

# Town of Harpersfield Planning Board

Minutes: **March 29, 2023**

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

Also present: L. Page, N. Brower, A. Phillips, Ted Dziewit, Mair Martino, Joe Ferla, Chris Ferla, Susan Fortier, Charles Gottlieb, Sean Murphy, Colleen Bisceglia, Len Mirigliano, CJ Karcher, Charrie Sloan, Greg Lubinitsky, Kelly Sullivan, Patric Funk, Ulla Wadner, Edward Pick, Robert McKertich, of Coughlin and Gearhard, attorney for planning board re: Del. River Solar Project.

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

Minutes of the February 23, 2023 meeting were approved as presented on a motion by W. Keller, with a second by F. Ciulla. Motion carried 5-0.

Ted Dziewit was present for a sketch plan meeting regarding a 25-acre lot off Middlebrook Hill Road, which is situated across the roadway from the main portion, a much larger portion. On a motion by D. King with a second by K. All, it was classified as an unlisted subdivision.

A motion was made by D. King with a second by W. Keller to schedule a public hearing on the proposed subdivision for the planning board's April meeting. Motion carried 5-0.

A motion was made by W. Keller with a second by F. Ciulla to present the subdivision to county planning board for their review. Motion carried 5-0.

N. Brower will present the proposed subdivision to the county planning board in April.

Representatives from Delaware River Solar were present. Kelly Sullivan said the engineering comments were submitted last week and all of the comments have been addressed. They are still working on the noise response and other items. They have included a landscaping plan which will include the wetlands and a pollinator mix. She said the planning board likely has not had time to review the comments.

She asked if there were any additional comments from the public. They will look into the power project in Delhi.

Edward Pick was present with his concerns and said he is not representing the Delaware County Electric Coop of which he is a board member. He is speaking about his own concerns as a resident of Harpersfield.

He said the town does not have a "game plan at this point", after several years of a proposed solar array, for the assessment of solar fields in the town. He is not against solar, but he is against New York State taking over the assessment and taxes of solar. The state has certain goals it wants to meet. He wanted to educate the planning board that if they don't develop a plan, the town will get nothing, "just like the watershed". He is concerned about the town losing its ability to assess and tax the solar

projects.

He also believes the town should protect those people who will live next to a solar project by having basic guidelines for fencing, set backs and other items.

He said solar projects will not lower electric costs. He also stated they are not efficient producers of electricity and it will cost the public when electricity must be purchased from fossil fuel and hydro production to meet the needed level to the electric grid, when the sun is not shining, which can be during peak use times.

He said a moratorium would slow the process down and give the town time to develop criteria to fairly tax the solar projects. "You need to protect us and you need to protect the taxpayers."

D. King said the planning board is doing what is necessary to make sure the project is done correctly.

Attorney Robert McKertich is the attorney hired to consult with the planning board on the project.

Chris Ferla said Delaware River Solar had stated last month there was no impact on the Eagle's nest located on the Basile property. The state Department of Environmental Conservation (DEC) has issued recommendations regarding noise and the protected wetlands. The project is located too close to the Eagle's nest. Monarch butterflies are also in the project area. She pointed the native and migratory birds that are of concern. She said DEC has a disclaimer on its resource mapper that says these are the known species and may not include all species that may be present. Qualified individuals would actually have to go to the site in the absence of any study and with eagles nesting nearby.

She once again pointed to the cutting of 20 acres of trees which should prompt a more thorough investigation of the impact on wildlife, along with the unregulated wetlands located at the site.

Carrie Sloan raised the issue of a moratorium on solar projects in the town of Jefferson and said 55 percent of the towns in Schoharie County have solar laws. She said a land use law supports a moratorium as long as there is no construction. She was among several people asking for a moratorium.

W. Keller said the planning board couldn't do that. It is like zoning, it must be approved by the town board. The state has already set criteria for projects of a certain size, to take them out of local jurisdiction. He recommended the public take their request to the town board as the planning board does not have that authority.

Patrick Funk, a member of the town council, said the town board is still discussing the issue and has not rejected a moratorium. His feeling is that a moratorium is not needed. He believes it may hinder future projects, and called it a double-edged sword, by establishing criteria that may not fit all cases. He also said he does not feel a lack of solar project regulations hinders the planning board or makes its job harder.

K. All said if there was a moratorium, it would put the brakes on.

Funk said he has confidence in the planning board.

C.J. Karcher suggested there be a meeting of the town board and planning board at the same time, so the issue isn't going back and forth.

D. Darling said the planning board is doing the best it can and to make sure it is doing what is needed to meet the requirements. He said the two boards are not at issue. He said they are attempting to get through the best way they can and the laws that are in place are enough to effectively deal with the solar projects.

W. Keller added that planning board representatives are also present at town board meetings.

J. Ferla wanted to know who decides how tall the trees are and W. Keller explained it is an art based on all the information that is provided.

K. Sullivan said there is a landscaping plan, and she recommended the public provide its input into that plan, so the planning board can incorporate it into the final plan. "The planning board tells us what we should include."

D. Darling said that is why the planning board hires a technical assistant to help them review and make recommendations. The planning board listens to the technical assistant and the public.

