

LIVINGSTON COUNTY PLANNING BOARD
Meeting Minutes – August 13, 2020

In attendance: CATHIE GEHRIG, Town of Mt. Morris; WILLIAM GRAHAM, Town of Groveland; DON KANE, Town of Leicester; STEWART LEFFLER, Village of Geneseo, Chairman;; JACK SPARLING, Town of Livonia; JILL KALMAR, Town of West Sparta; KAREN ROFFE, Village of Leicester; SARAH SANTORA, Village of Caledonia; KEVIN FAHEY, Village of Mt. Morris; APRILE MACK, Alternate #1; JOANNE PALMER, Village of Livonia; CLARA MULLIGAN, Town of Avon; ALEX PIERCE, Town of Nunda; ANITA MARTUCIO, Town of Conesus; BARRY INGALSBE, Village of Lima; C. JOAN CRUNDEN, Town of Caledonia

Staff: HEATHER FERRERO, Deputy Planning Director; SHAWN ROONEY, Planning Assistant; MARY UNDERHILL, Planner

Members Excused: DENNIS NEENAN, Town of Lima; DAVID LUCE, Town of North Dansville; KYLE MOTT, Town of Springwater; JOHN VAN HEUSEN, Town of Ossian; ROBERT HAYES, Village of Avon; TIM BRINDUSE, Village of Dansville

Members Absent: KATE WILCOX, Town of York; JARED RADESI, Town of Geneseo

Guests: CHET FELDMANN, Distributed Sun, BOB GAGE, GBT Realty; SETH WILMORE, Oriden, MICHAEL PARSONS, Town of Leicester; BILL BACON, Livingston County Economic Development

Chairman Leffler brought the August 13, 2020, meeting of the Livingston County Planning Board to order at 7:08 p.m.

Chairman Leffler introduced and welcomed guests.

Chairman Leffler led the group in the Pledge of Allegiance.

Chairman Leffler provided an overview of New York State General Municipal Law, Section 239-1, m, & n and reviewed the rules for member participation and voting.

Approval of Minutes from the June 11, 2020 and the July 9, 2020, County Planning Board Meeting

Chairman Leffler asked for a motion regarding the Minutes from the June 11, 2020, County Planning Board meeting.

A motion to approve the meeting minutes from June 11, 2020, was made by Ms. Roffe and seconded by Ms. Santora. The motion carried.

Chairman Leffler asked for a motion regarding the Minutes from the July 9, 2020, County Planning Board meeting.

A motion to approve the meeting minutes from July 9, 2020, was made by Mr. Graham and seconded by Ms. Gehrig. The motion carried.

Zoning Referral #2020-034, Town of Leicester, Site Plan Review, Special Use Permit, and Area Variances for a 20 MW AC solar ground mounted solar array and associated improvements on Highbanks Road (Applicant: Highbanks Solar, LLC)

Ms. Underhill presented the staff report. Items discussed included:

- Seth Wilmore from Oriden stated that the applicant is in process of responding to all the engineer's comments. Mr. Wilmore stated that the phase 1 archeological survey is almost completed. Mr. Wilmore also stated that the rare plant study has also been completed and there were no rare plants found on site.
- There were questions as to if the applicant has plans to provide a landscaping plan to the town, as well as if there will be buffering between the parcel and the park? Per Ms. Underhill, she stated that landscaping is required in the law.
 - Mr. Wilmore from Oriden commented in regards to the above comment. He stated that due to the fact that there are no visible residences along Highbanks Road, that there is no plan to provide buffering. Mr. Wilmore stated that providing unjustified landscaping will affect the power from the project.
- There was a question as to if the collection line from the array heading to the substation is going to be above ground or below ground?
 - Mr. Wilmore states the applicant is leaning more towards putting that underground, so there is no visual disturbance.
- Mr. Pierce asked if the applicant isn't granted the variances, is it their intent to take additional forested lands or wetlands?
 - Ms. Underhill responded to Mr. Pierce's comment. Ms. Underhill states there could be three different versions. One being that the Town requests them to come into compliance with the law. They could reduce their footprint to do so. There could be a combination where they would reduce their footprint somewhat, and then relocate or expand in other areas. The other option would be not to reduce their footprint and relocated that equal amount.

