

Town of Harpersfield Planning Board

Minutes: **November 30, 2022**

Present: D. Darling, W. Keller, F. Ciulla and D. King. Absent: A. Gallagher, K. All.

Also present: L. Page, N. Brower, A. Phillips, Kelly Sullivan, Pete Dolgos, Ted Dziewit, C.J. Karcher, Susan Fortier, Carrie Sloan, Rebecca Lynen, Len Marigliano, Teddy Kepanos, Kristin Basile, Matthew Horelick, Jesse Robertson-DuBois, Colleen Bisceglia, Sean Murphy, Ulla Wadner, Robert J. Schneider, Steven Weiner, Augustus Mason, Gary Hara, Chris Ferla, Joe Ferla, Merissa ???, Greg Lubininsky, John Miller, Russell Bedford, Laurie Bedford.

Chairman D. Darling called the meeting to order at 7 p.m..

Minutes of the Oct. 26, 2022 minutes were approved as presented on a motion by D. King and second by W. Keller. Motion carried 4-0.

D. Darling reopened the public hearing on Delaware River Solar's Weaver Road solar project.

In providing an update, Kelly Sullivan said the stormwater pollution protection plan (SWPPP) has been completed and provides levelers around the property for water runoff from the solar panels. The actual layout has not changed. They did meet with one of the landowners to discuss the viewshed and what can be done.

Sullivan said she visited the site during a recent rainstorm. The water drains into one area where the culvert may need to be increased in length. They did get the land contours from the state Department of Environmental Conservation (DEC) and put level spreaders in the SWPPP of 2 x 2 foot gravel as an approved DEC method along the contours or drip edge of the panels. This should not increase rivulets. W. Keller said his issue is with the groundwater recharge. He referred to a letter, included in this packet, that discusses the orientation of the panels and the contours. "I want the water that was recharged in that basin before it is covered with panels."

K. Sullivan indicated there is zero runoff from the site based on the engineer's calculations. W. Keller said he would like to speak with the engineer.

K. Sullivan, in answer to a question asked last month, that the noise level at the transformer pad is 69 decibels. She took calculations at all of the neighboring homes. Sue Fortier's home would hear about 24 decibels. The loudest was 29 decibels. She can provide those figures to the planning board.

She looked at taking pictures from the perspective of the homeowners, but they were drone pictures which she didn't believe were the type of photos they were looking for.

She was asked what the visibility would be from state Route 23. Many of the existing trees will serve as a buffer, with 12 acres of tree being removed.

Kristin Basile asked if she was aware of the bald eagle's nest in the area, and provided photos, which are in this packet. Basile noted the noise criteria within the nesting area of bald eagles and questioned the amount of noise that will be produced during the construction phase and that it would exceed DEC's recommendations.

At this point, D. Darling passed around the preliminary plan map to give the audience a better sense of

the array's location.

In answer to a question regarding the power line, she said it would be a three-phase line and would not involve the large metal towers, but wooden utility poles like those already used along the power line.

The power from the panels will run underground until it reaches the pad where it will connect to the above ground power lines.

The panels are 13 feet high and erected three feet above the ground.

Robert Schneider asked about any emergency equipment or specialized training for the volunteer fire department and if there would be any expense involved.

P. Dolgos indicated a special training session could be held for the fire department.

K. Basile asked if there are any materials that would be considered hazardous in the makeup of the panels.

P. Dolgos indicated the panels are different than those manufactured five years ago. If the panels should catch fire, the fire department would let them burn.

S. Fortier indicated her property is just 100 feet away from the panels.

R. Schneider said there will be water shed by the panels and asked what is in the panels and if the materials degrade over time to runoff with the water.

P. Dolgos said nothing degrading comes off the panels and they are no different than any other appliance you may have in your home.

R. Schneider said he is a real estate agent and said he has already had to disclose to a potential buyer that a solar array may be going in at the location. How do you reconcile the lost value to property due to the project. It makes a huge impact on the tax base and property values.

P. Dolgos said it is difficult to answer that question. There is no definitive study that indicates there is a loss of property values. Some people do not mind be located near a solar array.

