

PLANNING BOARD MEETING
MINUTES: FEBRUARY 14, 2022

MEMBERS PRESENT: Bruno, Lare, Starzynski, Stessing, Worrall
Alternate member: Bowman

MEMBERS ABSENT: Duchscherer, Greco

OTHERS PRESENT: Councilman Marston, Town Engineer Bob Westfall, Code Enforcement Officer Kasey Morgan and Those Listed Herein.

Chairman Bruno opened the meeting at 7:01 P.M.
Mr. Bowman will be a voting member at this meeting.

MINUTES: Planning Board Meeting – January 10, 2022
It was moved by Stessing – Starzynski to **APPROVE** the minutes as submitted.

Roll Call: Ayes – Stessing, Starzynski, Bowman, Bruno, Lare, Worrall
Noes – None
Carried

VOUCHER: Arlene Ehde, Recording Secretary - \$214.11
It was moved by Bowman – Worrall to **APPROVE** the voucher for payment.

Roll Call: Ayes – Bowman, Worrall, Bruno, Lare, Starzynski, Stessing
Noes - None
Carried

REFERRALS

1. FROM: Town Board/Town Engineer
RE: GRAND ISLAND SUNRISE LLC – 871 WHITEHAVEN RD.
TYPE 3 SOLAR GENERATION PROJECT
SITE PLAN AND SPECIAL USE PERMIT APPLICATION

Dan Leary, Our Generation, owner of Grand Island Sunrise LLC and Jason Burford, Greenman-Pedersen, Inc., lead engineer on the project, appeared requesting Site Plan Approval and approval of a Special Use Permit for a Type 3 Solar Generation Project at 871 Whitehaven Rd.

Mr. Leary stated that they are proposing a 5MW AC community solar farm with connections to Niagara Grid's overhead power lines. Electrons go into the grid but value can be shared with homes and businesses throughout the region. Literature says 6.084MW, however, Mr. Leary stated that a correction was sent into the Town. It is 5MW AC., which is a cap from from National Grid. The design inverters are up to 98% efficient in conversion from DC to AC.

Mr. Leary stated that they were part of the process to come about a Solar Law that the Town found acceptable to the goal they had. Stake holders from the community, developers and the Town designed the Solar Law. This project is in line with what came out

of the intent of the Law.

Ms. Lare commented that late this afternoon the Board received an e-mail with amended information and some supplemental information, as well. She, and other members have not had a chance to thoroughly review.

Mr. Burford stated that they developed the site plan for the project. To the west, there is a TV broadcast tower. To the south is the Whitehaven Rd. ROW and the Planned Development District. To the East is a single family residence and the PDD. The North is owned by the property owner, which is the vast majority of the property.

The following is additional information included in the e-mail received this afternoon:

- There will be a 7' high fence with 6" above finished grade. The fence is a minimum of 400' from the center of Whitehaven Rd. The entire solar panels will be fenced.
- Gravel road access to the transformers. Transformers are at the front of the project, all in excess of 400' from the center of Whitehaven Rd. The gravel road is existing. Road access is widened to 20' for truck and fire access to get through to all equipment.
- At each equipment location, there is a gate that can be opened for equipment access.
- They will utilize what is not wetlands or woods. It is open field coverage.
- There is a landscaped screening border up to 1,000' from neighboring residence. They show a 1, 2, and 5 year future growth of the trees and shrubs.
- The project is about 21 acres. There is a total of 167 acres owned by WNY Public Broadcasting.
- This project is allowed in the B-1 and R-1D zoning.
- Signage – Warning "electric danger" signs around the entire perimeter.
No public access signs.
Signs attached on the equipment with proper verbiage as required by Town Code.
They will submit all sign information in accordance with Town Code.
- The Environmental Assessment Form shows 4.5 acres will be disturbed. It was explained that included in the acreage is roadwork, stripping of top soil, trenching, pilings and heavy traffic construction for the concrete pads. Pile driving is not a disturbance. Twenty-one acres is the entire perimeter of the project.

The following is in answer to comments made by Mr. Morgan, Code Enforcement Officer:

- No trees are coming down. There are probably less than 12 trees on the property.
- Mr. Leary explained the connection of panels, where the inverters are, where they are combined and how they get to the transformers.
- Trenching will be done along the ends of the rows into the boxes, then it runs back to the transformers. All National Electric Code (NEC) compliant.
- Pads are for the mounting of switch gears and transformers. Pads are 10'x15' and

8'x16' in size. Pads are designed for containment of any oil.