A motion to recommend approval of Zoning Referral #2020-034 with staff and board comments was made by Ms. Crunden and seconded by Mr. Fahey. Abstention from Mr. Kane. The motion carried. 15-0-1

Zoning Referral #2020-037, Town of Mount Morris, Site Plan Review, Special Use Permit, and Area Variance for a solar project at 6787 Mount Morris Nunda Road- Avery (Applicant: Distributed Sun LLC)

Mr. Rooney presented the staff report. Items discussed included:

- A member from the board would like some more details in regards to the double-sided reflective panel.
 - Chet Feldmann with Distributed Sun spoke in regards to the above comment. The double-sided reflective panels are called "bifacial" solar panels. The panels have glass on the top, silicon wafers in the middle and plastic sheeting on the back. The

plastic sheeting on the back has been replaced with more glass. The panels collect sunlight from the ground as well as the sky, which is especially a benefit during the winter because snow is very reflective.

- The board questions if the double-sided panels have been tested? Also, would like to know if the panels are reversible and can be flipped over in order to use the other side?
 - Mr. Feldmann stated that flipping them over could probably be possible, but they will most likely not do that. He stated that the wafer materials are degrading over time. The wafer is thin enough that the degradation is affecting the unit as a whole and there is not going to be much better long-term performance on the backside.
- There was a concern of the height of the panels. It is not understood why they have to be up to 20ft high? With that, there was a question to if there were going to be any tree buffers?
 - The applicant is trying to work with the engineers and vendors to push the level down to be a maximum of 14.5 feet at night. The majority of the day the level will be below the maximum height limit presented by the town code.
 - The applicant is not proposing trees, however if the town code requires vegetative screen to go in, the applicant is planning multiple rows of trees.
 - The board would suggest the applicant uses a combination of native tree and pollinator species.
- The board questions if there is sufficient parking and a turn around?
 - The applicant is providing for one parking space inside the array for the future technician to park and turn around.
- The board would like clarification if the proposal has already been submitted to the local emergency officials for review?
 - Per Mr. Feldmann, he has reached out to the Code Enforcement Officer regarding this and has yet to hear back. He states this site, as well as the others have a 20ft corridor from east to west across all these sites. They will have boxes that will have local access to emergency responders. The north and south areas have 27 feet of access.
- The board is curious as to how close the closest house is to the arrays?
 - Mr. Feldmann stated that all of these projects, the closest house happens to be the landowner's home. There are natural vegetative buffers to the landowner. The applicant is adding anything where there would be a public viewpoint where there are not already trees. Mr. Feldmann did state that the project is over 200ft from the landowner's homes.

A motion to recommend approval of Zoning Referral #2020-037 with staff and board comments was made by Mr. Graham and seconded by Mr. Sparling. Disapprovals by Mr. Pierce and Ms. Kalmar. Abstentions from Ms. Gehrig and Mr. Fahey. The motion does not carry. 12-2-2

The referral will go back to the Town of Mount Morris with staff and board comments for their decision.

Zoning Referral #2020-035, Town of Mount Morris, Site Plan Review, Special Use Permit, Subdivision Review and Area Variance for a solar project at 6562 Creek Road- Winters (Applicant: Distributed Sun LLC)

Mr. Rooney presented the staff report. Items discussed included:

- Per Mr. Rooney, the applicant did submit the proposal to the Army Corps of Engineers.
 - Mr. Feldmann stated that they have only received a preliminary jurisdictional determination.
- Mr. Pierce states that the board is primarily focused on soils of statewide importance and that we haven't really touched on the impacts of pushing it off from nonproductive agricultural land into other natural resources, for example watershed, wetlands or forested areas. There is a concern as to how the Army Corps is going to look at those areas that they have authority over?
- Ms. Roffe has a concern as to the lack of information. It was mentioned that there were no notes from the local board and was curious if they have reviewed the projects yet?
 - Mr. Rooney stated that the projects have been reviewed but no minutes were provided..
- Is there a plan in order to access easement to the northern section of the parcel?
 - Mr. Rooney stated that the northern parcel does have road frontage onto Creek Rd. that could potentially serve as a connection area to build a road to the northern parcel. Mr. Rooney stated that in the submitted materials there is not more than the one access point, just the one that goes to the subdivision.
 - Mr. Feldmann stated that the applicant does intend to seek a permit easement from the southern array to the northern array to ease traffic. He stated that is generally done near the construction date.
- Mr. Feldmann would like to add that additional work has been done on the glare analysis. A latent issue was found with the previous simulation. New documentation was submitted to the town that there is no expected glare to be caused by these arrays on either of the adjacent homes, roadways or airports.
- The board questions what the setback is from the road frontage? And is there vegetative screening for that road frontage?
 - Mr. Feldmann stated that they do have vegetative screening for all the road frontage. The setback is 200ft from any of the residences. The solar law specifies 100 ft setback from the central line of the roadway to the solar equipment, which is what the applicant is doing.
- There was a question as to if this is the project that takes out about 4 acres of forest land?
 - Mr. Feldmann stated that the applicant would like to reduce the shade potential at the back corridor at the northwest of the northern array.
- Mr. Leffler asked about restoration. It is stated that the site is supposed to be restored to its preexisting conditions. His question is how do you accomplish that with taking down forested lands?
 - Mr. Rooney stated that they recommended to the town to develop a method of determining what is preexisting. Restoration of the trees has not been submitted in the decommissioning plan.
 - Mr. Feldmann states at the end of the 35 years, the applicant would notify the town and utility. He stated that usually between 180 and 365 days usually from the notification we need to be moving back to the original condition. All the