R. Schneider said he disagrees. Most people do not want to live within sight of an eyesore. It makes property non-salable, unless you can find someone who is sympathetic. Do they litigate you or do they go to the town?

When asked about the viewscape, photos were taken a eight properties.

C. J. Karcher indicated that when there are no leaves on the trees, you can see the solar panels all the way down state Route 23.

R. Schneider said the area is just having people moving here and "this is not the bucolic view they are looking for".

P. Dolgos said they can put in screening. I can't answer your question. It is no different than a Dollar

General. To mitigate, we can put in screening along the edge of the project. We can't help the higher viewscapes.

K. Basile asked if they would plant 2 foot trees that would take 30 years to grow to their height, around the time of the decommissioning of the project?

P. Dolgos said they could not plant trees that would grow that large, it would screen the solar panels.

K. Basile asked if they have a decommissioning plan.

P. Dolgos said they would be taken down in the same way they were put up. The plan is to recycle the materials. We have a decommissioning plan that is submitted with our application. There is a surety bond with the landowner.

Chris Ferla shows diagrams of the contours from Fisher Road and said they will be able to see the solar panels from there. S. Fortier's property is even closer. It is really hard to hide this. It really impacts S. Fortier and the Kosier properties. She passed out photos to the planning board members which are included in this packet.

She also presented the results of two studies. She went on to say there are no studies or real information that address the impact of solar panels, whether they are considered pervious or impervious. The stormwater plans that are in place are for houses and parking lots.

She went on to say that the plan is to removed all the trees that prevent runoff. Clearcutting trees releases all the carbon they store into the atmosphere and it would take 20 years to replace for the climate change they are trying to prevent. Trees capture carbon, it makes no sense to take them down for a solar development. Millions are being spent to plant trees to fight climate change.

The wetlands at this site are so sensitive. You say there will be no panels on the designated wetlands, but it doesn't mean the wetlands aren't being impacted. She provided a report regarding the delicate balance that some species require in regard to water and they will be changing the flow. Her reference is in this packet. She provided four examples from the DEC website regarding natural area for wildlife.

She also cited the NYS Conservation Plan for Bald Eagles and the Fish & Wildlife Service on migratory birds. Here she referenced the construction noise and use of the pile drivers for the project. It is the loudest equipment there is. You have to move 300 feet away before it gets under 90 decibels. There are houses and animals located much closer.

She also referred to soil types found at the site as Type D soil which has a slow infiltration and high runoff potential. Also included.

Another lady said the area drains into four different basins as the headwaters. She wanted to know if the Chesapeake Bay people know this decision is being made.

S. Fortier shows pictures regarding runoff. She said they are located at the headwaters of the Susquehanna which flows into Chesapeake Bay, which is one of the most regulated watersheds.

K. Sullivan said that is why the runoff is treated and they must calculate the runoff from each project. They are not adding to the runoff or changing the quality of the water as regulated by DEC. There must

be a plan for sediment control.

John Miller asked if the company had done a percolation test at the site. The basements of the homes get flooded each spring.

P. Dolgos said they are observant of the runoff and are not creating anything additional.

K. Sullivan said the existing conditions are taken into account and calculated. Then they propose and rerun the calculations to determine how they can slow the water down and treat it so that there is a 0 percent change. That is what the SWPP is for.

S. Fortier asked how they could say the water is not going to run onto her property.

J. Miller asked if she had any recourse if it does.

K. Sullivan said that is why they are proposing the 2 x 2 level spreaders. They get their soil information from the state soil maps.

P. Dolgos said everything under the arrays will be grass, it will not be barren soil.

C. Ferla and Joe Ferla said it will be for two or three years until the vegetation can become established. They asked if that is in the calculation.

K. Sullivan said that in order to close out the SWPP they have to establish the ground cover to at least 80 percent. It is monitored until it is complete.

Another woman asked how much concrete is installed

K. Sullivan said there is one concrete pad with one transformer.

P. Dolgos said all of the electrical equipment is on that one pad.

S. Fortier asked about electromagnetic radiation.

P. Dolgos said he could provide information from the manufacturers that there is none.

S. Fortier reads from an article that it is undetermined if it reduces life expectancy.

R. Schneider asked what is the benefit to the town and county. Is there any economic benefit? Has there been a cost analysis.

