

**TOWN OF ELLICOTTVILLE  
PLANNING BOARD MEETING MINUTES  
Monday, May 22, 2023 at the Town Center at 6:00 p.m.**

**PRESENT:** Richard Dayton, Chairman  
Sheri Barrera, Vice-Chairperson  
Daniel Kruszynski, Member  
Robert Poole, Member  
Timothy Zerfas, Member

**ALSO PRESENT:** Gregory Keyser-Town Planner, Kelly Fredrickson-CEO, John Zerfas-Town Board, Lori Northrup, Bill Northrup-Applicants, Don Naetzker, Terrence Nolan-New Leaf Energy, Adam Fishel-Marathon Engineering, John Metz, Kyle Woodin, Jim Linsler, Alicia Brennan, Michael Brennan, Randy Krotz, Sara Krotz, Lisa Krotz, Melissa Haldey, Heidi Sworts, Gabe Bialkowski, Carol Krotz, Chad Neal-Applicant, James Sedita, Ed Bartlett, Jean Bartlett

Mr. Richard Dayton, Chairman called the meeting to order at 6:00 pm and opened the public hearing for **TZP-2023-144, Robbins Road, Chad Neal, Special Use Permit and Site Plan approval for a park golf course.**

Mr. Keyser presented his staff report on this Special Use Permit and Site Plan approval to allow a park style golf course on property adjacent to the Ellicottville Distillery. The proposed course includes 18 holes covering approximately 7 acres with minimal land disturbance to establish and operate. The property encompasses approximately 17.20 acres and is situated in the Industrial and Conservation Zoning Districts.

Mr. Dayton asked for questions or comments from the people attending.

Mr. Keyser advised that no written or verbal comments were received in response to the public hearing notice which was published in accordance with local law.

**Moved by Mr. Poole to close the public hearing for TZP-2023-144, Robbins Road, Chad Neal, Special Use Permit and Site Plan approval for a park golf course. Seconded by Mr. Zerfas. Ayes all. Carried.**

Mr. Dayton opened the public hearing for **TZP-2022-092, 6902 Simmons Road, New Leaf Energy, Special Use Permit for a Tier 3 Solar Energy System.**

He asked for questions or comments from the people attending.

Ms. Lisa Krotz referred to the report on the composition of the panels noting that the individual testing figures for lead and barium do not match the samples or figures in the final results. She also noted that a fire risk assessment has not been provided. How will first responders handle panels?

Mr. Tim Zerfas advised that he works for Cattaraugus County Health Department and handles solar energy questions. He noted that a concern should be about groundwater and well water. Metals are found in groundwater. You should get a baseline sample of your water and have a third party test it.

Mr. Adam Fishel of Marathon Engineering stated that they are working with the Town Engineer and are trying to get specifications on panels that meet the zoning requirements and NYSDEC standards. Solar panels are exempt from NYS Fire Code. We will pay for training for the Fire Department. We have contacted the Ellicottville Fire Department about the project and they have not responded with any concerns.

Ms. Heidi Sworts asked is there a fire plan? The area at the top of the hill is surrounded with woods. How would a fire be detected?

Mr. Fishel said an emergency contact number will be posted at the site. The system will detect any issues including a fire. We can provide a fire response plan which we will review with the fire department.

Mr. Dan Kruszynski noted that with electrical fires you have to wait for the power company to come and shut down the power. The Fire Department is not equipped to handle electrical fires, but are equipped to handle fire in the surrounding area. Cattaraugus County has training for electrical fires.

Mr. Terrence Nolan of New Leaf Energy noted that there is a shut off mechanism if there is no human factor on site. The panels burn out.

Mr. Randy Krotz asked do you just let the panels burn out?

Mr. Fishel said the panel modular is not combustible. The risk of fire is in the transformers.

Mr. Krotz asked will the road be plowed in winter for access in case of a fire?

Mr. Nolan said the road will be cleared year round for maintenance access.

Ms. Sworts noted that there will be a 3 to 15 percent reduction in property values. Will our taxes be lowered because of the decrease in value? What criteria was used to determine the value of the bond for the decommission?

Mr. Nolan stated that the Town Engineer will review the plan we submitted. The \$800,000 figure we quoted is not a set amount.

Ms. Sworts asked if panels are damaged before the expected shelf life is there a plan to remove them?

Mr. Nolan said figures are based on a plan to use the panels for a certain period of time which will be reviewed every two years. We can adjust values if necessary. The operating procedure is to inspect panels on a monthly basis. The decommissioning of the project triggers the bond which is in the favor of the Town who issues the building permit.

Ms. Swortz asked what is the guarantee that the Georgia based company referred to in the materials will still be in business to take the used panels?

