

**TOWN OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
Monday, June 27, 2022 at the Town Hall at 6:00 p.m.**

PRESENT: Richard Dayton, Chairman
Caitlin Croft, Member
Robert Poole, Member
Timothy Zerfas Member

ALSO PRESENT: Gregory Keyser-Town Planner. Matt McAndrew-Town Supervisor,
Terrance Nolan - Borrego Solar, Adam Fishel - Marathon Engineering
John Zerfas-Town Board

Mr. Richard Dayton, Chairman called the meeting to order at 6:00 p.m. and presented the agenda. He introduced Greg Keyser, the Town Planner.

The Minutes of the March 28, 2022 meeting were read. Corrections were made.

Moved by Mr. Zerfas to approve the Minutes of March 28, 2022 as corrected. Seconded by Mr. Poole. Ayes all. Carried.

Mr. Dayton presented TPB-2022- 092, 6902 Simmons Road, special Use Permit and Site Plan Review for construction of a solar energy system.

Mr. Terrance Nolan of Borrego Solar presented the plan that was submitted last year for a 5 MW Community Solar Energy System with site access from Simmons Road. He noted that they were third in line to hook up to the Nationalgrid substation. Due to the time frame and costs the project was withdrawn.

Mr. Adam Fishel of Marathon Engineer presented the new plans including improvements to the installation of ground mounted solar arrays along with associated site, grading, drainage, landscaping and access. The project affects approximately 24.8 acres of land located in the A-R District. The system is intended to produce electricity primarily for off-site consumption and have the capacity to produce less than 25 MW of energy. Based on the current design approximately 30 acres of the 92 acre parcel will be leased from the current landowner. Mr. John Metz plans to use the remaining acreage for agriculture.

The arrays have been moved to the east which makes the site 3 acres smaller than last year's plan but with the same footprint. The proposed open space is 81% including easements and green area. The arrays are on property where the average slope ranges from 12.4% to 14.1% which meets the zoning code not allowing arrays on slopes steeper than 15%.

Mr. Fishel presented a simplified visual assessment reflecting terrain modeling as illustrated within Google earth. Visual buffering from tree canopy and existing vegetation is not reflected. The refined visuals will take into consideration existing terrain and tree canopy.

Mr. Dayton noted that the arrays are different from previously submitted. How will this affect drainage?

Mr. Fishel said we will have to provide drainage per NYS Stormwater runoff requirements. We will provide a depression area to slow down water flow and have it cover a wider area as it runs down hill. An erosion control blanket will be in place. The site will be mowed 2 or 3 times a year to keep the grass down which has to be below the panels.

Mr. Dayton asked, when once built will the array be sold to another company to operate? Who will maintain the site?

Mr. Nolan said we have a maintenance department, but the maintenance plan will be under the authority of the operating company.

Mr. Dayton asked, is your plan binding on the next operator?

Mr. Nolan said yes.

Mr. Greg Keyser noted that a conservation easement for open space needs to be provided sooner rather than later.

Mr. Nolan stated that a deed restriction is probably better for the open space requirement rather than a conservation easement. We will provide one for the Town Attorney.

Mr. Keyser asked, was line of sight done?

Mr. Fishel said we will provide a visual if the Town tells us where the line of sight is. We see it at the top of Simmons Road and can add landscaping if necessary to buffer. Is there a preference of evergreen or deciduous trees or a combination?

Mr. Dayton noted that the panels are 10 feet off the ground.

Mr. Poole noted that pines get really big.

Mr. Dayton advised that they should work with the 8 visuals we provided previously.

Mr. Poole asked how is the capacity of this new array compared to the one presented last year?

Mr. Nolan said the new array has more capacity (585 to 400).

Mr. Poole asked will the panels be cleaned?

Mr. Nolan said the pitch angle allows for runoff of rain or snow and regular cleaning is not necessary. Damaged panels will be replaced.

Mr. John Zerfas asked if they have addressed glare as per required in the zoning code?

Mr. Fishel said we can do a glare study to meet the requirements.

Mr. Dayton asked, will the array be visible to the development across the valley?

Mr. Nolan said we can address this in the glare study.

Mr. Fishel noted that the panels are less reflective than the ones in the previous plan.

Mr. Nolan noted that there are two projects in front of us. I don't know if the Planning Board has seen them yet. There is limited space on the substation and it is costly to get to the power substation. We would like to move the project along in a timely manner. Can you set a public hearing for the August meeting pending receipt of additional information.