D. Darling said there hasn't been one done.

P. Dolgos said it will be up to the town board to decide a Payment in Lieu of Taxes (PILOT), rather than a full assessed value.

J. Ferla said he had letters from his neighbors who could not be present for the hearing and asked him to read their letters into the minutes. The two letters are included in the packet.

C. J. Karcher asked what the electric savings would be in connection with the project.

P. Dolgos said that when the project is complete, residents could subscribe through the New York State Electric & Gas (NYSEG) as part of the solar facility. There is no fee to join. He was asked what percentage the reduction on the electric bill from NYSEG might be. It could be as much as 10 percent, but he was not certain.

CJ Karcher said he had reached out via Facebook to people near the Laurens solar project site, the closest one he could locate that has been done by DRS. He said they indicated they went through the same BS we are going through. They said they could get a percentage off the electric if they bought into it, but they noticed almost no difference.

P. Dolgos said you have to subscribe.

CJ Karcher said this project could have no difference and no additional electric backup.

K. Sullivan said energy cost changes.

CJ Karcher said if they go to all the effort to put in a solar project and disturb all the neighbors around it - why do it. The people of Laurens said the construction noise was terrible and they can hear the noise coming from transfer pad, while other say they can't. The one in in Laurens is the one that is closest to us that they own that we could get see.

S. Fortier as if there is any guarantee they will not build another project on this site.

P. Dolgos said once you have your foot in the door there is the possibility. However, the current electric lines, unless they are upgraded, can only handle so much power into the grid.

D. Darling said it is something the planning board has to consider. He said there was a lot of information and a lot of concerns and the planning board must address both sides of it still.

One gentleman indicated there is a lot of questions, technical questions and asked if the planning board had hired a consultant.

A. Phillips said the planning board opened the public hearing very early in the process, anticipating there would be a lot of questions and concerns. She said the planning board and the public had received more information tonight. She has reached out to Delaware Engineering who has indicated they would be willing to work with the planning board. The planning board can ask the town board to have the applicant establish an escrow account to fund a technical consultant. They can also ask to fund legal counsel to assist with the project.

She said the planning board may want to adjourn the public hearing until they have the opportunity to get a technical consultant on board.

Another gentleman said the planning board is supposed to plan. He has lived here 23 years, because it is beautiful. By considering, or permitting, these projects, with three solar fields in this farm town, they are destroying the value of what we have. This town has nothing else. Will other things be proposed. We already have a racetrack because they were hoodwinked. I don't see the planning board as being a

rubber stamp. Do we want to plan its downfall. If we don't want it we need to do something about it. W. Keller said he takes exception to the implication. We have a site plan to address. The site plan defines just what you are talking about. Everyone here has a burr under their saddle. I invite you to show up and do it. The plan we created defines agriculture. We didn't get a lot of input. We operate under a strict set of rules for any decision we make, we make for you...

A. Phillips said the planning board operates within the standards of the town's law.

A motion was made by W. Keller, with a second by F. Ciulla, to adjourn continuation of the public hearing until the January 2023 meeting. Motion carried 4-0.

A motion was made by W. Keller, with a second by F. Ciulla, to authorize the execution of an escrow agreement to fund the retention of legal and technical consultants for the Delaware River Solar, Weaver Road project. Motion carried 4-0.

The planning board moved into its regular meeting.

Russ and Laurie Bedford were present to discuss a possible boundary line adjustment between parcels owned along county Route 29. They are considering adding another piece back to an original parcel. It will require a percolation test and a survey.

Ted Dziewit left the meeting. He had inquiries regarding a possible subdivision.

Safety Track representatives were present. It was noted that a complaint was submitted to the town clerk last week that the applicant had started clearing trees from the area of the project in violation of the town's site plan law. She did consult with the town board and town code enforcement officer.

A. Phillips asked that it be put in the record that the applicant, Greg Lubininsky of Mountaintop Airfield LLC, admitted they had cleared three acres of forested land that was on the application for the siting of a mini racetrack.

He is to stop the work immediately.