Mr. Nolan advised that we needed a dollar figure to base the bond figures on which will be reviewed by the Town Engineer. We can get quotes from other companies.

Me. Keyser noted that the Town has sent the plan to Barton & Loguidice, a third party engineering firm, to review the plans and offer their findings.

Ms. Swortz said it would be a shame if the project did not work and we ended up with contaminated land.

Mr. Dayton stated that the Planning Board is here to plan a safe project.

A resident of Simmons Road noted that the land is zoned Agricultural-Residential. Will it be rezoned Commercial?

Mr. Keyser said the property will not be rezoned. The Town of Ellicottville adopted a Solar Law which allows solar energy projects in the Agricultural-Residential District.

Ms. Sara Krotz asked, will the taxpayers be responsible for the decommission costs if the bond is not enough to cover the project.

Mr. Keyser noted that the Cattaraugus County Planning Board reviewed this project and recommended it be approved. The stormwater management plan and the decommission plan are not complete and we will make sure everything is addressed.

Ms. Sworts asked did the NYSDEC approve the plan?

Mr. Keyers said that NYSDEC reviewed the plan and their letter contains comments on stormwater management, historic resources on site and impacts to farm land, but does not approve or disapprove a plan.

Ms. Barrera asked can you address lead and barium levels?

Mr. Fishel said we did not do a study but are working with Mr. Keyse and the Town Engineer to meet the safety codes. The panels are not hazardous and we will meet the standards.

Mr. Nolan advised that the information on the panels supplied meets the industry standard. We won't know the exact panel until we are ready to purchase and will find panels that meet the Town requirements.

Mr. Dayton advised that part of the Planning Board review is to make sure the panels meet the standard and to address your concerns.

Mr. Randy Krotz asked will you get panels made in the United States?

Mr. Nolan said that US companies are now making panels. We do not have a service date but have incentive to purchase US made panels.

Ms. Krotz asked if buying US made panels will affect the decommission bond amount?

Mr. Keyser said Barton and Loguidice, the Town Attorney and the Town Board will review the bond criteria and also make a Community Host Agreement with the applicant which will provide financial payment.

Ms. Lisa Krotz asked can the Planning Board require a toxicology report on the panels?

Mr. Keyser said that we can ask Barton and Loguidice to ask for a report as part of their review of the project.

A resident asked, how does the Town benefit from the project?

Mr. Dayton said the Town benefits from the PILOT agreement and payment.

**Moved by Mr. Kruszynski to close the public hearing for TZP-2022-092, 6902 Simmons Road, Special Use Permit for a Tier 3 Solar Energy System by New Leaf Energy. Seconded by Mr. Zerfas. Ayes all. Carried.**

The Minutes of the April 24, 2023 Planning Board Meeting were read. Corrections were made.

**Moved by Ms. Barrera to approve the Minutes of April 24, 2023 as corrected. Seconded by Mr. Kruszynski. Ayes all. Carried.**

Mr. Dayton presented TZP-2023-144, Robbins Road, Chad Neal Special Use Permit and Site Plan approval for a proposed park golf course for discussion.

Mr. Chad Neal presented the proposed project and tentative layout of the proposed 18 hole golf course on approximately 7 acres with minimal land disturbance. This will be a walk only course with no carts.

Ms. Jean Bartlett asked if vehicles will be parked on the road close to her home?

Mr. Neal said that there will be parking for customers across the road from the distillery.

Mr. Ed Bartlett asked if golf balls will be hit into their yard?

Mr. Neal advised that the balls do not fly like a standard golf course ball. There should not be any trespass on their property.

Mr. Bartlett asked if lights will shine in his yard?

Mr. Neal said there will not be any lighting. This is a daytime golf course which will be open from noon to dusk every day but only in the summer months.

Mr. Keyser advised that the applicant has provided Part 1 of the Short EAF and the Planning Board should classify the projects as an Unlisted Action before acting on the Special Use Permit and Site Plan approval.

**Moved by Mr. Kruszynski that based on its review of the Short EAF, the Planning Board makes a determination of nonsignificance documenting that the proposed action will not result in significant adverse environmental impacts, and issues a Negative Declaration. The Planning Board also grants Special Use Permit and Site Plan approval of the proposed park golf course at Robbins Road as per materials submitted in TZP-2023-144 by Chad Neal. Seconded by Ms. Barrera. Ayes all. Carried.**

Mr. Dayton presented TZP-2023-039, 8030 Jackman Hill Road, American Tower, Special Use Permit for a cellular antenna co-location for discussion.

Mr. Keyser advised that he has not received a structural analysis of the tower from Barton & Loguidice.

