

**TOWN OF ELLICOTTVILLE  
PLANNING BOARD MEETING MINUTES  
Monday, May 24, 2021 at the Town Center at 6:00 p.m.**

**PRESENT:** Richard Dayton, Chairman  
Sheri Barrera, Vice-Chairperson  
Caitlin Croft, Member  
Bonnie Koschir, Member  
Gary Mathe, Member  
Robert Poole, Member

**ALSO PRESENT:** Gary Palumbo-Town Planner, Kelly Fredrickson-CEO, Matt McAndrew-Town Supervisor, John Zerfas-Town Board, Mark Dean-Architect-Tiny Homes Village, Ray Miranda-Applicant, Terrence Nolan-Borrego Solar, Adam Fishel-Marathon Engineering, John Mett

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

**MINUTES**

The Minutes of the April 26, 2021 meeting were read. Corrections were made.

**Moved by Ms. Koschir to approve the Minutes of April 26, 2021 as corrected.  
Seconded by Mr. Mathe. Ayes all Carried.**

Mr. Dayton presented the agenda noting a change under New Business that the Board would address 6890 Horn Hill Road, Letter of Intent before Borrego Solar.

**TPB-2021-009-Tiny Homes Village (motel)  
Special Use Permit & Site Plan Review**

Mr. Palumbo presented his staff report on this application for Special Use Permit and Site Plan Review for multiple lodging structures (treated as a cottage-style motel). New plans were submitted on May 6, 2021.

There are still 11 structures in various sizes from 10'x28' (280 s.f.), 18'x18' (324 s.f.), 11'x36' (396 s.f.) and 20'X40' (800 s.f.). The 10'x28' is only one room. They are now arranged along a front parking lot with a single access off State Route 242 west. Access between parking and each unit is by a 4 foot wide path. It is understood that the property will not be subdivided and will remain in one ownership.

It appears that the applicable dimensional requirements are met with the revised Site Plan.

Mr. Palumbo commented on the following issues which should require revision to the Site Plan:

1. Parking circulation. Without seeing how many bedrooms are provided in each of the structures, it is difficult to determine if an adequate number of parking spaces is provided. One space is required for each room. Assuming the lofts are a room and the 20'x40' building is a total of 3 spaces, then a total of 21 spaces should be provided for transient guests, plus 1 space for 3 employees for a total of 22 spaces where 20 are provided. Can 2 spaces be added or is the Planning Board willing to reduce the total-as part of your site plan discretion
2. Setback to parking. The side yard and front yard setbacks are now met for the parking and drives as required in Section 3.9.B
3. Parking stalls are 9'x18' rather than 9 ½'x18'. The Planning Board needs to discretionarily approve.
4. Driveway and parking aisle widths. The driveway and parking aisles are shown at 24 feet and 20 feet respectfully. Section 5.3.F requires a 24-foot aisle for 90-degree parking. The Planning Board needs to discretionarily approve. NYS Fire Code does allow a minimum of 20 feet (as a fire apparatus access road). Parking must be striped.
5. Sidewalks are shown at 4' and 5' in width. No detail is provided. A method should be proposed on how to keep vehicles off the pedestrian sidewalks.
6. Snow storage. Adequate (accessible) snow storage areas need to be provided in accordance with Article 5.3. At a minimum 10% of the hard surfaced area should be in snow storage. 1,100 s.f. of snow storage is shown on the Site Plan, where 1,544 s.f. Is 10% of the hard surfaced areas.
7. Snow storage and landscaping should not obstruct the Town's access to the existing PRV pit. The PRV pit should be shown on the existing survey, site plan and utility plan. The applicant and Town Engineer should discuss access to the pit, which is part of the Town water system.
8. The decks on 2 buildings are in the regulatory floodplain. A Floodplain Development Permit will be required before construction.
9. Residential buffer. A light tight fence needs to be provided along the east and west side lot lines in the vicinity of the parking and driveway. Fencing should be shown on both the site plan and the landscape plan.
10. Lighting: Light poles have been relocated on the Site Lighting Plan, but not on the Site Plan or Site Landscaping Plan. With relocation of the poles, off-site lighting has been reduced, and the light trespass on the neighboring properties is now less than 0.1 footcandle within 5 feet of the poverty line. The standard is met.
11. Verizon Easement. While it is not the Town's responsibility to ensure the conditions of their easement are met, it is noted that there is parking provided over the easement to Verizon.
12. Floor plans and Elevations have been provided for 3 of the 4 structures. There is none for the 20'x40' unit.
13. Sign. The site plan should show where signage will be located.
14. The Site Plan and Site Landscaping Plan should show where the dumpster will be located. Per Section 13.3.D.(3), garbage dumpsters and receptacles should be placed