She also advised the applicant to the planning board would need information in addition to the site plan that the track may be used for and to map all improvements that have been made to the site and list all of the users of the site, such as a shooting range and instruction as advertised.

She advised that he submit a site plan that shows everything. The planning board needs to get clarification on some of the other items on the application, such as the number of hours of operation, the types of vehicles on the tracks, the number of people on the track, etcetera. She said it must include the shooting range and all other items. It must include all of the existing features and uses before the planning board will consider the application, both the existing site plan and the proposed site plan amendment.

Greg Lubininsky described use of the track for other things when the racing shuts down for the day and he was asked to list those, from roller skating to skateboarding, barbecuing, etc. The property is used until 10 p.m. then they must leave the facility. He said no one is staying overnight.

W. Keller said they had talked about insurance and asked if the planning board can see exactly what the track's insurance covers.

A. Phillips said the number of users limited by the insurance coverage and that there are no overnight accommodations or camping. She said he must list each and every activity and any instructions that are taking place, any special equipment that is required.

She said there have been videos posted online of aerial shows. It must indicate there are no spectators and the must identify the areas to be disturbed.

G. Lubininsky said they have cleared two of the three acres for the mini track.

D. Darling said there is still a noise concern.

G. Lubininsky said an updated study has been submitted by a reputable firm.

He said the tree clearing took place over the past two weeks in the same area as indicated in the application.

A. Phillips had a resolution prepared for the planning board for the planning board to serve as the lead agency for the SEQR process and that it is contingent upon all of the submissions requested and based on the applicant ceasing all activity. See attached resolution.

The planning board then moved on to open the public hearing on two solar projects, proposed by BlueWave Solar, off Bruce Hill Road. He opened the hearing by reading the public hearing notices published in the Daily Star on Nov. 16, 2022.

Colleen Bisceglia, Sean Murphy and Matthew Horelick were present, representing Bluewave Solar. C. Bisceglia gave some background and a summary of the project. Bluewave has a history in sustainability and the projects combine grazing sheep or young heifers with the solar arrays. The application includes sound studies, SWPP coordinated review which includes the New York City Department of Environmental Protection. It also proposes contour plowing.

M. Horelick explained the grazing with solar arrays he is familiar with in the state of Massachusetts. The proposed solar panels will track the sun, which means the drip edge will move to make it easier to have good forage conditions. He said that is key, because it is important to maintain the soil quality underneath the panels. It allows more species and diversity of plants for "fuzz and buzz". Therefore it is the best interest of the applicant to limit the number of grazing animals, to maintain the vegetation.

F. Ciulla asked if the energy will be going into the NYSEG grid.

C. Bisceglia said both projects are community solar projects that do benefit the community. They will be entered into the NYSEG grid. The bigger picture for these projects is to shut down the carbon burning emissions in the production of electricity.

D. Darling questioned if the Rexmere Project could be the same with fewer panels. His concern was a rock ledge.

C. Bisceglia said they could be moved to the other end of the array.

A motion was made by D. King, with a second by W. Keller, to ask the town board to execute an escrow account for the projects that will allow the planning board to hire technical and legal consultants for the projects. Motion carried 4-0.

A motion was made by D. King, with a second by W. Keller, to adjourn the public hearing until the January 2023 meeting.

N. Bower will present the project to the Delaware County Planning Board on January 4.

On a motion by D. King, with second by W. Keller, there will be no meeting of the planning board in December 2022. Motion carried 4-0.

A. Phillips said her firm, Young and Sommer, has Blue Wave as a client and recommended that due to the conflict, the planning board seek legal counsel for these projects from a different firm. She said should would reach out to find another firm.

On a motion by F. Ciulla, with a second by W. Keller, the meeting was adjourned at 10:33 p.m..

Included with these minutes, are written submissions, legal notices for public hearings, photos submitted by S. Fortier, showing the view from her property, a photo of a bald eagle feeding at the edge of a pond, directly across state Route 23 from the project, near the Basile home. Submissions by C. Ferla showing topography of the Weaver Road solar proposal; information regarding hydrologic soils in the area; U.S. Fish & Wildlife Service information on migratory birds: construction work bulletin regarding noise levels; DEC Conservation Plan for Bald Eagles in NYS; written statements and references to studies regarding forests and wetlands; a review that indicates there are no quality standards for solar farm related to stormwater; a report on the benefit of various stream and wetland buffer widths from Conserving Natural Areas in Your Community. Casper Sonesson submitted his comments regarding the Weaver Road Solar Array referring to its impacts, including visual and environmental impacts; a letter from Jeff Wilkinson regarding his comments on the Weaver Road Solar Array.

