

**TOWN OF SWEDEN
Planning Board Minutes
June 10, 2019**

A regular meeting of the Town of Sweden Planning Board was held on Monday, June 10, 2019, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7 p.m.

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

Also present: Nat O. Lester, III, Planning Counsel; Richard Maier, Maier Land Surveying; David Ingalls, Ingalls and Associates, LLC; Edmund S. Martin, LandTech Surveying & Planning; Jac and Karen Covert; Mark Rabjohn; Don Pophal; Tom Guzek.

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. Monno, seconded by Mr. Dollard, that the minutes of May 13, 2019, be approved.

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

Elaine's Subdivision - 2 Lots, 5440 Brockport-Spencerport Road. 085.01-2-28.11.

Mr. Richard Maier addressed the Board. The applicants, Frank and Elaine Bader, own a piece of property on the northeast side of Brockport-Spencerport Road. Frank would like to downsize and is in negotiations with the neighbor, Christopher Wilcox, to purchase Lot B, which has 286 ft. of frontage.

Moved by, Mr. Strabel, seconded by Mr. Rickman, that the Elaine's Subdivision, 2 Lots, be accepted for review.

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

The Public Hearing will be July 8, 2019.

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Beadle Road Subdivision. Resubdivision of Merrill Estates – Lot 9. 1200 Beadle Road. 098.04-1-30/29.1.

Mr. Richard Maier addressed the Board. He explained the property is located on the north side of Beadle Road. The applicant contacted him after building a pole barn partially on his neighbor's property. The applicant and neighbor have come to an agreement to move the east property line 7 feet and have the map refiled, which gives the pole barn a side setback of 10.3 feet.

Moved by, Mr. Strabel, seconded by Mr. Rickman, that the Beadle Road Subdivision, be accepted for review.

Mr. Maier asked if this project required a public hearing due to the set of circumstances. The Board stated yes as they would like the Town Engineer's review.

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

The Public Hearing will be July 8, 2019.

Covert Site Plan. 2430 Colby Street. 084.04-1-25.15.

Mr. Edmund Martin addressed the Board. He explained he is representing the Coverts, who are present tonight. The project was before the Board a month ago and all comments were reviewed. The Town Engineer's comments have been addressed and he is requesting final approval.

Chairman McAllister confirmed with Mr. Martin that the ZBA granted the application an area variance for the minimum lot depth. Mr. Martin has noted the variance on the plans.

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

WHEREAS, the Town of Sweden Planning Board has received an application for approval of the Covert Site Plan located at 2430 Colby Street, which was accepted for review on April 8, 2019, and

WHEREAS, a public hearing was held by the Planning Board on May 13, 2019, and all persons wishing to be heard were heard, and

WHEREAS, on May 13, the Planning Board as Lead Agency, determined that the Covert Site Plan was an unlisted action which will not have a significant impact on the environment, and

WHEREAS, the Covert Site Plan received an area variance for the depth of the property on June 6, 2019.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board grants the Covert Site Plan final approval, contingent upon all required signatures obtained, and the Chairman be authorized to sign.

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

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Moved by Chairman McAllister, seconded by, Mr. Hale, that the regular meeting be adjourned to Executive Session to consult with Counsel regarding the Helios Solar Farm application.

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

Moved by Mr. Hale, seconded by, Mr. Dollard, to adjourn the Executive Session to the regular meeting.

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

Mr. Minor excused himself from discussion at 7:55 p.m.

Helios Energy New York Sweden Solar Farm. Subdivision, Site Plan and Special Use Permit. 098.04-1-2.1.

Chairman McAllister requested the Board review Section 8 of the 2017 Solar Law. Mr. Strabel confirmed with Mr. Dave Ingalls that a SWPPP/SPDES Permit/NOI will be required. Mr. Ingalls stated that the access road in itself is over an acre and there is the staging area, plus the area for the racking system installation.

Chairman McAllister stated without current drawings, the Board can't make any decisions tonight, but can continue review of the application. Mr. Ingalls will provide a complete package to the Board and the Town Engineer after tonight's review. Mr. Strabel would like to begin review on the Board's behalf to ensure all the solar farm requirements have been met from Section 8 of the 2017 Solar Law.

Section 8 – the first three paragraphs explain it is the responsibility of the Planning Board to approve solar farm applications. Section 5 – Solar Farm definition does not prohibit solar farms in a specific zoning district.