out of view from adjacent properties, pedestrian ways (trails and sidewalks), and adjoining public roads, and should be screened from view.

15. The Site Notes on the Site Plan item #5, references "project limits", but neither the Site Plan nor grading plan provide a limit of disturbance boundary.

Mr. Palumbo noted 20 parking spaces are provided. He calculates 22 are required which include 1 space for each 3 employees.

Mr. Dean said they planned for 1 space per unit. There are no employees. All rentals will be made online with instructions for access to the unit.

Ms. Koschir referred to the sidewalk and asked if there is a curb?

Mr. Palumbo said no.

Mr. Poole noted that there could be signage to designate the pedestrian path.

Mr. Dayton said that greenery around the PRV pit would be a good idea with permission for the Town to access it as required.

Mr. Dean said he had no problem with doing so.

Ms. Barrera referred to the snow storage area which is short by 444 s.f.

Mr. Palumbo advised that there is a second 600 s.f. Snow storage area to the east on the revised site plan dated May 6, 2021..

Ms. Kosher referred to the site utility plan noting that the overhead electric wires are not on the new plan.

Mr. Palumbo referred to site plan A1.

Mr. Dean said he will relocate the poles and wires.

Mr. Poole referred to site plan C4 which shows the new relocated lines and poles.

Mr. Poole referred to the decks in the floodplain. How will this be addressed?

Mr. Dean said the deck and portion of unit 6 are on piers to allow water to flow under them.

Mr. Palumbo advised that the existing water and sewer utility lines were constructed for the previously approved "Deer Creek" Subdivision project. These facilities were designed and constructed for a townhouse subdivision project where each unit would have its own service of the public line. The public utilities will be brought back from the water and sewer districts which will require Town Board approval prior to issuance of permits.

The Town Engineer has to review the revised plans. Mr. Slotman has indicated that he will email his comments directly to Mr. Dean prior to the public hearing.

Mr. Dean said we can address the issues discussed including a fence and sidewalk. We can slide Unit 5 over for less disturbance. He noted that he interpreted the parking code as 1 vehicle per room and 1 space for each 3 employees. The only staff will be a cleaning person when clients check out. There will be empty spaces where staff can park for that purpose.

The dumpster site is at the end of the parking lot reducing the parking spaces by 2. With one per unit we have more than enough parking.

Mr. Palumbo said he interpreted the parking code as one space per guest room. Some units have more than one sleeping area. You cannot control the number of people sleeping on site or control the number of vehicles. Losing spaces for a dumpster site reduces the number that can be provided.

Ms. Koschir asked will you use totes or a dumpster?

Mr. Dean said a standard dumpster and a recycling dumpster which will be enclosed.

Mr. Dayton asked Mr. Palumbo, how many spaces do you think should be provided?

Mr. Palumbo said two per unit.

Mr. Palumbo noted that zoning requires that a local contact person has to be provided for short term rentals to handle noise or physical emergencies.

Mr. Dean said the owner controls who rents the units.

Mr. Poole asked how can you control who rents online?

Mr. Palumbo suggested adding parking between some of the buildings.

Mr. Dayton suggested locating the dumpster between two of the units instead of in the parking lot.

Mr. Palumbo noted that the parking lot location is ideal for pickup. If the Planning Board accepts the 20 foot drive aisle there may be room for parking spaces between the units.

Mr. Dean said he will find a solution for the parking and address the other issues discussed before the next meeting.