cables, equipment pads, equipment within the area of the project would be removed. A subsoiler would be used to loosen the soil to bring the soil and grass conditions ready for planting agricultural row crops. This has been presented the Department of Ag and Markets and they confirmed. Replanting of the trees has not been accounted for.

A motion to recommend approval of Zoning Referral #2020-035 with staff and board comments was made by Mr. Leffler and seconded by Mr. Sparling. Disapprovals by Ms. Mulligan, Mr. Graham, Ms. Roffe, Ms. Palmer, Mr. Pierce and Ms. Mack. Abstentions by Ms. Gehrig and Mr. Fahey. The motion did not carry. 8-6-2

The referral will go back to the Town of Mount Morris with staff and board comments for their decision.

Zoning Referral #2020-036, Town of Mount Morris, Site Plan Review, Special Use Permit, Subdivision Review and Area Variance for a solar project at 6474 Creek Rd- Forbes (Applicant: Distributed Sun LLC)

Mr. Rooney presented the staff report. Items discussed included:

- If the Town of Mount Morris wants to approve the project, they can make their approval contingent upon the Army Corps. This is as long as the Army Corps issues a permit and agrees that the mitigation of the wetlands is acceptable.
- The board would like the Town of Mount Morris to provide the Army Corps of Engineers evaluation.

A motion to recommend approval of Zoning Referral #2020-036 with staff and board comments was made by Mr. Graham and seconded by Ms. Crunden. Disapprovals by Ms. Mulligan, Mr. Kane, Ms. Roffe, Ms. Palmer, Mr. Pierce, and Ms. Mack. Abstentions by Ms. Gehrig and Mr. Fahey. The motion did not carry. 8-6-2

The referral will go back to the Town of Mount Morris with staff and board comments for their decision.

Zoning Referral #2020-056, Town of Avon, Review of Town of Avon Moratorium (extension) prohibiting large scale battery energy storage system installations (Applicant: Town of Avon)

Ms. Underhill presented staff report. Items discussed included:

- The board would like to recommend that the Town of Avon review their Comprehensive Plan to make sure that new technologies like energy storage are reflected in their Plan and are consistent with the Town's vision.

A motion to recommend approval of Zoning Referral #2020-056 with staff and board comments was made by Mr. Pierce and seconded by Ms. Roffe. The motion carried unanimously. 16-0-0

Zoning Referral #2020-055, Town of Leicester, Review of the new Town of Leicester Zoning Code and Zoning Map (Applicant: Town of Leicester)

Mr. Rooney presented the staff report. Items discussed included:

- There was a concern from a board member regarding the term “super majority.” She wanted to make sure the Town of Leicester has that term in their definitions.
- There was a concern by a board member regarding that attendance requirement. It was believed that according to the State, attendance is not a legal reason to remove someone from the board. The question is if there needs to be attendance regulations in place in order to be removed from the board? The board would like the attendance clause to be more defined.
 - Ms. Ferrero stated that the attendance clause can specify excused versus unexcused absences.

A motion to recommend approval of Zoning Referral #2020-055 with staff and board comments was made by Mr. Pierce and seconded by Ms. Gehrig. Abstentions by Ms. Roffe. The motion carried. 15-0-1

Ms. Santora left the meeting.

