

Town of Harpersfield Planning Board

Minutes: January 31, 2024

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

Also present: L. Page, N. Brower, C. VanValkenburg, A. Phillips Robert McKertich, town attorney; Adam Yageulski of Delaware Engineering, Damian Hill, Kaitlyn Gott, Dwayne Hill, Walter Garaigliano, Mollie Messenger, Robert Prush, Camberly VanValkenburg, Joe Growi(?), Susan Fortier, Greg Lubinitsky, Danny Lubinitsky, Kieth McLean, Bill Burdick, David Cox, Sean Murphy (Flycatcher) and Rob Querole, Blue Wave Solar.

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

Minutes of the Jan. 18, 2024 special meeting were approved, following a correction to Page 3 where W. Keller said the reference to a 6 – 8 berm was misleading and was referring to an email response from the applicant. The minute reflect what the applicant recited. That was clarified for the minutes, which were then approved on a motion by F. Ciulla, with a second by A. Gallagher. Motion carried 5-0.

Damian Hill was present with a sketch plan for a subdivision of property located on state Rt. 23 at the intersection of Shaver Road and Truesdell Road. He is subdividing one acre from the larger parcel. The one acre contains a home and already has a septic. The larger parcel ill have a percolation test and everything will be surveyed. There are currently two driveways, one to the home and another to the outbuildings, which will remain with the larger parcel.

A motion was made by D. King, with a second by W. Keller, to classify it as a minor, unlisted subdivision. Motion carried 5-0.

It will require a public hearing, an ag data statement and county planning board approval. It is anticipated D. Hill will return next month (February) with the survey map. By then the results of the perc test should be known and it could be scheduled for a public hearing in March.

Representatives of Delaware River Solar, Walter Gairagliano and Mollie Messenger, were present regarding a change to the Weaver Road Solar Project. Adam Yageulski of Delaware Engineering reviewed the proposed changes and responded to DRS. The project was approved by the planning board last June with a negative declaration under SEQURA. They are proposing to change from stationary to tracking solar panels and the location of the access road.

The panels are being changed due to supply chain issues. The proposed single axis tracking panels will be replaced with tracking panels (panels that move with the sun through the course of the day.) It was explained this change will actually diminish the number of panels and should reduce the impact, because there will be fewer panels and fewer contact points with the ground.

W. Keller spoke about his issue with groundwater recharge and again asked the applicant to consider contour plowing. He does not like the idea of levelers to disperse the water for recharge.

Contour plowing does not adhere to state Department of Environmental Conservation guidelines, which have been adopted from the state of Maryland. A. Yageulski indicated there are cases where DEC allows non-standard design, but it would immediately trigger a DEC review. He has reviewed from the standpoint of the planning board's previous actions and that what is proposed meets the conditions of the SWPPP.

The access road is being changed due to the inter connect with the NYSEG line. NYSEG prefers access with bucket trucks, which eliminates the previous location. NYSEG is also relocating its line from behind Eklund Farm Machinery. The interconnection line will eventually be located along state Route 23.

R. McKertish asked what that meant in terms of noise and glare, two of the issues of concern for the public.

Solar studies indicate there is no glare and the inverter produces no more noise to the nearest residence and there is no noise from the panel rotators. He indicated it should be no louder than the ambient noise, which includes farm equipment and other heavy equipment operation and back up beepers from the farm machinery dealership located nearby. Even in very hot weather, a fan may be added at the inverter location, but it should not increase the noise beyond the existing ambient noise.

S. Fortier came to the map and showed the location of her property. With the panels facing a different direction, she is concerned about the runoff created by the change in panels. She also asked about a pile of steel that was on the property prior to the project's approval. She is also concerned about glare for those traveling state Route. 23. She submitted photos of the metal posts she referred to.

The posts are samples used to determine what type of posts would be needed, based on the soils, to erect the panels. It has to be done at every site to ensure the posts driven into the ground are substantial enough to hold the panels.

R. McKertish said the site plan mechanism has been laid out and the focus is on the revisions and if the tilted panels and access to the site meets the towns' site plan approval criteria. If the planning board members are satisfied, after their review, that there are no adverse environmental impacts, they may approve it.

