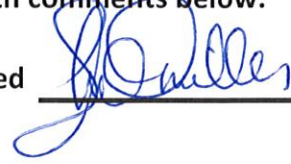


APPROVAL OF MINUTES DATED March 22, 2023

Solar 1 & Solar 2 - Lakeside Park

Due to minutes of above meeting being mailed to all members of the Planning Board
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed

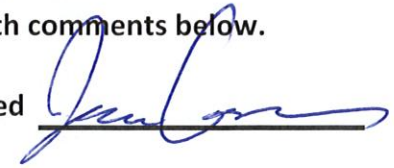


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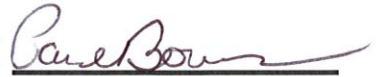


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**PLANNING BOARD MEETING
METZGER ENGINEERING SOLAR 1 & SOLAR 2
WEDNESDAY, MARCH 22, 2023 AT 4:30**

PRESENT: Chairperson Shari Miller, Member Paul Bowers, and Member Jordan Cooper.

ABSENT: Members Carl Brandt and Bob Price.

ALSO PRESENT: Secretary Kyle Coughlin, Supervisor Pagan, Code Enforcement Officer, Ryan Mourer, Richard Mackowiack, Ben Gloss, Dan Leary, Jeff Palumbo, and Michael Metzger.

Chairperson Miller opened the meeting at 4:30 p.m. with a pledge to the flag.

Chairperson Miller stated that the legal notice that was posted on March 15th, 2023.

“NOTICE OF SITE PLAN REVIEW MEETING

NOTICE IS HEREBY GIVEN THAT; the Town of Dunkirk Planning Board will meet on Wednesday March 22, 2023 at 4:30 p.m. at the Town Hall, 4737 Willow Road, Town of Dunkirk. The purpose of the meeting is to review the site plans submitted by Metzger Engineering on behalf of Solar One and Solar Two located on Section 80.01; Block 1: Lot 5 and Section 63.03; Block 1; Lot 23 of the Chautauqua County Tax Map. All person’s interested shall be heard at said meeting.”

While the applicant was waiting for one more party to arrive for their presentation, Chairperson Miller started off by asking questions that she had noted from her review. Her first question was about the removal of trees on the property.

Dan Leary with Our Generation Solar stated that they will only be removing trees that are interfering with the site work on Parcel A but they will be planting trees along the entire residential line as a buffer.

Chairperson Miller asked how tall the panels are.

Mr. Leary explained that the panels are set on racks and are at a tilt. They typically do not exceed 10 ft. He stated that these specific ones are 8 ft. tall at the highest point. There are more details on that in the civil plans provided. The trees after a couple years will hide the panels.

Mr. Leary wanted to explain Community Solar to the Board. He explained that residential solar is solar that is either on your home/located next to your home. This is directly tied into the home owners’ side of the meter. Commercial solar works the same way. It is solar located on top of or next to a commercial business. Community solar is a system that can be located on available land next to sub stations or feeder lines that can accommodate solar. The solar then directly ties into the distribution service. This is so the lines that run up and down the road, that deliver energy to homes, the solar can be tied into. The financial value is captured on the meters on the

property. Any home in National Grid's area can participate in a cost savings program thanks to this. In order to participate in the cost savings a home owner or business owner would sign up and then would receive 10 to 15 percent off their electric bill. The solar company works directly with National Grid, so there are no fees or costs associated with signing up for this service. A project of this size can typically service 1700 to 2000 customers.

Member Cooper asked that since anyone can participate in this program, this wouldn't be a program where people will receive free electric.

Mr. Leary stated that he was correct. They bill through National Grid, so they are the revenue service not the consumer.

Mike Metzger began presenting the project based on the plan itself. He stated that this project is allowed because Solar is allowed within the M1/M2 Districts. He explained that there are very few properties within the Town of Dunkirk that can support these projects due to the size of the property required. He explained the location of the project and what is located in its vicinity.

Mr. Metzger explained that access to the property will be through an easement with the neighboring property owner. He showed where the access road was located on the plans and explained how it will go into the site. He stated that he has done many projects like this and this one has one of the best locations.

Mr. Metzger stated that the reason there were two applications presented to the board had to do with restrictions on the size of the project as it would relate to National Grid.