Mr. Palumbo advised that the proposal is classified as an Unlisted Action under SEQR Part 617. The Planning Board must review a Short EAF Part 1. I will review draft Part 2 and 3 for the Board's consideration prior to taking action after the public hearing is closed.

Once the public hearing is set a referral will be sent to the Cattaraugus County Planning Board. If the Planning Board feels it has enough information for a meaningful public review it can set a public hearing for the June 28, 2021 meeting.

**Moved by Mr. Mathe to set a public hearing for TPB-2021-09, Tiny Home Village, Special Use Permit and Site Plan review for multiple lodging structures for June 28, 2021 at 6:00 p.m. Seconded by Ms. Barrera. Ayes all. Carried.**

**TPB-2020-104 Elk Creek Subdivision  
Final Plat**

Mr. Palumbo advised that Preliminary Plat approval was granted at the April meeting and the applicant is working on the requirements for Final Plat approval including engineering issues. No action is required at this time.

**TPB-2021-065 6890 Horn Hill Road  
Letter of Intent for Minor Subdivision**

Mr. Palumbo presented his staff report on this request for Minor Subdivision under Section 2.2(C) of the Subdivision Regulations. "A subdivision as defined herein shall be a Minor Subdivision if it meets all of the following criteria:

1. The division of any parcel into fewer than five (5) lots; and
2. All lots have legal access to an existing public highway; and
3. All lots meet the Health Department standards with regard to water supply and sewerage disposal; and
4. All lots meet the current zoning ordinance regulations for the district in which the lots are located; and
5. The Planning Board determines that the proposed subdivision is not likely to have a potentially major impact on the orderly growth and development of the Town
6. The Planning Board determines that the proposed subdivision is not likely to have a potentially significant impact on the environment.

The proposal is to subdivide approximately 20 acres into 2 lots of 6.0 acres and 14.6 acres. The property is located in the Low Density Residential District where single-family dwellings are permitted uses with a building permit from the CEO. All lots must meet all the zoning requirements.

The survey shows an existing minimum lot width of 116 feet. Creating the panhandle lot would reduce the existing lot to 115.87 feet for the existing house and 53.33 feet for the proposed house, which is less than 150 foot minimum lot width (measured at the right-of-way). For this reason, the 2-lot subdivision does not meet the criterion #4 for a minor subdivision. The subdivision regulations indicate that panhandle should be avoided except where there is a design benefit, which makes this a discretionary decision by the Planning Board.

Mr. Ray Miranda presented the site plan.

Ms. Koschir asked, is the driveway a straight line?

Mr. Miranda said this is a shared driveway for both parcels with a switch-back.

Ms. Barrera asked, does the driveway go over the ridge

Mr. Miranda said yes.

Mr. Palumbo asked, will there be clearing for the driveway?

Mr. Miranda said there will be some clearing, but we want to keep most of the trees.

Matt McAndrew advised that a driveway permit from the Town Highway Superintendent will be required for the shared driveway.

Mr. Mathe asked what is the size of the panhandle lot?

Mr. Miranda said 20 to 30 feet.

Mr. Palumbo noted that the proposed house has to be 100 feet from the significant ridgeline.

Mr. Miranda said the proposed 2 story house will be below the ridgeline.

Mr. Palumbo stated that no 239-M Referral to the Cattaraugus County Planning Board is required. A minor subdivision is not classified as a Type 1 or Type 2 Action under SEQR Part 617. No further review is required under SEQR.

Mr. Palumbo stated that the proposed subdivision meets all the applicable criteria for a minor subdivision, except under a strict reading of item 4. If the Planning Board wishes to define the measure of minimum lot width as where the building envelope begins (front setback), then the application may be approved with conditions which he offered for consideration.

