

**TOWN OF SWEDEN
Planning Board Minutes
April 12, 2021**

A regular meeting of the Town of Sweden Planning Board was held on Monday, April 12, 2021, at the Sweden Town Courtroom, 18 State Street, Brockport, New York, commencing at 7 p.m.

Members present: Richard Dollard, David Hale, Matthew Minor, Craig McAllister, Wayne Rickman, Peter Sharpe, David Strabel.

Absent: James Oberst, P.E., MRB – Excused.

Also, present: Nat O. Lester, III, Planning Board Counsel; Kris Schultz, Schultz Associates; Jared Perram, Saturn Power; Nathan Rizzo, Solar Liberty; Nancy Sanger; Steve Licciardello.

Chairman McAllister called the meeting to order at 7 p.m. and asked everyone present to say the Pledge of Allegiance.

Correspondence was passed to members for review.

Moved by Mr. Dollard, seconded by Mr. Sharpe, that the minutes of March 22, 2021, be approved as corrected.

Discussion: Mr. Minor stated he had abstained from the vote to declare the Board’s Intent to be Lead Agency for the Wolf Solar Farm project. The Clerk will make that correction.

Chairman McAllister – Aye
Mr. Dollard – Aye
Mr. Hale - Aye
Mr. Minor – Aye
Mr. Rickman – Aye
Mr. Sharpe - Aye
Mr. Strabel – Aye

Villas at Brandon Woods – Section II Subdivision and Site Plan. Wood Trace. 084.01-1-14.114.

Chairman McAllister stated that MRB has already signed the plans as all site plan concerns were addressed and completed except for the merging of the pond properties and drainage easements. Mr. Kris Schultz agreed.

Mr. Schultz added the easements and legal descriptions have been created and reviewed by Jim Oberst. Once this project receives a contingent final from this Board, it allows the easements to be recorded. At such time a letter of credit is posted at the Town by the developer, and the plans may be signed by the Chairman.

The plans are then filed with the County along with an application for plat which shows the money is posted at the Town.

Chairman McAllister started a discussion regarding the status of the pond. Mr. Schultz explained the last time the pond was discussed is when it was owned by Mr. Nothnagle. At that time, a resubdivision map of the two properties into one parcel was accepted for review. The reason the two pond properties were originally separated was due to a R.O.W. easement between them for a road going into Wal-Mart SC. There was the possibility of the R.O.W. becoming a dedicated road, but that is no longer, so the lots can be merged. The resubdivision mylar will be filed when the Villas – Section II mylar is filed.

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Chairman McAllister asked for clarification of the maintenance agreement for the pond. Mr. Schultz stated the pond maintenance agreement was recorded when Mr. Nothnagle took over ownership of the pond. The stormwater maintenance agreement terms are standard, used throughout New York State to hold the developer responsible for the maintenance of the pond. Prior to Mr. Licciardello's owning the pond, he did an as built bringing the pond up to the correct size, cleaning the pond, and then purchasing the pond.

Should Section II ever be sold, whoever buys it inherits the maintenance of the pond and must fulfill the terms of the easement, which runs with the land. Mr. Licciardello acknowledges responsibility of the pond and understands it is an integral part of the Villas - Section II development.

Counsel Lester asked if there are any new easements that he would like to review them. He reviewed the original stormwater easement for when the pond was not being maintained, which has been recorded and runs with the land. Chairman McAllister stated then the Board can move forward with a contingent final approval.

Discussion took place that his client is ready to start construction as soon as approvals are granted so no specified expiration time is needed as part of the motion. Plus, the code states a contingent final approval is good for six months. Also discussed, both the Villas Section II and the pond resubdivision have received only an accept for review approval.

Moved by Mr. Hale, seconded by Mr. Dollard,

WHEREAS, the Town of Sweden Planning Board has received an application for subdivision and site plan approval of the Villas at Brandon Woods - Section 2, located on Wood Trace, which was accepted for review on August 12, 2019, and

WHEREAS, a public hearing was held by the Planning Board on September 9, 2019, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Project Information Form, comments of the Town Engineer, Fire Marshal, Highway Superintendent, and Environmental Conservation Board,

WHEREAS, the Town Board on April 24, 2007, determined that the project was an unlisted action, which will not have a significant impact on the environment,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board grants the subdivision Preliminary Approval, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the final public hearing be waived and the Villas at Brandon Woods - Section 2 Subdivision and Site Plan be granted final approval, contingent upon receiving all required signatures, submittal of the Letter of Credit, approval of all easements by Counsel Lester and filing of all easements, and the Chairman be authorized to sign the mylar.

