

TOWN OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
Monday September 26, 2022 at the Town Center at 6:00 p.m.

PRESENT: Richard Dayton, Chairman
Sheri Barrera, Vice-Chairperson
Gary Mathe, Member
Bonnie Koschir, Member
Timothy Zerfas, Member
Caitlin Croft, Member
Bob Poole, Member

ALSO PRESENT: Gregory Keyser-Town Planner, John Zerfas-Town Board, Mike Brennan-Resident, Adam Fishel-Marathon Engineering, Asher Pontikos-Applicant, Terrance Nolan-New Leaf Energy, Megan Vogt-New Leaf Energy.

Mr. Richard Dayton, Chairman called the meeting to order at 6:00 p.m.

The Minutes of the August 22, 2022 meeting were read. Corrections were made.

Moved by Bonnie Koschir to approve the Minutes of August 22, 2022. Seconded by Ms. Barrera. Ayes all. Carried.

OLD BUSINESS

**TZP-2022-092 – 6902 Simmons Road 5MW Community Solar Farm
Special Use Permit for a Tier 3 Solar Energy System**

Mr. Dayton presented TZP-2022-092, 6902 Simmons Road, Special Use Permit for a Tier 3 Solar Energy System.

Mr. Keyser presented his staff report on this application for a Special Use Permit and Site Plan Review for a Tier 3 Solar Energy System. The applicant submitted a formal application to the Planning Board on June 27, 2022. Additional information has been provided based on comments from Barton & Loguidice (B&L), dated July 27, 2022. An interim review by Barton & Loguidice indicates sufficient information has been submitted and that the Planning Board may proceed with the SEQR process. The following items were noted.

- B&L is completing a more detailed technical review.

- B&L recommended two minor corrections to the FEAF.
- B&L noted that a viewshed analysis map and line of site profiles have not been provided with the photo simulations as Per the Town's Solar Law. However, the Planning Board previously determined the location of the photo simulations.
- A generic noise study has been provided for reference instead of a project specific analysis
- The Planning Board should confirm if the scale of the drawings is acceptable.

The applicant agreed to revise the FEAF to address B&L's comments and the Planning Board was in general agreement that the scale of the drawings is acceptable.

Mr. Keyser advised the Planning Board should only move forward with SEQR and not schedule a Public Hearing until the coordinated review process has been completed.

Moved by Tim Zerfas to classify the project as a Type 1 SEQR Action and direct the Planning Department to circulate a Notice of Intent to all Involved and Interested Agencies. Seconded by Ms. Barrera. Carried.

**TZP-2022-127 – 6312 Cotter Road – Minor Subdivision
Minor Subdivision Approval for a 2-Lot Subdivision**

Mr. Dayton presented TZP-2022-127, 6312 Cotter Road, Minor subdivision approval for a 2-Lot Subdivision.

Mr. Keyser presented his staff report on this application for a Minor Subdivision Approval for a 2-lot subdivision. The Planning Board deemed the request a Minor Subdivision on July 22, 2022. A public hearing is not required for minor subdivisions and the application was referred to the Cattaraugus County Planning Board for review on August 17.

The Cattaraugus County Planning Board responded on August 29, 2022 indicating that the project has not significant countywide or inter-community impacts, and that the application was of local concern.

The proposed subdivision does not exceed any Type 1 thresholds, nor does it appear to meet the definition of a Type II action under SEQR. The applicant completed Part 1 of the SEAF and the Planning Department completed Part 2 and Part 3 for the Planning Board's review.

Moved by Bonnie Koschir to classify the project as an Unlisted SEQR Action. Seconded by Mr. Mathe. Carried.

The Planning Board reviewed Part 2 and Part 3 of the SEAF.

Moved by Tim Zervas to accept Part 2 and Part 3 of the SEAF as submitted by the Planning Department and issue a negative declaration determining the proposed subdivision is not anticipated to have any significant impact on the environment. Seconded by Ms. Croft. Carried.

Moved by Bob Poole to approve the proposed two-lot subdivision. Seconded by Ms. Barrera. Carried.