In case they approved, he drafted a resolution with a couple of revisions, which he read and presented to planning board members. The condition is that the revisions to the SWPPP must be approved by the town's engineer.

D. King asked about the height of the panels and if they will be higher, or lower. The average height is 12 feet.

W. Keller asked A. Yageulski again about contour plowing and if he could make that recommendation and if his approval of the SWPPP does not include that. A. Yageulski said that as long as they meet the standards is the main focus of his review and to check that the assumptions are reasonable. Fundamentally it is about the standards and mitigation.

W. Keller said if contour plowing, which is what he is proposing, meets the goal of the SWPP why is it not being considered.

A. Yageulski said DEC is not the designer of record. Our role is a peer review of the design. DEC's book of standards is whether this proposal meets those standards. To recommend something non-standard would have to have a basis and DEC would have to check it.

Walter Garigliano said what the engineers are proposing would do a better job. Their thinking was that to add something that is not in the Maryland standards may not be accepted in New York. DEC adopted the Maryland standards and didn't look outside the box. The engineer for the applicant are proposing what the regulations require. The surface area is still getting the water in a more concentrated way.

A. Yageulski said the purpose of the SWPP is not to increase the quantity of water. The design will mirror or produce less runoff than the pre-construction conditions.

On a motion by D. King, with a second by F. Ciulla, to adopt the proposed resolution approving the amended site plan for the 21 Weaver Road Solar Project Submitted by Delaware River Solar LLC. Motion carried 4-1. W. Keller voted no, due to environmental issues..

Robert Prush and Susan Fortier asked about the water runoff and the need for another study of glare. D. Darling said the planning board had already done that in the original review and the planning board was not going to question all those things again. They were dealing with the amended changes.

Robert Queirolo and Sean Murphy were present regarding a proposal by Bluewave Energy to construct a third solar project on property owned by Eklund Farm Machinery, off Bruce Hill Road. It is a 5.3 megawatt project on 34.85 acres using the existing access roadway with wetland impact. Some of the existing roadway will be converted to meadow. They were introducing the new project, which lies in the NYC watershed. The connection permit has been applied for a three-phase parallel to the easternmost edge of the property.

F. Ciulla asked if Delaware County Electric Cooperative customers will have benefits from this line. Only the company (NYSEG) receiving the energy from the panels. Down the road there would be an announcement if customers wanted to take advantage of any benefits.

D. King said the address on the application is assigned to an existing slaughter house. It was given as a former 911 address for the landowner. It will be changed in the future.

D. Darling asked if there were any questions. A site visit will be coordinated with the property owners.

D. King points out there is another landowner, Betty Jones. That will be checked

A. Yageulski said one of the things flagged is that there are other projects in the area. How all of the accumulating projects will affect the landscape. He suggests the create view scapes from different perspectives. They will create a map with a viewpoint.

R. McKertish said the planning board is required to conduct a SEQRA review and it is a Type 1 action. He prepared a lead agency consistent with prior project. If the planning board considers it Type I under SEQRA and they intend to serve as lead agency, he has prepared a resolution. As lead agency, the

planning board will have to reach out to all involved agencies.

A motion was made by D. King, with a second by W. Keller to classify it as a Type I action and for the planning board to serve as the lead agency. Motion carried 5-0.

A site visit will be scheduled.

D. King said there is also a snowmobile trail running through the proposed site. Sheep and cow grazing is also being considered.

A. Yageulski has provided a list of what will be needed along with a waiver for the amount of area being disturbed.

Blue Wave will provide a hard copy of the proposed SWPPP along with electronic versions. The same for the wetlands report. They will also be available on request.

They will return with photo simulations of the viewpoints and visual impacts at the February meeting in order to get input early in the process. R. Queirolo asked if there is a timeline for the involved agency comments. By March it is anticipated they will have a visual impact assessment and SEQRA review responses from agencies.

A site visit will also be coordinated.

NEW YORK SAFETY TRACK

Greg Lubininsky was present for NYSafety Track. A Phillips said she could provide a follow up to the Jan. 18 meeting and referred back to a meeting in December where the noise consultant had provided a memo relative to the public hearing comments relative to the noise. The consultant was asked to review the comments and additional submissions by the applicant to confirm if he had any additional input or if his prior assumptions needed to be reconsidered.