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Discussion: Mr. Strabel is not comfortable approving this project since it has not been discussed for so long. Mr. Strabel acknowledged that the Town Engineer has stated the site plan concerns have been covered and has signed the plans. Mr. Strabel is still not ready to approve the plans without going over it one more time. He will go along with the Board's decision. Mr. Schultz added that all the concerns of the Board and the public were addressed. Then, the project was put on hold to work out water pressure and sprinkler issues, not design changes.

Chairman McAllister - Aye
Mr. Dollard – Aye
Mr. Hale – Aye
Mr. Minor - Nay
Mr. Rickman – Aye
Mr. Sharpe – Abstain
Mr. Strabel – Abstain

Moved by Mr. Hale, seconded by Mr. Strabel,

WHEREAS, the Town of Sweden Planning Board has received an application for resubdivision approval of the pond properties at Villas at Brandon Woods – R-1C and R-1D, located on Nathaniel Poole Trail, which was accepted for review on August 12, 2019, and

WHEREAS, a public hearing was held by the Planning Board on September 9, 2019, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Subdivision Application and comments of the Town Engineer, and

WHEREAS, the Town Board on April 24, 2007, determined that the project was an unlisted action, which will not have a significant impact on the environment, and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board grants the resubdivision Preliminary Approval, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the final public hearing be waived and the pond properties at Villas at Brandon Woods – R-1C and R-1D Resubdivision be granted final approval, contingent upon receiving all required signatures, and the Chairman be authorized to sign the mylar.

Discussion: Mr. Minor confirmed with Counsel Lester that it does not matter if the pond is on one or two lots since the easement has been filed. Counsel Lester explained that the easement was created when the pond was in great disrepair and behind in payment of property taxes. The pond was sold off to another developer who did not do any maintenance. The Town did not have the right to go on the property. Mr. Nothnagle became the owner of the pond and the responsibility to maintain the pond, which would run with the land so whoever owns the pond would have the responsibility to maintain it. The pond has a separate tax account number from the Villas at Brandon Woods Section II. If the pond is not maintained or if taxes are not paid, building permits for the Villas – Section II would not be issued. After the development is complete, the owner of the pond is still responsible for maintenance of the pond and any recourse for not doing so if that is the

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case. Mr. Strabel confirmed with Mr. Licciardello that he is the owner of the Villas Section II and the pond. He asked how the pond is tied to the Villas - Section II permanently. The pond will not be unless there is a Homeowners Association (HOA) formed. Mr. Schultz stated there will be no HOA. The execution and filing of the pond maintenance agreement is legal and binding to Mr. Licciardello or whoever owns the development in the future. The agreement gives the Town access to the pond to maintain and bill the owner if it is not maintained. Mr. Schultz explained that it use to be that the Town was responsible for SWPPP, but the regulations were changed to make the developer responsible by way of a stormwater maintenance agreement that is signed by the developer and given to the Town. If the developer leaves the Town, the agreement gives the Town the right to go in and maintain the pond and bill the developer for the work done. There is also a drainage easement given to the Town that the pond must accept run off water from the development. This discussion all came about because the pond was separated from the Villas -Section I development, and the previous owner(s) abandoned the pond. Counsel Lester stated that the pond and the development are not contiguous, and the County will not allow a road between two properties to be one tax parcel number. Mr. Strabel asked how the Town confirms that when Mr. Licciardello retires and wants to sell the property that it be mandatory the pond be included in the sale. Mr. Schultz stated because it is in the filed documents that the pond runs with the land.

Chairman McAllister - Aye
Mr. Dollard – Aye
Mr. Hale – Aye
Mr. Minor - Aye
Mr. Rickman – Aye
Mr. Sharpe – Aye
Mr. Strabel – Aye

Mohr Subdivision and Site Plan

Mr. Kris Schultz addressed the Board. He explained that this project is waiting for the sanitary sewer district to be extended by the Town Board so that Mr. Mohr can connect to the sewer.

All review comments have been addressed and the last three months have been waiting for the Town Board to approve the sewer district extension. Mrs. Leisa Ann Wood Strabel, Finance Director, informed Mr. Schultz that the Town Board will call a public hearing on April 13 for April 27, which is when the sewer district extension should be approved, since sanitary sewer districts are not controversial.

Mr. Schultz asked the Clerk to add the project on the agenda for a contingent final so that his client does not have to wait until the May 10 meeting as his client is very anxious to pull a permit to start building his house.