Mr. Keyser said the Board cannot set a public hearing until it has a complete application to review. This project requires Cattaraugus County Planning Board 239 Referral review and a SEQR review and determination of significance.

Mr. McAndrews noted that he would like the Host Community Agreement in place proceeding the SEQR review.

Mr. Dayton asked, are the lines underground?

Mr. Fishel said yes except where they have to be above ground to hook to the poles.

Mr. Nolan said we can do plantings to ease the visual effect.

Mr. Keyser noted that the lines are underground to the right of way.

Mr. John Zervas asked about maintaining Simmons Road?

Mr. Fishel said we can provide before and after construction road conditions.

Mr. Zervas asked, does Simmons Road have a line of sight?

Mr. Poole asked, is there a weight limit for Simmons Road?

Mr. Dayton advised that the roads are bonded.

Mr. Dayton asked, will there be a laydown area?

Mr. Fishel said we usually use a grass field or farm meadow.

Mr. Keyser advised that an agreement on both a PILOT agreement and Host Community agreement has to be in place before the Planning Board can complete its review and approval process. A full statement of decommissioning with estimated cost and security bond to the Town of Ellicottville needs to be provided.

Mr. Poole noted the improvements in solar efficiency since last year's proposal. What happens if the equipment becomes obsolete?

Mr. Nolan said it will be decommissioned. We can only ever put 5MW into the grid per our agreement with Nationalgrid.

Mr. Matt McAndrew asked can you use third party bonding for decommissioning in lieu of Town?

Mr. Nolan said he is not aware of that option but will look into it.

Mr. Tim Zerfas referred to ridge view development. The plans show a foundation on the site. Is it in the 500 foot buffer? If it is a condemned structure you need to clarify to rule out. If it is an existing house can you get an agreement with the homeowner?

Mr. Nolan we can offer the resident a participating agreement as part of the project or a waiver. Currently we have not participating residents.

Mr. Zerfas referred to wetland A on the site plan. Is this a Federal wetland?

Mr. Fishel said we had the site evaluated for determination and it meets the criteria for Federal wetland designation,

Mr. Zerfas asked, what is the slope percentage?

Mr. Fishel said the actual site survey was completed to compile the data provided at 12.4% to 14.1%.

Mr. Zerfas noted that we will be setting a precedent with this first solar energy site and need to document how they calculated the average slope percentage for the record.

Mr. Fishel advised that they can provide a survey of average point to point standard in a 3D rendition and flow path analysis.

Mr. Zerfas asked if the maintenance plan includes keeping the access driveway open in the winter?

Mr. Fishel said yes, it will be plowed.

Mr. Zerfas asked if there would be construction of a well for water?

Mr. Fishel said we may bring in water to start the trees.

Mr. Zerfas asked, is there a stormwater retention area?

Mr. Fishel said NYS DEC has a bulletin on how to maintain hydrology and rain gardens as part of the state requirement.

Mr. Dayton asked, does your maintenance agreement include vegetation screening?

Mr. Fishel said the plan provides 1 to 2 years of maintenance including replacement of dying vegetation.

Mr. Keyser noted that the zoning code requires 6 foot high fencing.

Mr. Fishel said we are providing 7 foot high fencing which is the standard in solar projects.

Mr. Zerfas asked will there be security lighting?

Mr. Fishel said there will be motion-activated lighting.

Mr. Keyser noted there is no action by the Board until a complete application is submitted.

Mr. Keyser advised that he has received 3 items for the July agenda. A residential solar system from Kathleen McGoldrick, an addition to an existing cell tower on Jackman Hill Road

and a subdivision on Horn Hill Road. He received an inquiry for a solar farm on the former Crowley land but it will not work.

Mr. Poole asked if there is an update on the Tiny Home Village project?

Mr. Keyser said he has no update.

Mr. Zerfas said they have an issue with the engineering of the septic system and Cattaraugus County Health Department cannot approve it. They do not have a definition to cover the project. The Town designated it as a temporary residence.

Ms. Croft noted the number of cannabis distribution sites being opened in the surrounding areas. We need to have a conversation regarding zoning covering these operations which are currently not allowed in Ellicottville.

Moved by Mr. Poole to adjourn. Seconded by Mr. Zerfas. Ayes all. Carried.

The meeting was adjourned at 6:50 p.m.