marked as Exhibit B, was published in the *Millbury Sutton Chronicle*, a newspaper of general circulation in Millbury, on June 25, 2020 and July 2, 2020, and posted by the Town Clerk on July 8, 2020. Notice of the hearing was mailed postpaid to the Applicant, abutters of land within 300 feet of the property line, being the same persons named in the Certified List of Abutters, to the Central Massachusetts Regional Planning Commission, and to the Planning Boards of every abutting community.
4. On July 20, 2020 the Planning Board opened a public hearing to consider the application and receive comments thereon. With the Applicant’s consent, the hearing was continued to August 25, 2020 and September 14, 2020, at which time the Planning Board heard additional public comments and voted to close the public hearing. The Planning Board relied on the following documents, in addition to the testimony presented at the public hearing, in making its decision:

Date	Document
As amended through May 1-2, 2018	Town of Millbury Zoning Bylaws
As amended through December 13, 2010	Town of Millbury Rules and Regulations Governing the Subdivision of Land
June 10, 2020, last amended September 10, 2020	“Definitive Subdivision Plan For Colton Road Extension, Millbury, Massachusetts” prepared by Atlantic Design Engineers (the “Definitive Plan”)
June 10, 2020	Definitive Subdivision application packet
June 10, 2020, last amended August 27, 2020	“Stormwater Report for Definitive Subdivision Plan for Colton Road Extension, Millbury, Massachusetts” prepared by Atlantic Design Engineers, Inc.
August 10, 2020	“Definitive Subdivision Plan for Colton Road Extension, Post-

	Construction Long Term Stormwater Operation & Maintenance Plan-Revision I" prepared by Atlantic Design Engineers, Inc.
	Specification sheet for street light "ALED 150" by RAB/Outdoor
June 10, 2020, last amended August 10, 2020	List of Requested Waivers prepared by Atlantic Design Engineers, Inc.
June 15, 2020	Centerline Stationing Stakes Certification Letter prepared by Atlantic Design Engineers, Inc.
August 10, 2020	Letter from Atlantic Design Engineers, Inc. RE: Response to Engineering Peer Review Comments, July 13, 2020
August 10, 2020	Letter from Atlantic Design Engineers, Inc. RE: Response to Planning Director Questions, Comments and Recommendations, July 16, 2020
August 21, 2020	Email from Atlantic Companies, Inc. with Attachments RE: Millings at Cul-de-sac
August 27, 2020	Letter from Atlantic Design Engineers, Inc. RE: Response to Engineering Peer Review Comments, August 21, 2020
September 10, 2020	Letter from Atlantic Design Engineers, Inc. RE: Response to Engineering Peer Review Comments, September 9, 2020
July 13, 2020	Letter from Stantec
August 21, 2020	Letter from Stantec
August 21, 2020	Email from Stantec (Joseph Graham)
September 9, 2020	Letter from Stantec
September 11, 2020	Email from Stantec (Dave Glenn)
May 8, 2020	Planning Director Questions, Comments and Recommendations
June 22, 2020	Email from Planning Director RE: Colton Rd Def Plan Submittal
July 16, 2020	Planning Director Questions, Comments and Recommendations
August 20, 2020	Planning Director Questions, Comments and Recommendations
September 10, 2020	Planning Director Questions, Comments and Recommendations
March 21, 2019	Email from DPW Supervisor, Keith Caruso
May 8, 2020	Planning Director Questions, Comments and Recommendations
June 22, 2020	Email from Planning Director RE: Colton Rd Def Plan Submittal
July 16, 2020	Planning Director Questions, Comments and Recommendations
August 20, 2020	Planning Director Questions, Comments and Recommendations
July 20, 2020	Email from DPW Supervisor, Keith Caruso
August 5, 2020	Letter from Deborah Maturi
August 14, 2020	Letter from Ragnar W. Gustafson, III with Attachments