**Moved by Ms. Croft that the Planning Board determines the proposal to subdivide 20 acres into 2 lots as presented in TPB-2021-06, at 6890 Horn Hill Road meets the definition of a Minor Subdivision under Section 2.2(C) of the Subdivision Regulations with the following conditions:**

- a) **Front setback measures at a point where the lot is greater than 150 feet, and**
- b) **Deed-recorded cross easement for driveway.**
- c) **Clearing on each side of the 200 foot stretch of the driveway is limited to a maximum of 25 feet.**
- d) **A driveway permit must be obtained from the Town Highway Superintendent**

**Seconded by Ms. Koschir. Ayes all. Carried.**

**TBP-2021-070 Borrego Solar, 6902 Simmons Road  
Pre-application conference**

Mr. Palumbo presented his staff report on this pre-application conference for a Tier 3 Solar Energy System (utility-scale or solar farm) on an approximately 92 acre parcel with “agricultural vacant land (productive)” land use classification. Approximately 30 acres will be leased for the 5-megawatt solar farm with a new access drive extending from Simmons Road.

The property is located in the Town’s Agricultural-Residential District where a Tier 3 solar farm is allowed with a Special Use Permit and Site Plan review from the Planning Board. The parcel is large enough to meet all the dimensional requirements. The layout presented does not show the full property or surrounding owners/residential structures.

The applicant must explain their open space calculations. Staff analysis shows that the in-fence area is approximately 28.7 acres. To have 28.7 acres inside the fence (covered) then the total project area needs to be approximately 145 acres either on site or in offsite open space easements.

A review of the available information from Cattaraugus County GIS website indicates that the overall slope across the site is less than 25%. The applicant's specific slope map indicates slopes are approximately 15%.

Mr. Adam Fishel, of Marathon Engineering presented the site plan and slope map for the proposed Tier 3 Solar project. He noted that since his discussion with Town Staff on April 22 the system layout has been updated to reduce the amount of tree clearing to comply with the Town's clearing requirement. The footprint was expanded into the western field (Array 1A). This change was needed to maintain the system output capacity since the array footprint in the eastern field (Array 1B) was reduced to minimize tree clearing to account for shading expected by the perimeter tree lines.

Mr. Fishel noted that the code states that this type of solar facility shall not be permitted on property having slopes greater than 15%. The site does have isolated areas where the ground slope is greater than the maximum 15% allowed for solar projects. The areas where site grades exceed 15% are preliminary no greater than 17.5%, with some small areas approaching 20%. Areas greater than 20% are avoided completely. The steepest average slope, located in the northwest corner of Array 1B is 14%. He feels that the system's location complies with the intent of the Town code relative to placement of solar facilities on slopes greater than 15%.

Mr. Fishel advised that the code states that open space requirements of the underlying district shall apply to the leased area for a solar system. A minimum of 80% of the total lot area shall be devoted to usable open space. Use of the lot as agriculture and/or forestry, excluding structures, shall be considered open space. The provided Open Space within the lease area does not individually comply with the 80% coverage requirement. The owner has indicated he is willing to set aside over 6.6 acres from their neighboring parcel as well as over 13.7 acres of onsite perimeter wooded and wetland areas via Open Space Easements.

Mr. Palumbo advised that the Planning Board needs to determine if it agrees with the applicant's interpretation of the open space calculation.

Ms. Koschir asked, is green space without the road or pad part of your calculation? What is that percentage?

Mr. Fishel said open space in the fenced area is 67%, plus 20 acres of easements meets the 80% requirement. We need the acreage for a 5 megawatt project because of the shaded areas on the property.

Mr. Poole asked what is the distance between the arrays?

Mr. Fishel said 15 to 16 feet.

Mr. Poole asked can the arrays be closer together than 15 feet?

Mr. Fishel said we need the area for stormwater control.

Mr. Dayton noted that OMNI presented a 5 megawatt project on an area half the size of your proposal. Why are you using this configuration?

Mr. Terrence Nolan advised that Mr. John Mett, property owner, wants to use part of his land as a Christmas tree farm.

Mr. Mett stated that he purchased the land for agriculture uses and would like to keep the amount of land leased for the project as small as possible.

Mr. Palumbo advised that the applicants need to show the planning board that the plan is viable.

Mr. Fishel gave examples of other projects in the area that he has worked on for reference.

Mr. Palumbo said he will look into the referenced projects and report back to the board before the June 28, 2021 meeting.

**Moved by Mr. Poole to adjourn. Seconded by Ms. Koschir. Ayes all. Carried.**

The meeting was adjourned at 7:25 p.m.