S. Fortier said every time a solar company comes into the town they are going to have to go through this review. "It doesn't have to be that way if we have some basic rules." She also submitted an article regarding the dangers of fires at solar farms.

D. Darling assured those present that the planning board is taking its time with the process and attempting to cover everything to the limit of the law. He said the planning board has also not visited the site. We have not completed the process yet.

On a motion by W. Keller, with a second by D. King, the public hearing was adjourned to the May meeting. Motion carried 5-0.

K. Sullivan indicated additional reports would be forthcoming and an engineer is reviewing the project to ensure it is within the site plan.

A. Phillips was present and said her firm could not represent the planning board on this project, due to a conflict. She said a consultant is working with the planning board, but it is ultimately the planning board's decision.

The meeting then moved on to the site plan proposal for Mountaintop Airfield LLC. There was a site plan checklist. Attorney Chaites Gottlieb indicated the narrative had been changed since Sept. 28 submission and it was addressed in a March 6 letter.

The newest narrative was referred to as 20 students and five instructors each for the main track and the mini track. They are adding racing events, but they are not spectator events with paid admission.

W. Keller said he wants to know the hours of operation relative to the dates of the activities and for the time the activity runs in order to determine how the events and activities the public is subjected to the noise on the track.

A. Phillips said they are looking to expand the days of operation to seven days from April to October. Daylight is changing later in the season.

It was suggested a condition of the approval include no use after daylight hours.

A. Phillip referred to the consultant retained by the planning board and comments that were received today (this date) from the acoustical and civil engineer. There are multiple comments and numerous revisions. The planning board is reviewing those comments and needs time to digest them.

Item #6 refers to firearms training and a shooting range. The shooting range was never identified previously. W. Keller said identifying it, even if it is just for personal use, does matter. "What are they shooting at and where is the backstop. We don't don't know whats out there. It needs to be safe - the type of shooting and in what direction."

A. Phillips said the planning board has been asking for that to be included on the plan and to increase the narrative.

C. Gottlieb said there are no buildings.

W. Keller said he considers it a structure if there is a backstop. It also must say it will not operate when the facility is in use.

#7 D. Darling said vehicles are coming in with bikes and equipment and asks why there is a staging area.

A.P. said the map does not show the four acres of trees that were removed by the applicant prior to any site plan approval. It must show on the map the area where the trees were once located and removed, so the public can see it.

W.Keller said it is important because of the sound studies that were done at a different time.

C. Gottlieb said the acoustics assumes the trees are gone. They can put a note on the site plan that the clearing was conducted.

A.P. said it should be shown with a note they were removed prior to approval.

She also referred to the sound study and comments from the consultant. A final Storm Water Pollution Prevention Plan (SWPPP) with the revisions is needed.

It was agreed that the two consulting agencies could meet to facilitate the final report to the planning board.

The proposal will also need a review by the county planning board and could go to the county review next week.

After more comment, with C. Gottlieb asking the planning board to schedule a public hearing on the site for the April meeting, it was determined the applicant has to provide additional information, which includes the shooting range and parking lot that is now a staging area and existing parking lot. All vehicles utilizing the tracks must now be clarified.

D. Darling again referred to the need for a lighting plan if the facility is remaining open until dark.

C. Gottlieb said the plan is an evolving thing and again requested the public hearing be scheduled.

A. Phillips said it is time to open it up to public comment, but there is a lot of history with the applicant and a lot of information that still needs to be provided.

A motion was made by D. King, with a second by W. Keller to set the public hearing for the April meeting with the applicant's (Mountaintop Airfield LLC) understanding that those concerns must be addressed before the hearing is scheduled. Motion carried 5-0.

A motion was made by D. King, with a second by F. Ciulla, that the plan be referred to the Delaware County Planning Board for review. Motion carried 5-0

The planning board then moved on to the continued public hearing for the Bruce Hill solar projects. Colleen Besciglia and Sean Murphy were present for Blue Wave. They pointed to what was submitted in February.

C. Ferla commented she liked this project, saying it has been sited properly and is not located in an environmentally sensitive area near homes. It is going to set a precedent that if other solar projects are sited this way it is not a problem.

S. Murphy asked if the planning board could review the SEQRA. The planning board was not able to review the entire plan and the consultant hired to review the project had not been able to complete his review at this time.

S. Murphy said the only changes were calling it one project with two parts.

Planning board members reviewed Part 1, but could not review Part II or Part III until the hearing is close. The hearing may not be closed without the consultant's comments. A. Phillips said the public should have the opportunity to comments and did not recommend closing the hearing at this time.

There were a could of changes to Part I which will be completed and sent to the consultant for comments. Parts II and III will be done at the next meeting, to be included with the updated Part I.

C. Beseglia asked if they could be moved up in the agenda for next month, since it is such a late hour by the time the planning board gets to their project.

A motion was mad by F. Ciulla, with a second by W. Keller, to adjourn the public hearing to April. Motion carried 5-0.

On a motion by D. King, with a second by K. All, the meeting was adjourned at 10:32 p.m.. Motion carried 5-0.

Respectfully submitted,

Liz Page  
Recording secretary