Also included, email conversations from Walt Keller to DEC and DEP regarding groundwater recharge.

re: NY Safety Track

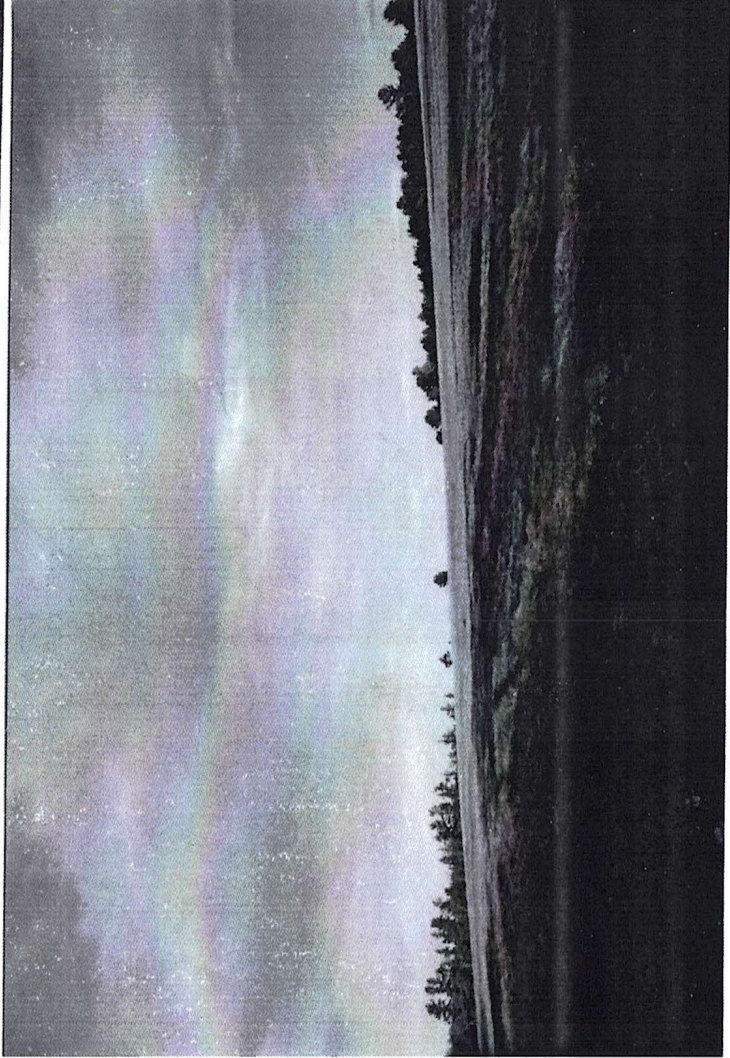
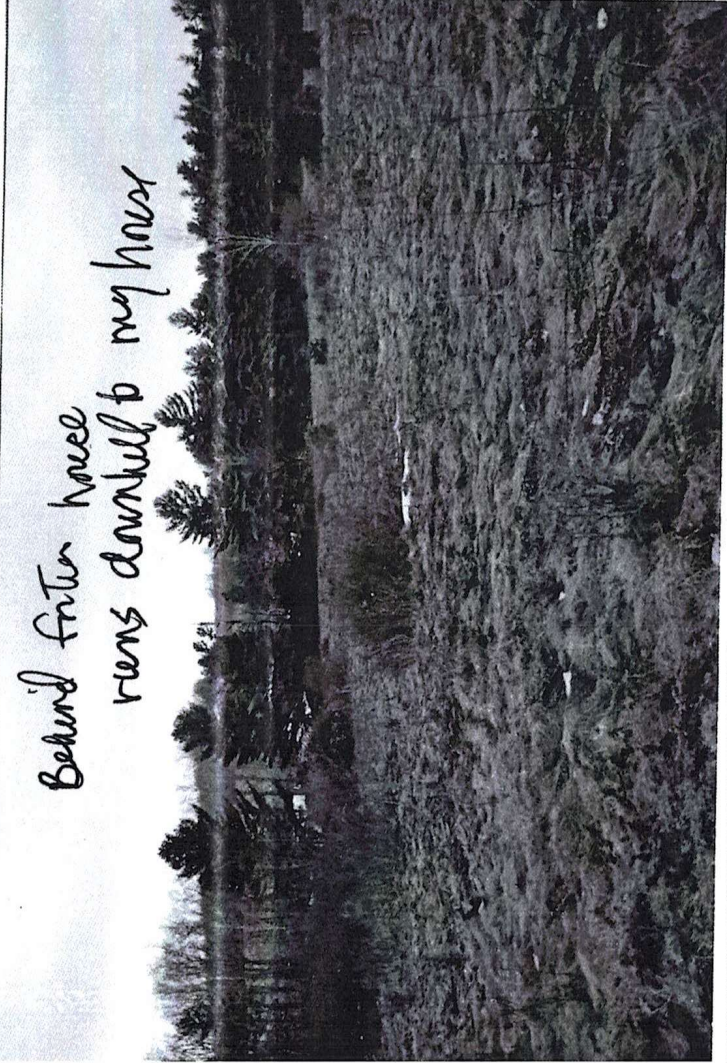
Resolution passed by the planning board regarding lead agency with special conditions.