- Poles are a National Grid requirement. Everything to the poles is underground.
- All information will be submitted on the 3-line diagram.
- NEC disconnect has been submitted.
- Property maintenance plan has been submitted.
- Emergency response plan has been submitted.
- There will be no lighting. However, there should be lighting at the switch gates and transformers. It is required by Code.
- Niagara Grid will accept capacity. They can handle 100% of the capacity.
- Solar panels and pilings need to be outside of the DEC's setback zones. Access roads and fences are permitted within them. The DEC may reduce setbacks on a case by case basis going from 100' to 50'. The Solar Law setback of 100' is in line with what the DEC requires. If the DEC would allow panels up to 50' or 75' on the north side, it would give them more design flexibility. Their site plan for this project is within the Solar Law. Mr. Burford stated that they have started discussions with the DEC. If the DEC allows within a 50' buffer zone, they would come back seeking a zoning variance.
- There is no battery emergency storage system.
- From the road or residential neighbor to the East, there is 8' to 14' tall vegetation. It will be undisturbed. Neighbor will only see the existing vegetation.

Bridget O'Toole, Esq., Special Counsel to the Town, stated that a visual impact analysis is required. She has not received this document. The applicant has to do the analysis even if the vegetation is left in place. Existing vegetation is on the applicant's parcel. Application will be incomplete until the visual impact analysis is submitted.

Mr. Starzynski commented that the Solar project requires a Special Use Permit. Section 407-114 states, "This review shall be for the purpose of determining that each proposed use is and will continue to be, compatible with surrounding existing and planned uses." There was a discussion on the proposed PDD. The Solar Farm is bordered on the East and South with the proposed PDD. The PDD was approved by the Town Board in 2010. Nothing has been built, but it is planned and construction could start tomorrow. There are probably 20 parcels that border on the east/west line and south line. The question arises whether the compatibility would be what the planned use is.

Mr. Westfall stated that the developers made application for water and sewer extensions, which was approved by the Erie County Health Department. They have kept this active by filing for extensions. They could petition to build at any time.

Mr. Burford stated that additional screening could be done as it becomes necessary. The 400' setback limits could wipe out this project.

Mr. Starzynski commented that the adjacent property owners could look at the marketability of perhaps 20 parcels. Of course, there would be a tower in their backyard. That is a visual thing. It would be an important consideration from the Town Board's perspective. Mr. Leary stated that solar makes good neighbors, low profile, no noise, no traffic and no smells.

Mr. Starzynski stated that he has not seen a drawing of the topo. It might be interesting to all concerned to understand the gradations in the topo from front to back, side to side, to gain a perspective. Mr. Burford stated that a topo is included in the plantings' submission. To the east and south, it is slightly higher, but overall, the property is pretty flat. The proposed lots in the PDD are approximately 140'-150' deep. Property could be cleared with grass planted to the back property line. It was explained that the landscaping plan shows 50' of trees, evergreen trees and other vegetation. This would totally screen the proposed lot. The setback, as the Law reads now, is 400'.

Mr. Westfall commented that a single family home could be constructed with a 50' setback to the back property line. The back would probably be mowed to the property line. We have to give some respect to the landowner that has a project that he has advanced.

When the public hearing is held, the property owner of the PDD will be notified. At that time he can express his opinion.

The solar farm would be a second principal use on the parcel. There is a Special Use Permit for the tower. The closest solar panel is at least 800' away from the tower.

Ms. O'Toole stated screening is required for all adjacent parcels. The visual impact assessment is not just for the Planning Board, but also for the Conservation Advisory Board's comments. Both Boards will provide recommendations to the Town Board.

Mr. Burford stated that he understands they will have to develop screening and buffering based on potential future development and existing residence. Full height screening, visual simulation and photographic simulation on the north/south, east/west property lines.

Mr. Leary was questioned as to what would happen if there was an overcurrent from a lightning strike. He stated that there is overcurrent and lightning protection. There is service with electrical contractors who would get things back and running. There are contractors located in Amherst and Dunkirk.

It was moved by Bruno – Stessing to recommend Site Plan Approval with the following:

407-157.1 – Sign and Light profile analysis.

Photographic Simulations.

Lights per Town Code on the transformer areas.

Landscaping plan on all of the south and east areas and more aggressive plantings within the 50' buffer.

Comments made:

Ms. O'Toole stated that we have not concluded the SEQR process. We are not able to grant Site Plan Approval at this time. It was noted that this Board is an advisory Board. She said her recommendation is the same, regardless of the advisory nature.