A. Phillips provided a follow up from the Jan. 18 meeting. There was a memo from SLR, the consultant, regarding public hearing and other comments and whether his thinking had changed regarding noise or if he had any additional input relative to the noise after receiving that information. The mid-January meeting was the first time the planning board had the opportunity to review and discuss the December memo. It was sent to the applicant. The applicant had sent affidavits, which the consultant also reviewed. It was discussed whether it could be considered mitigation proposed by the applicant. The affidavits said certain activities in the application would not take place. In their response they did agree to incorporate some of the examples the consultant had suggested. We had a discussion if it would work in town of Harpersfield or if those measures were even appropriate for the town.

In that SLR memo it stated there should be mitigation measures in place to ensure those controls are actually implemented.

The applicant answered that a sound meter could be used along with web cameras. The applicant responded that they propose to incorporate some of those mitigation measures. In order to use a sound meter, there needs to be a standard to base it on, which would require a sound study. It referred to web cam to monitor the operation of the two tracks and that they were operating simultaneously. It asked us to identify who is going to monitor the web cam. We don't have the ability to hire someone who can

monitor the web cam in real time.

The Board also talked about repeated requests for a site visit. At one point the applicant asked us to identify why we needed a site visit. We provided an explanation and gave examples. The response was they were not proposing that anymore or weren't having those activities. The application has been a moving target. We've gone through great effort to try to review Part II of the EAF, based on our understanding of what the application is seeking approval for. That has changed significantly throughout the course of our review. From the beginning of the public hearing until now, it has changed significantly with the affidavits. There is concern if the person signing has the authority and that we need the applicant to confirm what they are proposing at the track. Then there was discussion of the mitigation of the actual impacts of what is being proposed. We need to exactly know what they are proposing to do and what they are seeking approval to do.

The Board asked the applicant to submit a formal amendment to the application. Clarifying what they are proposing to do at the track and what we need to approve. In an attempt to facilitate the process, a list of specific questions was provided that we wanted the applicant to confirm. If they don't seek approval for certain things, they will remain prohibited. It changes what we are looking at in the environmental review. The applicant included a package of materials. Some are resubmissions. Still the same, which is okay as long as they are relevant to what they are doing now and seeking approval for. It still leaves ambiguity.

We did not get answers to the specific questions we asked in order to compete that application.

We want to make sure it is clear for the record the person acting on behalf of the entity or person who has the authority to do that.

It is helpful for the applicant to be here. We are going to ask Greg for a written response by someone who has the authority on behalf of the applicant and the track operator.

Board members had the information he sent in response but it does not answer the specific questions in the Planning Board Chairman's letter.

What would be helpful to the applicant is to provide a written response to the questions the planning board has by someone who has the authority to provide those answers.

G. Lubininsky - said they have what his responses are, however, A. Phillips said he did not provide answers to the specific questions in the letter..

He handed out an email response. Said he went step by step in the response. It did not provide specific response to D. Darling's letter.

A. Phillips said his response didn't answer the questions. She went on to provide an example of why his response did not answer the question.

The first question- days of operation.

After reviewing the response the same hours as NY Safety Track, 2-4 days per week. If it extends beyond that it needs to be stated in the application. The answer was that it will be the same for the existing and the proposed track.

If you can provide that in writing that will confirm that. And Greg referred to what was submitted, , the same as the big track.

It talks about existing activities vaguely. What you are proposing so we know what we are approving. Submit a point by point response to the Chairman's letter.

She goes through the rest of the letter and why it doesn't directly answer the questions.

He submits an affidavit. A. Phillips says he must submit it in writing. He said no more than four days. Existing activities vaguely. We are just asking to confirm what you are proposing. A point by point response to each of these questions and signed someone authorized to do that.

He said it is included in his email under existing uses.

He is asked to clarify public and members.

He said he has done that. A. Phillips said the submission does not clarify.