Mr. Strabel confirmed with Mr. Schultz that the sanitary sewer is on the north side of the road, not the south side. His client will require only a single lateral under the road. The Stonebriar Glen development brought sewer to the south side of the road but only to service their development.

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Mr. Minor confirmed with Mr. Schultz that the sewer district is for only his client's property. If a neighbor requests a sewer district extension, the same process through the Town Board will have to be followed resulting in another single lateral under the road.

Moved by Mr. Hale, seconded by Mr. Dollard,

WHEREAS, the Town of Sweden Planning Board has received an application for subdivision and site plan approval of the Mohr Subdivision, located at 6833 Fourth Section Road, which was accepted for review on August 24, 2020, and

WHEREAS, a public hearing was held by the Planning Board on September 28, 2020, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Short Environmental Assessment Form, comments of the Town Engineer, Fire Marshal, Highway Superintendent, Environmental Conservation Board, Building Inspector, and Monroe County Planning and Development,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board declares itself lead agency for the environmental review of this application and determines that the Mohr Subdivision and Site Plan are unlisted actions, which will not have a significant impact on the environment and grants the subdivision Preliminary Approval, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the final public hearing be waived, and the Mohr Subdivision and Site Plan be granted final approval, contingent upon receiving all required signatures, the approval of the sewer district extension by the Town Board, and the Chairman be authorized to sign the mylar.

Discussion: Mr. Minor confirmed with Counsel Lester that once the sewer district is approved by the Town Board at the April 27 meeting, Mr. Oberst can then sign the plans, and the rest of the signatures can be obtained.

Chairman McAllister - Aye
Mr. Dollard - Aye
Mr. Hale - Aye
Mr. Minor - Aye
Mr. Rickman - Aye
Mr. Sharpe - Aye
Mr. Strabel - Aye

Maier Subdivision and Site Plan – 2 Lots

Mr. Kris Schultz addressed the Board and distributed a wetland map of the project to the Board. Chairman McAllister stated he hopes the project is done due to no activity for over six months.

Mr. Schultz explained when a project is received, one of the first maps looked at is a National Federal Wetland map. The distributed map shows an aerial view of what the federal wetlands look like on this property. The wetland shown on the map is a tributary that runs east to west through the property. A larger wetland is located to the east outside the property line. The plan designed is to pipe the one wetland on the property.

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The Town Engineer has been taking a closer look at wetlands, and determined if there is any impact to a wetland due to the proposed development, a permit from the ACOE is required approving the proposed work. The problem is that if an application must be submitted for every minor impact to wetlands, i.e., driveways, or in this case, less than one 200th of an acre of disturbance, a wetland biologist must be hired. The cost for a wetland biologist was \$1,500; now the cost runs between \$4,000 and \$7,000. The increase in cost is due to the ACOE wanting to delineate the whole property, not just the area of concern. Obtaining a permit can take up to a year.

Mr. Schultz added that he has had conversations directly with the ACOE which suggested bridging over the top of the wetland so that it is not touched, and a permit is not needed. The ACOE is so overloaded with the many applications for the area, it cannot respond to the needs.

At this point, Mr. Schultz is not sure what his client wants to do; spend the money and hope the permit is issued. He understands the project has had no activity and that he will have to reapply but wanted the Board to understand the wetland issue. Chairman McAllister stated it has been eight months without any activity with this Board or MRB so an extension from this Board is questionable.

Mr. Schultz understands, but wanted the Board's courtesy to explain the wetland situation as it will impact a lot of projects that may come before the Board.

Moved by Mr. Hale, seconded by Mr. Dollard,

WHEREAS, the Maier Subdivision and Site Plan – 2 Lots has had no activity for eight (8) months,
NOW, THEREFORE, BE IT RESOLVED, that the Planning Board rejects the project without prejudice.

Chairman McAllister - Aye
Mr. Dollard – Aye
Mr. Hale – Aye
Mr. Minor - Aye
Mr. Rickman – Aye
Mr. Sharpe – Aye
Mr. Strabel – Aye

OTHER

Declaration of Lead Agency Status for SEQRA – Mantsi and Kreher Solar Farms

Chairman McAllister explained that the motions are for declaring lead agency status only. There were no involved agencies interested in being lead agency. MRB is still reviewing all environmental concerns.

Mr. Dollard stated that the Sweden Town Board will adopt a moratorium on new solar energy applications. Discussion took place that the legal notice stated a moratorium will be in effect for 30 days immediately, and then, a 6 month moratorium will be proposed beginning April 27, 2021.