Mr. Leary explained that National Grid limits the point of interconnection to 5 megawatts which is the size of both Solar 1 and Solar 2.

Mr. Leary further explained to the Planning Board that the construction phase of the project would roughly last 4-6 months. After that there would not be any traffic generated, other than preventative maintenance that is done twice a year. He stated that these solar panels create minimal noise unless you're walking right next to them. He compared the sound to an air conditioner.

Mr. Metzger than asked if anyone had any questions.

Supervisor Pagan asked about water retention and if there are any issues on the site related to drainage.

Mr. Metzger stated that there are no water retention issues and that topic is covered on their storm water pollution prevention plan. He explained that there will be no ground disturbances and the access road where the ground will be disturbed is permeable and was approved by the DEC. The only concern shared by the DEC was during the construction phase of the project.

Mr. Leary then explained that this site will be using agrovoltaic's. Agrovoltaics is utilizing both agriculture and solar energy or photovoltaics. That can mean different things depending on the site. For this site specifically it means that sheep will be utilized for vegetation management. Sheep herders will bring their sheep to the site and let them graze and then come pick them up once they are finished. The length of time they are there can vary but it will be for a couple months.

Jeff Palumbo, Attorney on behalf of Solar 1 and 2 asked about the sheep and clarified that they are only on site for a couple days at a time.

Mr. Leary stated that depended upon the sheep herder that they work with and how big the flock is.

Member Bowers stated that in the proposal it stated only 3 or 4 days at a time.

Mr. Leary stated that in most cases that is accurate.

Mr. Metzger then continued the presentation and stated that the use is allowed within the district but they received area variances for some setback issues experienced on the property. There were 5 variances granted, 1 variance was not. The variance that was not granted was the variance for the distance between the project and a shed which was 39 feet apart. With the denial of that variance, they are able to be the required 200 feet from any residences including that specific shed.

The benefits of this project to the town include the host community agreement and the decommissioning bond.

Chairperson Miller asked how often the bond is evaluated

Mr. Leary stated that it was every 5 years.

Member Cooper stated that according to the application it says every 3 years.

Mr. Leary said in most cases it is 5 but if the application says 3, then that's what it is.

Member Bowers asked about the term of the easement for the access road.

Mr. Leary stated that it's as long as the land lease term.

Member Cooper asked about the 25-year decommissioning. He asked if the panels were just not worth fixing after that period or what the case was with that?

Mr. Leary stated that it is just because of the land lease term. After 25 years they can evaluate the lease with the property owner. They actually have a life expectancy of 35 to 40 years. The warranty guarantees them for 25 years. After 25 years, they still work at 80 %. He explained the many recycling options there are for the panels after they are decommissioned as well.

Member Bowers shared a concern about the access road and why it does not reach the back of the property. He shared concerns for emergency personnel to reach the back of the property. He explained that with the design of the road currently they would not be able to reach the back of the property. He asked the applicant what the plan would be if the panels started burning.

Mr. Leary stated that typically if it started burning, the fire departments would secure the perimeter and let it burn.

Member Bowers stated that because of the road design there would be no access to the back to be able to do that.

Chairperson Miller asked if it was possible to create an access road to the back of the property.

Member Bowers and Cooper discussed the location of the access road location. That it would ideally need to be located between Solar 1 and Solar 2.

Jeff Palumbo stated that was something they will look into.

SEQR issues:

Chairperson Miller then moved on to the SEQR applications.

First issue she noticed was the fire Department listed. The applicant had Dunkirk Fire Department and it should be the East Town of Dunkirk Fire Department.(Pg. 3 on both of the SEQR applications)

The next issue Chairperson Miller saw was with the parks that were listed, she felt that Wright Park was the closest park so that should be added.

Pg. 4 letter G asked about the tallest structure of the project and she asked if it was 8 ft. or 10 ft. As the applicant looked through plans Chairperson Miller suggested putting 8-10 ft. as the answer rather than one or the other.

She then stated that on Pg. 10 there was a part about potential contamination history (not answered) should say no.

Pg. 11 there was a question that wasn't answered.