Zoning Referral #2020-059, Town of Livonia, Area Variance for a 9,100 sq. ft. commercial retail building at 4797 Main St (Applicant: Franklin Land Assoc, LLC/Dollar General)

Ms. Underhill presented the staff report. Items discussed included:

- The board questions in regards to the improvements, if they are referring to improvements in the project or improvements in the community?
 - Mr. Gage stated that it is improvements to the project. It was requested that the applicant install sidewalks, keep as many existing trees on site as possible and to extend the sewer line down to the site. The sewer line is currently located +/- 500 ft north of the intersection.
 - The plan is to provide a more detailed site plan once we get past the variance approval/disapproval stage.
- There was a question as to if the plan is to provide more products, such as groceries?
 - Mr. Gage stated that the plan does have an expanded cooler section. Approximately 20% of the sales floor will be dedicated to food. There will be no freshly prepared products, but a wide variety of pre-packaged foods will be available. Dollar General does not typically provide produce in stores.
- Ms. Underhill asks Mr. Gage to speak in regards to the facade development.
 - Mr. Gage stated they are proposing a wood construction with a full gabled roof construction. He stated it is architecturally more pleasing than the prototypical store.
- Mr. Pierce questions if there is a plan to include local vendors or local crafters use?
 - Mr. Gage stated that typically no. He did state there is some area in front of the registers that they might be able to come up with some sort of agreement with vendors, but it would be case by case.
- It was mentioned that the developers are also the owners of the property, and Dollar General will just be leasing the building and site. Mr. Gage stated that the developers buy

the property, permit the building and construct the building. Once turned over to Dollar General, they are responsible for maintaining insurance and maintenance upkeep for landscaping, parking lot etc. Dollar General does have people that go around from store to store and check for pot holes, vandalism, etc to repair them. Mr. Gage stated that his company has a great relationship with Dollar General. They have built over 730 stores for them since 2008. He states Dollar General has done everything that they said they would do.

- Mr. Pierce recommends the Town of Livonia look in their comprehensive plan to see if they see this project being a part of that plan.
 - Ms. Underhill stated that the Town is not looking into changing the direction of the mixed used hamlet to take on this parcel. They are building documentation on how they are reviewing it on a case by case basis and deciding if this one fits. It is further to the south and has a lot of land. The Town is not intending to set a precedent in the mixed-use hamlet. The Town is taking a look at this one and deciding if there is a uniqueness to this case and documenting that.
- Mr. Leffler questions if anyone knows if there is a requirement that the replacement pond is in character or if its just the same volume. The concern is that if it is the same volume that it is going to be very shallow.
 - Mr. Pierce commented stating that if that is a retention pond instead of a wetland, then the retention pond just needs to be adequate for runoff that is anticipated for that structure.
 - After clarification from other board members, Mr. Leffler comments that as part of the considerations, that perhaps the area is an opportunity for something more than just a grassy or dirt area that fills with water. Something that has an aesthetic appeal as the location will be fairly visible.
- Ms. Underhill wanted to highlight about the site plan consideration. The site is next to the state forest. Right now, there is no landscaping plan submitted, but a landscaping plan is anticipated. The encouragement would be for some sort of buffering to the western portion.
 - Mr. Gage commented stating that the developers are planning on submitting a landscaping plan. He states they will exceed what Hemlock is requiring. The plan is to keep as many of the existing trees on site as possible as a buffer from the properties to the east and the south.

A motion to recommend approval of Zoning Referral #2020-059 with staff and board comments was made by Mr. Pierce and seconded by Mr. Graham. Abstentions by Mr. Sparling and Ms. Palmer. Ms. Santora left the meeting prior to the vote; therefore, she did not vote on the referral. The motion did not carry. 13-0-2

Mr. Fahey left the meeting.

Zoning Referral #2020-067, Village of Geneseo, Zoning Text Amendment to allow the Village of Geneseo to provide for the review and approval of applications for small cell wireless facilities (Applicant: Geneseo Village Board of Trustees)

Ms. Underhill presented the staff report. There were no questions or comments.

A motion to recommend approval of Zoning Referral #2020-061 with staff comments was made by Mr. Graham and seconded by Ms. Palmer. Mr. Fahey left the meeting prior to voting on this referral. The motion carried. 14-0-0

Local Announcements

None.

Other Business

- The 2020 US Census is ongoing. Shawn gave an update on the County's Census activities.
- Livingston County has a COVID-19 website: <https://www.livingstoncounty.us/1207/COVID-19>. There is map showing the statistics for Livingston County residents.
- Livingston County, in coordination with Foodlink of Rochester, is doing drive-thru food giveaways to Livingston County families. These events are hands-free events. Foodlink of Rochester is donating boxes to Livingston County to be distributed at different locations throughout the County. Registration is not required in order to receive a food box. These events are held every Wednesday throughout the summer from 2pm-4pm at different school districts throughout the County.

The next County Planning Board meeting will be held on September 10, 2020.

Adjourn

A motion to adjourn was made by Ms. Palmer and seconded by Mr. Pierce. Motion favored unanimously.

The meeting adjourned at 10:28 p.m.

Respectfully submitted, C. Joan Crunden, Secretary

Recorded by Jocelyn Bishop