5. On July 6, 2020, the Applicant submitted application materials to the Planning Board, a true copy marked as Exhibit A.
6. A legal ad, a true copy marked as Exhibit B, was published in the *Millbury Sutton Chronicle*, a newspaper of general circulation in the Town of Millbury, on June 25, 2020 and July 2, 2020. Notice of the hearing was posted by the Town Clerk on July 8, 2019 and mailed postpaid to the Applicant, abutters of land within 300 feet of the property line being the same persons named in the Certified List of Abutters, to the Central Massachusetts Regional Planning Commission, and to the Planning Boards of every abutting community.
7. On July 20, 2020 the Planning Board opened a public hearing to consider the application and receive comment thereon. With the Applicant's consent, the hearing was continued to August 24, 2020 and September 10, 2020, on which date the hearing was closed. Five members of the Planning Board were present at each session of the public hearing when testimony was taken. After the public hearing was closed, the Planning Board voted to grant the following waivers from the requirements of the Millbury Rules and Regulations Governing the Subdivision of Land:
  - a. Section 7.2.4 and 7.2.5: Waiver to allow Colton Road Extension to be constructed with a base of 8" of compacted gravel per MassDOT Specification M1.03.0 Type B;
  - b. Section 6.5.2: Waiver from the requirement to plant street trees;
  - c. Section 6.7.6: Waiver from the requirement to construct Colton Road Extension to a paved width of 22 linear feet. Colton Road Extension shall have a travelled way width of 18 linear feet with 2 foot grass shoulders and shall have a top course consisting of 4" compacted thickness of millings per MassDOT Specification M1.10.0. The existing section of Colton Road shall be widened to a minimum of 18 linear feet and where the roadway has a slope greater than 6%, it shall have a top course consisting of 4" compacted thickness of millings per MassDOT Specification M1.10.0.
  - d. Section 6.10: Waiver from the requirement to install curbing;
  - e. Section 6.13: Waiver from the requirement to install a sidewalk along one side of the roadway;
  - f. Section 5.3: Waiver from the requirement to submit an Environmental Analysis;
  - g. Section 5.3: Waiver from the requirement to provide test pits or borings;
  - h. Section 5.3.5: Waiver from the requirement to provide a separate construction plan. The construction plan information is provided on the submitted plan set;
  - i. Section 6.7.4: Waiver from the requirement to provide a minimum stopping sight distance of 150 feet at the vertical curve located at approximately Station 19+40. The stopping sight distance is 82.3 feet at this location.
8. The Planning Board voted at its meeting on September 10, 2020 to **GRANT** the Application for a definitive subdivision, related roadway, lighting, drainage and associated infrastructure all as shown on the plans entitled "Definitive Subdivision Plan for Colton Road Extension, Millbury, Massachusetts" dated June 10, 2020, last revised September 10, 2020, prepared by Atlantic Design Engineers, Inc., PO Box 1051,

Sandwich, MA and consisting of nine (9) sheets (collectively the "Plans") subject to conditions, safeguards and limitations on time or use as follows:

- a. Except as waived herein, all Rules and Regulations Governing the Subdivision of Land shall be adhered to.
- b. Any substantial change shall require application for a modification to the decision. The Planning Board shall determine what constitutes a substantial change.
- c. All fees and costs associated with this decision and inspections shall be paid.
- d. Compliance with local, state and federal regulations is the responsibility of the Applicant and its contractors.
- e. Prior to definitive plan endorsement, the Applicant shall do the following:
  - 1) Pay \$7,500 to the Town of Millbury for deposit into a special account established by the Town Treasurer under M.G.L. Chapter 44, Section 53G. The balance of this account shall at no time be less than one-half (1/2) the initial deposit, and the Applicant shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial deposit upon notice from the Board, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one-half (1/2) of the initial deposit. If the Applicant fails to restore the account balance and the balance is insufficient to pay incurred professional and technical review fees, the Board shall place a stop work order on subdivision construction activities by not authorizing additional professional or technical work, including inspections, until outstanding invoices are paid. Ninety (90) days following the Board's issuance of a Certificate of Completion, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the Applicant or the Applicant's successor in interest.
  - 2) Either file a performance bond or surety in an amount determined by the Board to be sufficient to cover the cost of all improvements shown on the approved definitive plan and specified as conditions of approval plus a twenty-five percent (25%) contingency factor, or execute and record a covenant running with the land. Such covenant shall provide in part that no structure may be built nor sold until all of the improvements required by the approved definitive plan and specified as conditions of approval have been completed and approved by the Planning Board. If a bond is used, such bond filing will be accompanied by a cash deposit of \$5,000, to be held in escrow, to cover the initial costs of "calling the bond" in the event of default and/or cover the costs of maintaining streets and systems. The Planning Board will not reduce the Town's interest in a bond or surety to an amount less than twenty percent (20%) of the original amount, or \$20,000, whichever is greater until the Applicant

submits and obtains Planning Board approval for an "as-built" plan in conformance with Section 5.3(13) of the Subdivision Rules and Regulations.