NEW BUSINESS

TZP-2022-077 – 8030 Jackman Hill Road – Cellular Antenna Colocation Minor Subdivision Approval for a 2-Lot Subdivision

Mr. Dayton presented TZP-2022-077, 8030 Jackman Hill Road, Special Use Permit to collocate telecommunications equipment on an existing telecommunications tower.

Mr. Keyser presented his staff report on this application for a Special Use Permit to co-located antennas and equipment on an existing telecommunications facility. The project involves the installation of new antennas on an existing 301-foot tower and the installation of ground mounted equipment within the existing fence line of the current base station. The facility is located on land encompassing 41.95 acres and is in the Agricultural-Residential District.

Telecommunication towers are allowed as special permitted uses in the A-R District. The current facility is a pre-existing non-conforming structure that exceeds the maximum 150-foot height requirement for telecommunication towers. The proposal is the co-location of new equipment on an existing structure and does not increase the height of the existing tower nor does it expand the footprint of the current base station. Section 10.6(A) of the Town Zoning Code allows the collocation of new antennas on existing towers that do not meet the dimensional requirements of the code.

Local approval of telecommunication towers is subject to Section 6409 of the Federal Middle Class Tax Relief and Job Creations Act (Section 6409). Since telecommunication towers are considered public utilities that are obligated to provide an essential public service, the Town cannot prevent them from providing that service. Under Section 6409, the Town has authority to review new towers, but collocations and upgrades must be approved. However, while Section 6409 preempts some of the Town's authority, the Town still has its review/approval

authority under the Special Use permit of the zoning. The project is exempt from Site Plan Review and the colocation of new antennas is preferred to the construction of new facilities.

Mr. Keyser indicated that the proposed antennas weigh approximately 5,000 pounds and the applicant provided a structural analysis report to demonstrate the tower is structurally sound to support the weight of new equipment. The structural analysis has been referred to Barton & Loguidice for review.

Ms. Barrera asked if the Planning Board should wait for Barton & Loguidice comments.

Mr. Dayton indicated that the Planning Board only action tonight is to determine if there is enough information to hold a public hearing.

Mr. Keyser any comments from Barton & Loguidice can be considered with SEQR and or a final decision by the Planning Board.

Moved by Bob Poole to set a public hearing for TZP-2022-077, Special Use Permit for the Colocation of Telecommunications Equipment at 8030 Jackman Hill Road. Seconded by Ms. Croft. Carried.

OTHER BUSINESS

Mike Brennan, a Town resident residing at 6700 Simmons Road, Mr. Brennan indicated that he lives near the solar project and attended the meeting tonight to get more information.

Mr. Keyser indicated that the project is at the beginning of the review and approval process and that a public hearing will be scheduled in the future with information made available for public review.

Mr. Brennan indicated that he is concerned about ground water contamination from the material used to fabricate the solar panels as the equipment ages over time and runoff

The Planning Board indicated they would consider this as part of their review.

The Town's subdivision regulations indicate that a cluster subdivision is allowed in any zoning district while the Master Planned Development regulations require Cluster Subdivisions to also apply for a Master Planned Development. Master Planned Developments are considered permitted uses or uses allowed by Special Use Permit in every district.

Mr. Keyser asked the Planning Board for clarification on how the Planning Board might handle an application for a Cluster Subdivision where it's allowed in any district under Subdivision regulations but located in a district where Master Planned Developments are not permitted.

Much discussion took place. The Planning Board generally indicated that they would evaluate an application as submitted to the Board for review.

John Zerfas advised that the Town Board is asking the Planning Board to indicate whether it was appropriate to consider requirements to regulation short-term rentals in the Town. The Village adopted regulations for short-term rentals and Great Valley is proposing an ordinance.

Much discussion took place. The Planning Board generally indicated more information is needed about short-term rentals.

Moved by Caitlin Croft to adjourn. Seconded by Ms. Barrera. Ayes all. Carried.

The meeting was adjourned at 7:30 p.m.

DRAFT