Again she reiterated the questions need to be answered in writing so that planning board members have specific responses to the questions in the letter. He was asked - do you propose approval for anyone for racing. He refers to the public. Does public include guests with reservations? It isn't clear.

You are going to have to submit a point by point response answering these questions. Your response does not clarify the questions that were posed to you in the chairman's letter. That's going to dictate what we are going to review going forward.

G. Lubinitsky - You state the question and I will submit it in written format, which I just did.

A. Gallagher - Its about the wording. Reiterating exactly the wording A. Phillips is using or in the questions submitted in the Chairman's letter.

G. Lubinitsky says he will do it.

Board wants a point by point response in writing for the record, so the public can review it.

D. Darling - We need to be able to read it.

A. Phillips - We are not going to review on this loopy goopy wording. If you are proposing it then we need to address it.

G. Lubinitsky- I 'm saying what I mean. I'm sending you an application, site plan review model. You are taking these words and turning them into other words and I'm here to clarify it.

D. King – The last affidavit was from Otsego County. It's stuff like that that pisses us off. We're not in Otsego County. It's a piece of paper for our record that doesn't match our county and you are saying it doesn't matter and that an affidavit is an affidavit.

D.King - I just need a clear site. When you first came, you put everything on there.

A. Phillips clarifies: The applicant was asked to submit a Full EAF that included all of the activities and what he wanted approval for. He changed the scope. It included racing, autos, and construction of the new track, which you continued to construct after a stop work order. The original application had

an incorrect Short EAF form.

The board had to consider the affidavit in determining if it mitigated for potential significant impacts. Asked for additional controls. We got back some proposals. Now the applicant says no more activities until 10 p.m. after several meetings of reviewing the application that proposed that. The board chairman sent the applicant a letter. Spell it out, yes or no, what are you proposing. In response they received a very vague, very jumbled, scope of activities. We don't know what you are talking about when you say existing activities.

Greg Lubinitsky - He said he drove here to clarify these answers. A. Phillips suggested it would have been more productive if he had answered the questions for the record.

D. Darling - We need to go through that list of questions for clarification.

A. Phillips - we can't do anything else, we can't tell from this what you are proposing.

G. Lubinitsky- suggested he will send the PB Attorney a text. She responded that he should not send or email her anything without cc'ing his attorney as his father is sending her profane emails.

G. Lubinitsky - I will send and you can see if it matches up to your emails. There's so much paperwork, all these things you keep asking all the time. This is what we wrote out in response to your email.

He was asked to submit hard copies in the future to the town clerk so they can be available to the public.

A. Phillips hands out copies of what had been submitted by the applicant to members of the planning board.

D. Darling, we need time to look this over, its 9:45.

F.C. there's a lot to review.

Planning board members have the letter from D. Darling to place it side by side to see if G. Lubinitsky has answered their questions.

G. Lubinitsky says he has answered the questions

He said they are not going to have automobiles on the new track, but on the existing track. He is told that is still ambiguous

He said they are not proposing anything for the existing track. The application is only for the mini track.

W. Keller- Just answer the questions in D. Darling's letter. I make a motion we take this home and see if it answers the questions in Dean's letter. Whether it confirms what we ask. F.C. seconds the motion. Motion carried 5-0.

Sue Fortier asked if Code officer was allowed to enter the site. He was not.

A. Phillips – The Planning Board does not have enforcement authority.

On a motion by D. King, with a second by W. Keller, the meeting was adjourned at 9:50 p.m.. Motion carried 5-0.

Respectfully submitted,

Liz Page
Recording secretary

TOWN OF HARPERSFIELD

**A RESOLUTION OF INITIAL SEQRA CLASSIFICATION
AND INTENT TO DECLARE LEAD AGENCY STATUS**

At a meeting of the Planning Board of the Town of Harpersfield, held at 25399 State Hwy 23, Harpersfield, NY on the 31st day of January, 2024, the following resolution was offered and seconded:

WHEREAS, the Planning Board of the Town of Harpersfield is considering an application submitted by Odell Lake, LLC, on behalf of BlueWave Solar, to construct a distributed generation, ground mounted solar electric generation facility at 56 Railroad Avenue; and

WHEREAS, said project requires review under the State Environmental Quality Review Act ("SEQRA").