- 3) Attend a pre-construction meeting with the Director of Planning & Development, the Planning Board's consulting engineer and representatives from applicable boards, committees, and departments from the Town of Millbury.
- f. As shown on the Definitive Plan, the Planning Board authorizes the installation of millings along Colton Road (existing section) where slopes exceed 6%. If, however, erosion of the roadway is evident along those sections of the roadway containing slopes of 12% or greater during the 2 year period commencing after the completion of construction of those sections, the Applicant shall stabilize the surface through installation of a 2 ½" compacted thickness of binder course and a 1 ½" compacted thickness of top course. Should the Applicant seek an occupancy permit for 7 Colton Road prior to expiration of the 2-year warranty period, the Applicant shall provide a performance guarantee, in a form acceptable to the Planning Board, to cover the Town's costs of paving this area plus 25% contingency. The Planning Board shall release said performance guarantee upon expiration of the 2-year warranty period or completion of paving activities.
  - g. The Applicant shall install an ALED 150 street light by RAB/Outdoor within the cul-de-sac. Specific location is as shown on the Definitive Plan.
  - h. No tree stumps shall be buried on site. Prior to the commencement of construction, the Applicant shall propose a method of stump removal and disposal for Planning Board approval. Said method may include excavation and removal off-site in accordance with applicable regulations, grinding in place, or excavation and on-site grinding. The Applicant shall provide reasonable proof that the proposed method of stump removal and disposal was executed.
  - i. All construction debris shall be disposed of in compliance with applicable local and state laws.
  - j. If blasting occurs, no perchlorate shall be used. The Applicant shall sample and analyze all wells for compounds contained in the proposed blasting materials prior to any blasting if those wells are located within five hundred (500) feet of the blast area. These wells shall also be tested for quantity prior to any blasting. The blast area shall be defined as the limits of construction. All structures within five hundred (500) feet of the blast area shall be reviewed for cracks prior to any blasting.
  - k. Hours of operation related to the construction of the subdivision shall be limited to 7:00 AM to 5:00 PM, Monday through Friday, 8:00 AM to 4:00 PM on Saturday.
  - l. On a monthly basis after the commencement of construction, the Applicant or his representative shall provide a project update to the Director of Planning & Development. The time, date and location of these monthly meetings shall be agreed upon by the Applicant, the representative and the Director.

- m. After each snow storm event of 3" depth or more, the Applicant shall plow from the Town of Millbury's current limit of plowing on Colton Road, as designated on the Definitive Plan, up to and including the cul-de-sac. Plowing shall be performed within 5 hours of the completion of the storm event.
- n. All of the improvements shown on the Applicant's approved plan, including all items specified as conditions of approval, shall be fully constructed within three (3) years from the date of approval. Extensions may be granted subject to the review and approval of the Planning Board.
- o. The Applicant shall submit digital copies of the approved Definitive Plan, and, thereafter, three copies of an acceptance plan and "as-built" plan of the subdivision, which plans shall be in a format acceptable to the Planning Board, and consistent with the approved plan. Said plans shall provide two coordinate values on the NAD 83 Datum for two of the property line monuments shown on the approved plan. The Applicant shall also submit pdf and CAD versions of the acceptance and "as-built" plans on a flash drive.
- p. Each condition shall be construed as separate to the end, and if any condition shall be held invalid for any reason, the remaining conditions shall continue in full force and effect.

Members present: Richard Gosselin yes, Mat Ashmankas yes, Bruce DeVault yes, Terry Burke Dotson yes, Paul Piktelis yes.

MILLBURY PLANNING BOARD

The image shows three handwritten signatures on a document. The first signature is 'Terry Burke Dotson' written over a horizontal line. The second signature is 'Paul Piktelis' written over a horizontal line. The third signature is 'Bruce M. DeVault' written over a horizontal line.