

TOWN OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
Monday, August 28, 2023 at 6:00 p.m. at the Town Center

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

ALSO PRESENT: Gregory Keyser- Town Planner, Adam Fishel-Marathon Engineering, Terrence Nolan-New Leaf Energy, Steven Reid-Reid Petroleum, Mike Mahar-Reid Petroleum, John Pastern-Reid Petroleum, Heidi Lapin-WT Group, John Metz, Zackary Krotz, Randy Krotz, Sara Krotz, Carol Krotz, Mike Brennan, Alicia Brennan, Michael Rotella-Applicant

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

The Minutes of the June 26, 2023 meeting were read.

Moved by Mr. Poole to approve the Minutes of June 26, 2023 as read. Seconded by Ms. Croft. Ayes all. Carried.

Mr. Dayton presented TZIP-2022-092, 6902 Simmons Road, New Leaf Energy, Site Plan Review and Special Use Permit application for a Tier 3 Solar Energy System.

Mr. Keyser advised that the project involves the construction of a 5.0 MW ground-mounted solar energy system as depicted on drawings in a submittal dated June 9, 2023.

The initial application was reviewed by the Planning Board on September 26, 2022. A public informational meeting was held on January 23, 2023 and public hearings were held on April 24, 2023 and May 22, 2023. A SEQR Negative Declaration was issued on June 26, 2023. A referral to the Cattaraugus County Planning Board on July 13, 2023 resulted in a recommendation for approval with modifications. The Planning Department recommends the project be approved based on a review of the standards and findings set for the granting of Special Use Permits (Sections 6.4 & 6.5) and Site Plan Review (Sections 7.4 & 7.5). Mr. Keyser offered conditions for the Planning Board to consider. He noted that the conditions include modifications suggested by the Cattaraugus County Planning Board.

Mr. Zerfas referred to #12: Prior to the issuance of a building permit, ground water sampling shall be completed, the results of which shall be provided to the Town. This is on site before construction. Perhaps testing for neighbors should also be included.

Mr. Nolan of New Leaf Energy advised that they have offered groundwater testing to the neighbors at no cost.

Mr. Zerfas encouraged neighbors to have their water tested for information including base metals and bacteria prior to construction,

Moved by Ms. Croft to grant Special Use Permit and Site Plan approval for a Tier 3 (5 MW) Solar Energy System at 6902 Simmons Road as presented in materials submitted in TZIP-2022-092 by New Leaf Energy with the following conditions:

- 1. The full cost of decommissioning shall be borne by the entity or corporation leasing the property. Prior to the issuance of a building permit, the applicant shall execute and file with the Town Clerk a bond or other form of security acceptable to the Town Board and Council of the Town in an amount sufficient to ensure the faithful performance of the removal of the Solar Energy System and restoration of the site in accordance with the approved Decommissioning and Site Restoration Plan.**
- 2. The Decommissioning Plan shall be updated every three (3) years including the decommissioning estimate, which shall be subject to review and approval by the Town. Within thirty (30) days after the Town's approval of the updated estimate, the bond or other form of security shall be changed to reflect the updated estimate approved by the Town.**
- 3. The solar energy system shall be removed, and site restored at the solar system owners' and/or operators' expense if the solar energy system has been abandoned and/or not producing electricity for a period of one (1) year.**
- 4. Prior to the issuance of a building permit, the applicant shall execute and file with the Town Clerk a bond or other form of security acceptable to the Highway Superintendent, Town Board and Council of the Town in an amount sufficient to ensure the adequate restoration, repair or replacement of damaged highway infrastructure resulting from construction of the Solar Energy System.**
- 5. A Host Community Agreement shall be approved by the Town Board and in place before the issuance of a Building Permit.**
- 6. The Solar Energy System shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained at a level acceptable to the Fire Department, Ambulance Service and Town Code Enforcement Officials.**
- 7. The site shall be maintained in accordance with the Operation and Maintenance Plan including the Annual Site Inspection Protocol. Annual Inspection Reports shall be submitted to the Town.**
- 8. The maintenance agreement, entity responsible and contact details for post-construction maintenance shall be provided to the Town. The Town shall be advised of any changes to the maintenance agreement or the entity responsible for post-construction maintenance.**
- 9. The Town shall be advised of any changes to the entity or corporation leasing the property or operating the solar energy system.**
- 10. No storage batteries are included as part of this approval.**