NOW THEREFORE, the Planning Board of the Town of Harpersfield hereby resolves as follows:

1. The Planning Board hereby determines that the action is subject to SEQRA; and
2. The Planning Board hereby makes a preliminary classification of the action as Type I action pursuant to 6 NYCRR 617.4(b)(2); and
3. The Planning Board hereby determines that it intends to serve as Lead Agency with respect to the SEQRA review and, in that capacity, will determine if the proposed action will have a significant adverse impact on the environment; and
4. A copy of this Resolution, the Environmental Assessment Form, and the Application will be sent to Involved Agencies and Interested Agencies, as applicable; and
5. Involved Agencies shall be given 30 days from the mailing of the Lead Agency Notice to challenge the Planning Board's Lead Agency designation and to provide written comments on the full Environmental Assessment Form.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

CERTIFICATION

I, Liz Page, do hereby certify that I am the recording secretary of the Planning Board of the Town of Harpersfield and that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the Planning Board of the Town of Harpersfield at a meeting thereof held on the 31st day of January, 2024. Said resolution was adopted by the following roll call vote:

Chairman Dean Darling

 a/y/e

Member Dusty King
Member Frank Ciulla
Member Walt Keller
Member Kevin All

ace
ace
ace
ace

Dated: January 31, 2024

Town Seal


Liz Page, Recording Secretary

TOWN OF HARPERSFIELD PLANNING BOARD

**A RESOLUTION APPROVING AN AMENDED SITE PLAN FOR THE
21 WEAVER ROAD SOLAR PROJECT
SUBMITTED BY DELAWARE RIVER SOLAR, LLC**

At a meeting of the Planning Board of the Town of Harpersfield, held at 25399 State Hwy 23, Harpersfield, NY on the 31st day of January, 2024, the following resolution was offered and seconded:

WHEREAS, in 2022, Delaware River Solar, LLC (the "Applicant") submitted a site plan application and supporting documentation for a 4.98 MW solar project located at 21 Weaver Road in the Town of Harpersfield (the "Project"); and

WHEREAS, following receipt of the application, the Planning Board identified the Project as a Type 1 Action under the State Environmental Quality Review Act ("SEQR"), declared itself as Lead Agency, held numerous public hearings, and conducted a review of the proposed Project; and

WHEREAS, on June 28, 2023, pursuant to SEQR, the Planning Board considered the possible environmental impacts of the Project and found that the Project will not have a significant adverse impact on the environment and the Planning Board adopted a negative declaration with respect to the Project; and

WHEREAS, on June 28, 2023, pursuant to the Town of Harpersfield Site Plan Review Law, the Planning Board voted to approve the proposed site plan for the Project, subject to 10 conditions as set forth in the Planning Board meeting minutes of that date; and

WHEREAS, on or about January 12, 2024, the Applicant applied for an amended site plan, which includes tracker solar panels in place of fixed tilt panels, relocation of the driveway, and the removal of a driveway to the north of the site, as more fully set forth in the application materials; and

WHEREAS, on January 31, 2024, the Planning Board met to review the application for the amended site plan against the criteria of the Site Plan Review Law and finds that the amended site plan satisfies said criteria; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Town of Harpersfield hereby confirms the prior designation and determination that the Project, including the amended site plan, is a Type 1 action and it will not have a significant adverse impact on the environment and further confirms the issuance of a negative declaration under SEQR with respect to the Project; and

BE IT FURTHER RESOLVED that the Planning Board hereby approves the amended site plan application upon the following conditions:

1. The location of the interconnection for the Project shall be subject to the review and approval of the Town's engineer; and
2. Any modifications to the SWPPP as a result of the amended site plan shall be subject to the review and approval of the Town's engineer; and

BE IT FURTHER RESOLVED that all terms and conditions imposed by the Planning Board in the original site plan approval, which are hereby incorporated by reference, shall remain in full force and effect; and

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

 1/31/24

Dean A. Darling

Chairman Town of Harpersfield

Planning Board

RECEIVED

FEB 13 2024

BY: Linda E. Moss
Town Clerk

3:07 PM