Respectfully submitted,

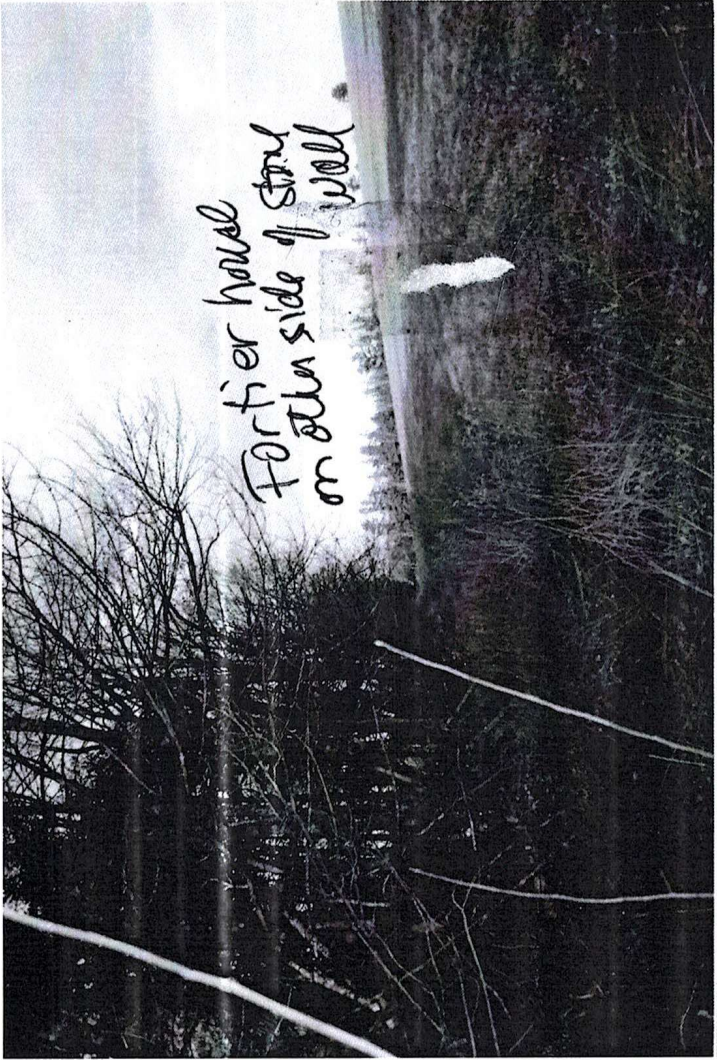
Liz Page

Recording secretary.

Behind father house
runs downhill to my house



Fortier house
on other side of street



Fortier
House