Mr. Stessing stated that landscaping should be contingent upon development in the area. At

that point, it would become necessary. At this point it is not necessary.

Mr. Worrall asked Ms. O'Toole, regardless of current use, would they need just the buffer or vegetation or also landscaping? Ms. O'Toole replied some type of screening for all adjacent parcels. From what we have seen, we don't think we have sufficient information to make a determination as to whether the existing vegetation is sufficient.

Mr. Starzynski stated he would vote no based in part of what Ms. O'Toole just said. He is not satisfied with the vegetative protection for the neighbors, particularly the PDD.

Ms. Lare commented that we just received the supplemental information. It needs to be reviewed.

Mr. Worrall suggested they contact adjacent property owner to determine their plans for the PDD.

Mr. Bowman stated, the PDD has been approved. They haven't done anything in the last ten years, but they have continued to renew their permits. The project is still viable. He can't see how you can approve something 50' from someone's yard. 400' to 50' is a big difference. Who is going to want to live next to that?

Roll Call: Ayes – Bruno
Noes – Bowman, Lare, Starzynski, Stessing, Worrall
NOT Carried

It was moved by Stessing – Lare to **TABLE** to review information and whatever else might be forthcoming.

Roll Call: Ayes – Stessing, Lare, Bowman, Bruno, Starzynski, Worrall
Noes – None
Carried

2. FROM: Town Engineer
RE: PANEPINTO SUBDIVISION – WHITEHAVEN RD. – SBL #36.00-2-7.112
PRELIMINARY PLAT APPROVAL

Jarret Johnston, EIT, Advanced Design Group, appeared requesting Preliminary Plat Approval for the Panepinto Subdivision, a three lot minor subdivision, located on Whitehaven Rd., SBL #36.00-2-7.112.

A variance has been granted for the three lot subdivision.

It was moved by Starzynski – Lare to recommend **APPROVAL** of the Preliminary Plat for the Panepinto Subdivision, contingent upon recreation fees being paid.

Roll Call: Ayes – Starzynski, Lare, Bowman, Bruno, Stessing, Worrall
Noes – None
Carried

3. FROM: Town Engineer
RE: SANDYWOOD CIRCLE SUBDIVISION (17 LOTS) – HUTH RD. – SBL #24.06-1-1.2
PRELIMINARY PLAT APPROVAL

Matt and Joe Zarbo appeared via ZOOM, requesting Preliminary Plat Approval for the Sandywood Circle Subdivision, a seventeen lot single family home subdivision, SBL #24.06-1-1.2. It is located off Huth Road, across from the Huth Road school, between Pellamwood Ct. and Autumnwood Dr. It is zoned R-1D and is R-1D compliant. The road to be dedicated to the Town with Town compliant utilities.

The 9.7 acre parcel was purchased from the Island United Presbyterian Church. They are well aware of the plans for the subdivision. The existing structure will comply with setbacks within the R-1D district.

Matt Zarbo stated that the two detention ponds are wet ponds per DEC regulations. Dry ponds do not qualify for the water quality aspect that is needed. Each side of the property will drain into the two ponds at the rear and then directly out to the creek to the south. Mr. Westfall stated that they will need to construct piping infrastructure, working with the Town, in order to have their ponds discharge to the creek across Town property. The ponds will be owned by the owners of the two lots. They will be responsible for the maintenance of the ponds.

The wetland delineation has been completed. There are no jurisdictional wetlands that they will impact as part of this project.

The 80' frontage was questioned on the lots on the cul-de-sac. Mr. Westfall stated that the frontage on a cul-de-sac lot is measured at the setback.

Mr. Westfall stated that Mr. Zarbo will be working with the Town and the DEC/Health Department on the sewer extension, following their requirements. Mr. Zarbo is working on a down-stream capacity analysis for the Health Department, for a DEC permit. Mr. Westfall stated that the sewer system has more than adequate capacity. There is no problem with the water supply for seventeen lots.

Mr. Zarbo stated that they would like to start road construction later this year.

Mr. Zarbo commented that there is a raised garden bed and a portable shed that surrounding property owners have infringed on their property.