Chairperson Miller asked about the archeological study part of the SEQR. She asked if one had been performed on the site. Mr. Metzger stated they did do one there should be a clearance letter within the application.

Member Bowers stated that on pg. 3 the number of lots proposed listed as 3 – only 2 were applied for.

Land Owner, Noel Dill stated that there are 3 parcels all together. 2 of the parcels are for the project one is being retained by the landowners and not part of the land lease.

CEO, Ryan Mourer stated that would be something that would need to be done prior to the start of the project.

Member Bowers shared his concern on the SEQR regarding land disturbance being over 1 acre.

Mr. Metzger stated that it would be close. He explained that if it ends up being over an acre it only triggers an issue if there are any impermeable surfaces. If there were any, they would have to make sure that they put in storm water retention but they have no impermeable surfaces, therefore it would not trigger that.

Member Bowers then addressed issues on pg. 9 regarding wetlands.

Mr. Metzger stated that the reason there were no wetlands noted on this page was because they use the state's system/database to fill out that form because of this there are 0 wetlands recorded in that area at the state level, therefore the answer would be 0. The only wetlands that are there are federal and those are being avoided completely.

Member Bowers shared his concern with the damage that could be done to the panels by individuals living near the project.

Mr. Leary stated that they would address damage if it happened but that is all they can do.

Chairperson Miller asked how tall the fence was around the project.

Member Bowers stated it was 7 ft and he is worried about people climbing over that fence and damaging the panels.

CEO, Ryan Mourer stated that there would be nothing they can do or enforce about the fencing. He also wanted the trailer park owner to be aware that the trailer park will need to be in compliance in order to receive a permit for this project.

Chairperson Miller shared with the board a letter of approval from the Zoning Board for the variance's received for the project and a letter received from the Chautauqua County Department of Planning.

The ZBA approval letter read as follows:

For Solar A or Solar One "At the meeting of the Zoning Board of Appeal on January 11, 2023, the referenced appeal was considered and the action indicated below was taken on your request for an area variance pursuant to Local Law #4 of 2021; A Local Law to revise the Solar Facilities Law, Local Law #3 of 2017.

By resolution of the Board, it was determined that 4 area variances were approved and 1 area variance was denied. The approved variances were as follows:

1. The rear setback request of 0 ft., a 100 ft. variance was approved.
2. The West setback request of 0 ft., a 100 ft. variance was approved.
3. The East setback request of 0 ft., a 100 ft. variance was approved.
4. A soil variance request due to the classification of the soil, was approved.

The denied variance was:

1. A residential Building setback request of 39 ft., a variance request of 161 ft."

For Solar B or Solar Two: "At the meeting of the Zoning Board of Appeal on January 11, 2023, the referenced appeal was considered and the action indicated below was taken on your request for an area variance pursuant Local Law #4 of 2021;A local law to revise the Solar Facilities Law, Local Law #3 of 2017.

By resolution of the Board, it was determined that 5 area variances be granted. These variances were approved as follows:

1. A rear setback request of 0 ft., a variance of 100 ft.
2. A west setback request of 0 ft., a variance of 100 ft.
3. An East setback request of 0 ft., a variance of 100 ft.
4. A residential setback request of 185 ft., a variance of 15 ft.
5. A soil variance request due to the classification of the soil."

Correspondence from Chautauqua County Department of Planning:

"Dear Chairperson Miller,

This letter is in response to your municipal zoning referral received in full by this office on March 15th, 2023 regarding a site plan review for the construction of a 5MW solar array at Tax Parcel 80.01-1-5 and for the construction of a 4.8MW solar array at Tax Parcel 63.03-1-23. These parcels are located in the M-2 Industrial District. As one of the designated staff to the Chautauqua County Planning Board, I have reviewed the above noted referral to the County since its within 500 feet of State Road Route 5. I have reviewed the pertinent inter-community and county-wise considerations with respect to this proposal and its effect on the relevant concerns that are listed under General Municipal Law 239-1. Based on this review, I find that the proposed action would have no significant countywide or inter-community impact and that the

proposal would be matter of local concern. However, in order to help the Town with its decision, I offer the following informal comments:

1. Dunkirk Solar One would result in the conversion of approximately 20.56 acres of agricultural land and Dunkirk Solar Two would result in the conversion of approximately 21.14 acres of agricultural land/ The land contains soils that are all either classified as prime farmland if drained, or farmland of statewide importance. While this department recognizes the need for renewable energy, we also prioritize the preservation of the County's viable farmland and rural landscape. We urge the Town to consider the impacts of this project and future projects on the local agricultural economy, and to discuss ways to mitigate agricultural impacts.
2. The applicant has included documentation of an aeronautical study that was conducted by the Federal Aviation Administration. The study indicates a determination of n hazard to air navigation. However, I recommend that the Town encourages the applicant the reach out to the Dunkirk Airport Manager to discuss potential impacts of the project. Due to proximity to the airport, a glare study may be required. Again, I recommend close coordination between the Town, the applicants, and the Dunkirk Airport Manager.
3. I applaud the applicant for including a detailed Stormwater Pollution Prevention Plan, Landscape Plan, and an Operation & Maintenance Plan. The Operation & Maintenance Plan includes details on vegetative maintenance and an option for grazing animals to be utilized within the solar panel area. The American Solar Grazing Association provides resources and information on the practice of grazing livestock on solar farms. If the Town wishes to learn more, the following website may be of assistance:
<https://solargrazing.org/>
4. Solar energy systems can result in adverse visual impacts to nearby properties. Screening and landscape requirements in local solar laws can help mitigate these visual impacts. The Town may find NYSERDA's Model Solar Energy Local Law a helpful resource for how to address screening and visibility for solar projects. The model law can be found at the following address: <https://www.nyserda.ny.gov/solarguidebook>
5. NYSERDA's Model Solar Energy Local Law recommends that landscape cover under solar energy systems be made up of native perennial plant species that provide foraging habitat for birds and pollinators. I would encourage the Town to clarify with the applicant the type of landscape cover that would be used for the project, and t suggest that it conform to NYSERDA's recommendation (if it does not already.)
6. The applicant has prepared decommissioning plans for both Dunkirk Solar One and Dunkirk Solar Two. The plans appear to be sufficient with a good level of detail and provisions for site restoration. Predicting decommissioning costs decades into the future can be difficult. Therefore, I would encourage the Town to work with the applicant on an agreement to periodically update the decommissioning costs and surety to ensure that they remain adequate to cover future costs. Within the decommissioning template for Chautauqua County Municipalities (available at <https://planningchautauqua.com/>) it is recommended that these costs be reviewed every four (4) years.
7. Wetlands have been recognized by both State and Federal government as valuable natural features that provide a number of ecological, economic, and social benefits (see

<https://www.fws.gov/wetlands/>). The site plan indicates that the project area contains wetlands. It is recommended that the applicant work with DEC and the Army Corps (or any other involved entity) to resolve any possible wetland issues.

8. The applicant indicates that some tree cutting will occur. I recommend that the Town consider and discuss with the applicant any measure that will be implemented to reduce the impacts to protected bat species. The Town may also wish to consider developing an agreement with the applicant to replace cut trees with plantings on land cover that will not be used by the panels.”

No correspondence or response was received by State DOT at the time of the meeting. Materials were delivered to the State DOT’s office the week prior to the meeting.

Chairperson Miller asked if a glare study was done with the airport.

Mr. Leary that was part of the no hazard checklist that they have to go through. FAA requires that but they are built anti reflective.

The Town of Dunkirk Planning Board voted to move this project forward to the Town Board with the following recommendations:

- An access road be constructed between Solar A and Solar B so that firefighting equipment could drive through the project and not only access both fields but also the train tracks should there be an emergency or fire. The landowner's lawyer agreed that, as this is a matter of health and safety, that they would take that under consideration.
- That the harsh angle of the access road be reworked so that a tanker truck could maneuver should there be a fire that the East Town of Dunkirk would respond to. The landowner's engineer stated that the curves would be adjusted to accommodate this request.

The Motion to send the recommendation to the Town Board was made by Member Cooper and duly moved by Member Bowers. The motion was carried with all in favor.

Adjournment:

With no further business for the Planning Board, a motion to adjourn the meeting was made by Chairperson Miller. The motion was second by member Cooper and carried.

Respectfully submitted,

Kyle Coughlin
Secretary to Planning