

TOWN OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
Monday, June 26, 2023 at 6:00 p.m. at the Town

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

ALSO PRESENT: Gregory Keyser-Town Planner, Kelly Fredrickson-CEO, Keith Ewald-Barton & Loguidice, Adam Fishel-Marathon Engineering, Terrence Nolan-New Leaf Energy, Alicia Legland-Hodgson Russ LLP-New Leaf Energym Sara Krotz, Randy Krotz, Zachery Krotz, Katie Krotz, Carol Krotz, Kyle Woodin, Jim Linsler, John Metz

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

The Minutes of the May 22, 2023 Meeting were read. Corrections were made.

Moved by Ms. Croft to approve the Minutes of May 22, 2023 as corrected. Seconded by Mr. Zerfas. Ayes all. Carried.

Mr. Dayton presented TZP-2023-029,8030 Jackman Hill Road-American Tower, Special Use Permit for cellular antenna co-location.

Mr. Keyser advised in the review of the application materials Barton & Loguidice had questions with regard to the category rating for the tower which is currently at two. They need to confirm with New York State the category that applies to the design standards. Will the upgrade with the Department of Defense equipment change the rating to a four?

Mr. Dayton asked for a motion to table the application pending receipt of additional information.

Moved by Ms. Barrera to table TZP-2023-029-8030 Jackman Hill Road, American Tower, Special Use Permit for cellular antenna co-location pending receipt of additional information with regard to design standards category rating. Seconded by Ms. Koschir. Ayes all. Carried.

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

Mr. Keyser advised that the Planning Board needs to review the Full Environmental

Assessment Form prepared by Barton & Loguidice and make a Determination of Significance, either issuing a Negative Declaration or a Positive Declaration. The Planning Department recommends that a Negative Declaration should be made as there are no significant environmental impacts.

Ms. Barrera asked if the updated answers to the questions are acceptable.

Mr. Dayton advised that the questions from the public were directed to New Leaf Energy.

Mr. Keith Ewald of Barton & Loguidice advised that they have reviewed both the questions and the answers and offered their comments for the Planning Board to consider.

Mr. Dayton presented the Full EAF Part 2 for review: 1. Impact on Land- yes. (no, or small, moderate to large impacts may occur).

2. Impact on Geological Features- no.

3. Impact on Surface Water-yes. (no,or small impacts may occur).

4. Impact on groundwater-no.

Ms. Barrera stated that this should be yes and referred to Mr. Zerfas's suggestion at the May meeting for neighbors to have their wells tested.

Mr. Zerfas said that he was recommending a baseline test before construction so they would have knowledge about their water.

Ms. Koschir said we should change #4 to yes with no, or small impacts. Board members agreed.

Mr. Keyser noted that SWPPP will address many of the concerns.

Mr. Adam Fishel said the project meets NYSDEC requirements. The panels do not propose any threat to the groundwater.

Mr. Terrence Nolan said that New Leaf Energy will pay for water testing for the neighbors.

5. Impact on Flooding-yes (no, or small impact may occur).

6. Impact to Air- no.

7. Impact on Plants and Animals-yes (no, or small impact may occur).

8. Impact on Agricultural Resources-yes. (small, moderate to large impacts may occur).

Mr. Keyser noted that the land will be restored to NYS Dept. of Agriculture & Market requirements when the project is decommissioned.

9. Impact on Aesthetic Resources-yes. (small, moderate to large impacts may occur).

Mr. Keyser stated that a concern of the residents was the visual impact. Have those concerns been mitigated as much as possible?

Mr. Dayton noted that screening along the road side is proposed.

Mr. Terrence Nolan of New Leaf Energy advised that the site was moved 500 feet further up the slope and plantings along the western side are proposed. We have offered plantings along the residents property lines.

Ms. Koschir asked, who maintains the site?

Mr. Keyser said the Board can make a condition that the vegetation must be maintained.

Mr. Fishel advised that dead or diseased trees will be removed and replaced with new trees at an annual inspection.

Mr. Nolan said there will be a monthly inspection of the site.

Mr. Keyser stated that the Planning Department will respond to any concerns.

10. Impact on Historic & Archeological Resources-no.

11. Impact on Open Space & Recreation-no.

12. Impact on Critical Environmental Area-no.

13. Impact on Transportation-no.

Mr. Keyser noted that the project will not be a traffic generator. There will be more traffic during construction.

Mr. Fishel said the time frame to complete the project is about 12 months.

14. Impact on Energy-yes (no, or small impacts may occur).

Mr. Nolan advised that there will be upgrades of equipment for safety but no upgrades to the substation.

15. Impact on Noise, Odor & Light-yes (no, or small impact may occur).

Mr. Dayton asked, is there a decibel level requirement?

Mr. Nolan said the noise is minimal from the inverters at the array site and the one light is motion activated.

Mr. Keyser noted that the vegetation will reduce noise levels.

16. Impact on Human Health-no.

Ms. Barrera asked, are there any studies on health impacts from other sites in the state?

Mr. Keith said no.

17. Consistency with Community Plans-yes (no, or small impact may occur).

18. Consistency with Community Character- yes (no, or small impact may occur).

Mr. Keyser noted this is the first project in the community under the Solar Law.

Mr. Keyser offered Part 3 of the Full EAF for the Board to make a determination of significance.

Ms. Barrera referred to the comment letter from Cattaraugus County Planning Board, noting it is not clear if they are for or against the project.

Mr. Dayton said he would like a letter from the Cattaraugus County Planning Board verifying that all their concerns have been addressed.

Mr. Keyser advised that the Board can act on SEQR without Cattaraugus County Planning Board approval. The Cattaraugus County Planning Board is an advisory committee.

Mr. Ewald said that their analysis included a response to the comments from the County Planning Board. We do not need additional comments from them.

Mr. Nolan stated that the County is generally opposed to solar projects especially on farm land. They also have a moratorium on PILOT agreements until July 2023.

Mr. Dayton said he wants to make sure any Town Planning Board decision is solid.

Moved by Ms. Croft to accept the Full EAF Part 2 with a change to 4. Impact on Groundwater to yes (no, or small impacts may occur). Seconded by Ms. Barrera. Ayes all. Carried.

Mr. Dayton read the resolution prepared by Barton & Loguidice.

Moved by Ms. Croft to classify the proposed project as a Type 1 Action under SEQR 617.4. The Planning Board makes a determination that the project will not have a significant adverse environmental impact and issues a Negative Declaration. Ayes-5. Nays-1. Carried.

Mr. Keyser advised that as an involved agency the Cattaraugus County Planning Board will have a second chance to review the project. The Town Planning Board has 62 days to act on the application.

Mr. Keyser noted that New Leaf Energy was asking for a conditional approval pending the expiration of the PILOT Agreement moratorium.

Mr. Nolan advised they will not be pursuing a PILOT Agreement so the moratorium will not apply.

Mr. Dayton asked if Mr. Fredrickson will have a list of requirements when he inspects the project during and after construction if the project is approved?

Mr. Keyser said the Notice of Decision with conditions will provide a list.

Mr. Keyser advised that the July meeting will have an application from Crosby's for a gas station on the corner of Route 242 and 219.

Ms. Barrera asked for an update on the Joel Tanner/ Holihuts project?

Mr. Keyser said that Mr. Tanner and his attorney are working with Holihuts HOA and HoliMont on the issues.

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

The meeting was adjourned at 7:15 p.m.