There was a discussion on sidewalks. There are no sidewalks in front of the existing church on Huth Rd. Sidewalks are shown on the west side of the proposed street to Huth Rd. There are proposed sidewalks along the entire length of the cul-de-sac until it meets the church

property. No sidewalks on the east side of the church property. Mr. Zarbo commented that if there were sidewalks along the church property, it probably would not be maintained in the winter. If there is a time when the church no longer exists, it is very likely that the property would be subdivided into residential lots. Any type of sidewalk would likely be torn out. It is a low lying area. There are sidewalks on the north side of Huth Rd., not on the south side. Sidewalks should be continuous to the end of the project. There will always be gaps, but we should be looking for connectivity in sidewalks.

There will be a stop sign on Sandywood Circle. There was a discussion of a pedestrian crossing sign.

Mr. Westfall commented that the plans have been sent to the Traffic Safety and Sidewalk Committees for review.

It was moved by Starzynski – Bowman to recommend that Preliminary Plat be **APPROVED** contingent upon recreation fees being paid on a per lot basis.

Roll Call: Ayes – Starzynski, Bowman, Bruno, Lare, Stessing, Worrall
Noes – None
Carried

4. FROM: Town Engineer
RE: JOHN VALENTI – 1754 GRAND ISLAND BLVD.
PROPOSED SITE DEVELOPMENT – CONCEPT DISCUSSION

John Valenti appeared to discuss his plans for a proposed development at 1754 Grand Island Blvd. One of his plans indicated a storage building. However, Mr. Valenti stated that the building would be used for office space/garage space for small businesses, such as an insurance company or an UPS store. It will probably be a metal building with windows, more glass and possibly some stone on the front of the building.

Property is in the South Business District.

Mr. Westfall commented that for office space, toilet facilities would be required.

Each unit would be approximately 20'-25' x 50'. A man door and overhead door is shown. No windows are shown on the drawing. Overhead doors are 14'x14' or 12'x12'. It was suggested to downsize the doors.

When submitting the site plan, the following needs to be illustrated:

- Front yard setback.
- Designated parking with handicapped parking.
- Architectural features.
- Landscaping.
- Lighting.

- Storm water detention.
- Green space.
- Parking. 9'x19' parking spaces are required with 24' for the drive lane. 2-3 spaces per unit.

With a L-shaped building, parking would be a problem.

He does not own the property, he has an option to buy.

It was suggested he look at the Performance Standards. They bring buildings forward, but prohibits parking in the front yard. He should also look on Grand Island Blvd. at other projects similar to what he is proposing.

No action required at this time.

COMMUNICATIONS – OTHER OFFICIALS

1. FROM: Town Board
RE: MINUTES – December 20, 2021, January 3, 2022
Received and filed.
2. FROM: Board of Architectural Review
RE: MINUTES – December 21, 2021
Received and filed.
3. FROM: Zoning Board of Appeals
RE: MINUTES – January 6, 2022
Received and filed.
4. FROM: Long Range Planning Committee
RE: 2022 CALENDAR/MEETINGS
Received and filed.
5. FROM: Traffic Safety Advisory Board, Eric Thomsen
RE: SOUTHPOINTE PDD – AMENDED DEVELOPMENT CONCEPT PLAN
Received and filed.
6. FROM: Traffic Safety Advisory Board, Eric Thomsen
RE: LOCAL LAW INTRO #9 OF 2019 – TREE ORDINANCE
Received and filed.

UNFINISHED BUSINESS

1. FROM: Town Board
RE: LOCAL LAW INTRO #11 OF 2021 – REZONING PORTION OF SBL #38.11-2-6.11
WHITEHAVEN ROAD – B-1 TO R-2
CORRESPONDENCE – LONG RANGE PLANNING COMMITTEE
To remain on the **TABLE**.

2. FROM: Town Board
RE: ACCESSORY USES AND STRUCTURES – PROPOSED CODE MODIFICATIONS
To remain on the **TABLE**.

3. FROM: Code Enforcement Officer
RE: EMERY FARM SOLAR – 2595 WHITEHAVEN RD.
SPECIAL USE PERMIT APPLICATION
(Tabled 12/14/20 until it is referred.)
To remain on the **TABLE**.

4. FROM: Code Enforcement Officer
RE: LONG ROAD DISTRIBUTION FACILITY – 2780 LONG RD.
SITE PLAN APPROVAL
To remain on the **TABLE** until such time as SEQR is resolved.

It was moved by Bowman – Starzynski to **ADJOURN** at 9:10 P.M.

Roll Call: Ayes – Bowman, Starzynski, Bruno, Lare, Stessing, Worrall
Noes – None
Carried

Respectfully submitted,

Arlene Ehde, Recording Secretary