**Moved by Mr. Zerfas to table TZP-2023-039, 8030 Jackman Hill Road, American Tower, Special Use permit for cellular antenna col-location on the existing tower, pending receipt of structural analysis of the tower from Barton and Loguidice. Seconded by Ms. Barrera. Ayes all. Carried.**

Mr. Dayton presented TZP-2022-170, 0 Bella Vista, Joe Tanner amendment to the approved Final Plat at Holihuts Subdivision for discussion.

Mr. Keyser noted that the Planning Board met with the Town Attorney with regard to the issues with the Holihuts Subdivision, but Mr. Tanner was not present. The subdivision was never completed and as presently exists does not match the approved plan. Despite previous development being allowed, the original approval is not valid and building permits are no longer being granted until Holihuts HOA completes the subdivision or obtains a new plat approval.

Mr. Dayton stated that the Planning Board needs to determine if the proposed change is de minimus or substantial. He noted that it appears there are major issues to be resolved and the changes will be substantial.

**Moved by Mr. Kruszynski that based on its review of the application and advice from the Town Attorney, the intent to subdivide is a major change to the Holihuts Subdivision plat. Seconded by Ms. Barrera. Ayes all. Carried.**

Mr. Dayton presented TZP-2023-019, 6650 US Route 219 North, Pengilly Corp. amendment to a previously approved plan.

Mr. Keyser advised that John Northrup, applicant is proposing to construct a new 2,790 s.f. Storage building at the Ellicottville Storage Facility. The building will be constructed on an existing concrete pad and accessed on the site using an existing driveway. The property is approximately 4.85 acrs in the General Commercial Zoning District.

In 2009 the Planning Board granted Special Use Permit and Site Plan approval for three self service storage units. In 2021 a fourth storage building was approved. Since the property already has a Special Use Permit allowing the self storage units for the current use of the property, only an amendment to the Site Plan is required from the Planning Board to allow a fifth building to be constructed. If the Planning Board determines that the requested change is minor (de minimus action), the Board may approve the amendment administratively, without a public hearing or referral to the Cattaraugus County Planning Board.

**Moved by Ms. Barrera that the proposed construction of a fifth storage unit at 6650 US Route 219 North is a minor (de minimus) change and grants the amendment to the previously approved site plan for Pengilly Corp. as per materials submitted in TZP-2023-019 by John Northrup. Seconded by Mr. Poole. Ayes all. Carried.**

Mr. Dayton presented TZP-2023-182, 6442 NYS Route 242 E, NorthPark Ellicottville LLC, pre-application conference for a master Planned Development.

Mr. Don Naetzker, representing Bill and Lori Northrup, presented the proposed Master Planned Development to allow a mix of commercial and rental housing units on approximately 10.90 acres. 80% of the property in the Town High Density Residential District and 20% is in the Village Medium Density District. A 20,000 s.f. expansion to the existing commercial manufacturing structure and 56 housing units consisting of 48 townhouse units and 8 live/work units are proposed. The live/work units will allow for commercial uses on the first floor with living space on the second. This will be a green and sustainable energy efficient project. The site has been surveyed and the wetlands mapped. Floodplain and setback issues will be addressed, A snow storage area is proposed. Improvements will be made to the access road and a road around the pond with a turnaround for emergency vehicles is proposed. The project will be constructed in four phases.

Ms. Lori Northrup noted that the business was started in 1980 with a local site and plants around the world. Everything has been moved to Ellicottville. With the growth rate for vocational training equipment and cyber security we need more space. We currently have 27 employees and will add 75 more jobs with the expansion.

Mr. Dayton asked will you use AirBnB for renting the units?

Ms. Northrup said the plan is for more long term rentals, but there may be some AirBnB. We will offer units to our employees first and then to the general public.

Mr. Kruszynski asked will you sell any units?

Mr. Northrup said no.

Mr. Keyser stated that the current use of the property is a non-conforming use involving light manufacturing and product assembly. The property is in a 100-year flood hazard area and contains a pond, a minor tributary to Great Valley Creek, wetlands and in an Archaeological Buffer Area designated by NYS Office of Parks, Recreation and Historic Preservation. Area variance from side setback requirements will be required unless the Planning Board is willing to reduce interior setback requirements under Section 4.4(D).

A small portion of the project site is in the Village and will be subject to applicable Village Zoning regulations, review and approvals including a Special Use Permit, Site Plan Review and Architectural Design Review. He has recommended the applicants meet with the Village Planning Board for a pre-application conference.

Ms. Northrup said she hopes that with only a small part of the project in the Village, the Village Planning Board will give authority to the Town Planning Board to handle the project.

Mr. Keyser said he will find out if there can be one entity (Town or Village) to review the whole project. The applicants are trying to get a sense if the project will work before moving forward.

**Moved by Mr. Zervas to adjourn. Seconded by Mr. Kruszynski. Ayes all. Carried.**

The meeting was adjourned at 8:10 p.m.