- 11. Final engineering documents and drawings must be signed and sealed by a New York State Licensed Professional Engineer. Final specification sheets for all equipment shall be provided.**
- 12. Prior to the issuance of a building permit, site groundwater sampling shall be completed, the results of which shall be provided to the Town.**
- 13. The final traffic safety plan for construction is approved by the Town Engineering Department.**
- 14. Prior to the issuance of a building permit, the Storm Water Pollution Prevention Plan (SWPPP), Site Plans and approach to managing on-site stormwater runoff shall be approved by the New York State Department of Environmental Conservation (NYSDEC). All correspondence with NYSDEC shall be provided to the Town.**
- 15. Prior to the issuance of a building permit, a Wetlands Joint Permit Application is completed if acceptable.**
- 16. Prior to the issuance of a building permit, documentation of the responsible party for open space easements shall be provided to the Town.**

Seconded by Mr. Kruszynski. Ayes all. Carried.

Mr. Dayton presented TZ-2023-029, 8030 Jackman Hill Road, American Tower, Special Use Permit of Cellular Antenna Co-Location.

Mr. Keyser advised that Barton and Loguidice have completed their review of the project materials including the category rating for the tower and recommend approval of the Special Use Permit for the cellular antenna on the existing tower.

Moved by Mr. Poole to grant Special Use Permit approval for Co-location of cellular antenna by American Tower on the existing tower at 8030 Jackman Hill Road as per materials submitted in TZIP-2023-029. Seconded by Mr. Zerfas. Ayes all. Carried.

Mr. Dayton presented TZIP-2023-267, 6599 US Route 219, Reid Petroleum, Special Use Permit for Gas Station & Mini Mart with Drive Thru.

Mr. Keyser advised that the Town Zoning Board of Appeals reviewed the project at their August 3, 2023 meeting for area variances. The ZBA recommended that the project be presented to the Town Planning Board for review before any variances are granted. The process will include SEQR review, Cattaraugus County Planning Board Review, a public hearing and Site Plan and Special Use Permit review.

Mr. Steven Reid presented the site plan and elevation drawings for the proposed construction of a gasoline service station and general retail establishment. The proposed use involves a 24 hour convenience store with drive-thru, fuel dispensing facility and Electrical Vehicle Chargers on approximately 1.70 acres in the General Commercial District at the corner of Routes 242 and 219. The project meets New York State and Federal standards. They want

to make the corner representative of Ellicottville. The proposed Corsby's Mini Mart is not their typical design. The drive-thru will be for pickup of food ordered from the online app. The Electric Vehicle chargers will be a future project as New York State does not have the infrastructure in place yet. Some outdoor seating is proposed.

Mr. Dayton asked if any of the project is in the floodplain?

Mr. Reid said nothing is located in the floodplain.

Mr. Reid presented the proposed lighting under the canopy and on site.

Mr. Dayton noted that night sky compliance standards need to be met with all lights shining down. A photometric plan should be provided. Is it possible to dim the lights after 10 or 11 p.m.? The maximum illumination standard for spillage on adjacent property is 0.1 footcandles.

Mr. Reid presented the curb cuts for entrance and exit. One on Route 219 and one on Route 242. The proposed drive aisles are 50 feet wide.

Mr. Dayton asked if they should be wider?

Mr. Reid noted that they use 50 feet at other locations and it seems to work.

Mr. Keyser noted that Tim Horton's has a drive thru and Steelbound has an entrance on Route 219. The Town zoning has standards for distance between curb cuts. Cattaraugus County and NYS DOT also have standards that will need to be met.

Mr. Dayton noted that we need to address safety concerns with the number of driveways in the area.

Mr. Poole asked will you have diesel fuel for tractor trailers?