The Board clarified that the moratorium does not affect the existing applications currently before this Board.

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Mantisi Solar Farm. 7397 Fourth Section Road. 082.02-1-22.

Moved by Mr. Hale, seconded by Mr. Strabel,

WHEREAS, Mantisi Solar LLC (“Applicant”) has applied to this Board for subdivision, site plan and special use permit approval for a solar farm to be located on approximately 61.540 acres of a 71.184 acre property located at 7397 Fourth Section Road, tax account #082.02-1-22, pursuant to the provisions of Article 174 of the Sweden Town Code (Solar Energy Systems and Solar Energy Farms) and the general provisions governing such approvals by this Board pursuant to Article 175 of the Sweden Town Code (“the Application” and/or “the Project”); and

WHEREAS, at a meeting of this Board held on February 22, 2021, this Board adopted a Resolution determining that the Project/Application constituted a Type I action under the SEQRA regulations, declaring the intention of this Board to serve as lead agency for coordinated SEQRA review of the Project, and directing the Clerk to send to all involved agencies the notice of this Board’s intent to serve as lead agency, all pursuant to 6 NYCRR §617.6(b) of the SEQRA regulations, and the Clerk appropriately sent such notice to all involved agencies; and

WHEREAS, more than thirty (30) days have elapsed since the sending of such notice and all involved agencies have either consented in writing to this Board serving as lead agency with respect to the Project or have submitted no response objecting to this Board’s declaration of intent to serve as lead agency;

NOW, BE IT THEREFORE RESOLVED, that this Board hereby declares itself as lead agency as to the Project/Application pursuant to 6 NYCRR §617.6(b).

Chairman McAllister – Aye
Mr. Dollard – Aye
Mr. Hale - Aye
Mr. Minor – Aye
Mr. Rickman – Aye
Mr. Sharpe - Aye
Mr. Strabel – Aye

Kreher Solar Farm. 4490 Sweden Walker Road.

Moved by Mr. Hale, seconded by Mr. Strabel,

WHEREAS, Solar Liberty Energy Systems, Inc. (“Applicant”) has applied to this Board for subdivision, site plan and special use permit approval for a solar farm to be located on approximately 19.49 acres of a 72.94 acre property located at 4490 Sweden Walker Road, tax account #085.01-1-3.11, pursuant to the provisions of Article 174 of the Sweden Town Code (Solar Energy Systems and Solar Energy Farms) and the general provisions governing such approvals by this Board pursuant to Article 175 of the Sweden Town Code (“the Application” and/or “the Project”); and

WHEREAS, at a meeting of this Board held on February 22, 2021, this Board adopted a Resolution determining that the Project/Application constituted a Type I action under the SEQRA regulations, declaring the intention of this Board to serve as lead agency for coordinated SEQRA review of the Project, and directing the clerk to send to all involved agencies the notice of this Board’s intent to serve as lead agency, all pursuant to 6 NYCRR §617.6(b) of the SEQRA regulations, and the Clerk appropriately sent such notice to all involved agencies; and

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WHEREAS, more than thirty (30) days have elapsed since the sending of such notice and all involved agencies have either consented in writing to this Board serving as lead agency with respect to the Project or have submitted no response objecting to this Board's declaration of intent to serve as lead agency;

NOW, BE IT THEREFORE RESOLVED, that this Board hereby declares itself as lead agency as to the Project/Application pursuant to 6 NYCRR §617.6(b).

Chairman McAllister – Aye
Mr. Dollard – Aye
Mr. Hale - Aye
Mr. Minor – Abstain
Mr. Rickman – Aye
Mr. Sharpe - Aye
Mr. Strabel – Aye

Medline. Transit Way.

Chairman McAllister started a discussion based on an inquiry received on whether a proposed approximate 10 ft. x 10 ft. freestanding cover to be located over an entrance door at Medline would require an amended site plan application or go directly to the Building Department for a permit. Chairman McAllister confirmed with Counsel Lester that the Planning Board has the discretion to waive an amended site plan approval.

Chairman McAllister queried the Board, all in favor of Medline going to the Building Department instead of obtaining an amended site plan approval.

Chairman McAllister – Aye
Mr. Dollard – Aye
Mr. Hale - Aye
Mr. Minor – Aye
Mr. Rickman – Aye
Mr. Sharpe - Aye
Mr. Strabel – Aye

The meeting was adjourned on motion at 8 p.m.

Respectfully submitted,
Phyllis Brudz, Planning Board Clerk