Mr. Reid said there will be diesel fuel for regular vehicles.

Mr. Zervas asked where the diesel pumps will be located?

Mr. Reid said there will be one or two diesel pumps at the end of the pump location.

Mr. Zervas asked if snow storage areas are provided?

Mr. Reid said snow can be plowed to the green spaces.

Mr. Keyser noted that the green space requirement is met.

Mr. Dayton asked if a NY State traffic study will be provided?

Mr. Heidi Lapin said they are working with NYSDOT on requirements.

Mr. Keyser noted that the Town of Ellicottville will require a traffic study.

Mr. Kruszynski asked, will there be a speaker system and menu board for the food drive thru?

Mr. Reid said there will be both. By using the mobile ordering app we hope to prevent stacking of vehicles and backup in traffic flow.

Mr. Keyser noted that backup of traffic will have to be prevented especially during peak hours.

Mr. Reid said they are opening a drive thru in Buffalo, NY shortly and will have more information on how it will work in the future.

Mr. Kruszynski asked, will the site be open 24/7?

Mr. Reid said that the pumps will be open 24/7, but the store will not.

Mr. Dayton referred to the trees on the site plan and asked if they will block the sight line for the curb cut on Route 219?

Mr. Reid said no, they are back from the road.

Mr. Keyser noted that there are line of sight criteria in the zoning that will need to be met.

Mr. Zerfas asked, where is the dumpster located?

Mr. Reid said at the rear of the property and referred to the location on the site plan.

Mr. Dayton referred to the elevation drawings for the building and asked can you offer a different style building?

Mr. Reid advised that they tried to design it with more of a chalet style to match the area. This is not the usual prototype style of our buildings.

Mr. Dayton asked, will there be a berm or buffer along the property line?

Mr. Keyser said the plan shows a fence and natural vegetation along the neighboring residential property.

Mr. Dayton referred to the staff report and asked how many variances are required?

Mr. Keyser said seven, 2 front yard setbacks for fuel storage and underground detention vault, 1 rear yard for drive thru lane, 1 landscape buffer along Route 219, and 2 parking lot setbacks along Routes 219 and 242.

Mr. Dayton suggested that the applicant and Board work together to eliminate some of the variances required.

Mr. Dayton asked about signage?

Mr. Reid presented the proposed signs which are internally illuminated and the electronic message boards.

Mr. Dayton noted that internally illuminated signs and electronic message boards that contain flashing, moving or animated graphics are prohibited in the zoning. Signage can be illuminated with spot lights from above or below.

Mr. Reid said he will provide renderings of the proposed signage and the channel letters on the building that will be illuminated.

Mr. Dayton referred to the parking spaces which appear to be 8 feet by 19 feet. The zoning requirement is 9.5 feet by 19 feet.

Ms. Lapin said the spaces are 9.5 feet by 19 feet.

Mr. Keyser noted that adequate parking spaces are provided.

Mr. Keyser advised that procedure includes review of the project, holding a public hearing, referral to the Cattaraugus County Planning Board and SEQR review.

Mr. Dayton presented TZP-2023-278, 6064 NYS Route 242, Mike Rotella, Intent to Subdivide.

Mr. Keyser advised this is a sketch plan review of a request that involves the subdivision of approximately 50.14 acres of land into 7 building lots for single-family residential development. The property is zoned Agricultural-Residential and is in the Conservation Overlay District. The proposed lots are 2 acres, 150 feet wide, with 100 foot front, side and rear yard setbacks. Open space is 90% of the site. The zoning requirements are met.

Mr. Keyser noted that since the proposal involves the creation of 7 new building lots, the sketch plan should be classified as a Major Subdivision. As a major subdivision, the applicant is required to submit an application for preliminary plat approval within six months.

Moved by Mr. Poole to classify the sketch plan presented in materials in TZP-2023-278, 6064 NYS Route 242 by Mike Rotella as a major subdivision. Seconded by Mr. Kruszynski. Ayes all. Carried.

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

The meeting was adjourned at 7:20 p.m.