C. Application Requirements

- (1) Requests prints of the solar farm be signed by a licensed professional engineer or architect showing the proposed layout of the system and any potential shading from nearby structures.
The Board has received drawings.
- (2) Proposed changes to the landscape of site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. Any vegetations clearing can or may be considered to be a negative impact for SEQRA purposes depending upon the scope of same.

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The Planning Board will reference the Town Engineer's review of the drawings for SEQRA for Incentive Zoning due to the same drawings are before the Planning Board.

- (3) A description of the solar farm facility and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a licensed professional engineer or registered architect that the solar farm complies with all applicable Federal and State laws.
Documents have been submitted regarding the above which have been signed by a professional engineer.
- (4) One or three phase line electrical diagram detailing the solar farm layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
Mr. Strabel has reviewed the above in the application packet. The Town Engineer will need to confirm review.
- (5) Documentation of the major system components to be used, including the PV panels, mounting system and inverter.
Mr. Strabel has reviewed documents relating to the components, panels, inverters, etc. The Town Engineer will need to confirm review.
- (6) An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
Mr. Strabel has reviewed the above documents. The Town Engineer will need to confirm review.
- (7) Information on noise (inverter) and reflectivity/glare of solar panels and identification of potential impacts to abutters.
Mr. Ingalls stated that information was supplied early on. Mr. Monno wondered if there is a decibel level. Mr. Strabel stated there is, but he believes no one will hear it due to its installation so far back. Mr. Monno asked what about the noise when the panels turn. The discussion was that the noise would be minimal, but Mr. Ingalls would confirm this with Mr. Tom Guzek. Mr. Ingalls explained that the panels are monitored 24/7 remotely, and if snow needs to be removed from the panels they can be turned remotely. Also, Mr. Strabel acknowledged a document from the FAA stating the glare from the panels doesn't affect pilots.
- (8) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements, leases and other agreements shall be submitted.
**Mr. Ingalls stated there is a lease with Mr. Zuber, property owner, not sure if that made it to the Board.
Mr. Ingalls will confirm and send the Clerk another copy of the lease agreement to be sure.**

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D. Special Use Permit Standards/Minimum Requirements – the Planning Board will need to define any special conditions for the application. Mr. Ingalls explained this is a good place to add any maintenance requirements.

1. Solar farms of at least 15 (kw) shall be on a parcel of not less than ten (10) acres.
2. Solar farms shall adhere to the height and setback requirements of the underlying zoning district except as follows herein. Any solar farms that are ground-mounted shall not exceed a height of 12 feet. The retail business/airport/commercial and/or recreational front setback shall be 75 feet, the rear setback shall be 25 feet and the side setback shall be 25 feet. The residential and light industrial front setbacks shall be 100 feet, the rear and side setbacks shall be 200 feet when abutting residential property and shall be 100 feet when abutting business commercial zones. Otherwise, the foregoing setback requirements are intended to be in conformity with the Sweden Town Code and all height measurements are to be calculated when the solar farm is oriented at maximum tilt.

Mr. Ingalls stated the project does not currently meet the side setback of 200 ft. on the north side and rear of the property. The plans will have to be revised or the application could be brought before the Zoning Board of Appeals. Mr. Guzek would prefer to revise the plan to meet all required setbacks.

3. All mechanical equipment on a solar farm, including any structure for batteries or storage cells, are completely enclosed by a minimum 8 ft.-high fence with a self-locking gate. **The 8 ft. high fence has been noted on the plans.**
4. The total surface area of all ground-mounted and freestanding solar collectors, including solar voltaic cells, panels and arrays, shall not exceed 80% of the total parcel area.
The plan is good, not even close to 80%.
5. The installation of a vegetated perimeter buffer to provide year-round screening of the system from adjacent properties.

Mr. Strabel indicated the south and the west have natural buffers. Lake Road and the Spurr's property have proposed planting of trees. Mr. Ingalls stated the trees will not be planted close to the fence. Chairman McAllister stated there must be a permanent perimeter buffer per the Solar Law, and it should be maintained as a condition of the Special Use Permit.

Mr. Tom Guzek arrived.

6. Because of neighborhood characteristics and topography, the Sweden Planning Board shall examine the proposed location on a case by case basis, ensuring that the potential impact to its residents, business or traffic are not a detriment.
The Board discussed number 5 and 6 as the same. Mr. Ingalls will make sure there are no holes in the perimeter buffer as it is required. The different elevations/sides of the property were discussed. The south and west sides are good. The Spurr property will have appropriate protection. The existing hedgerow along Dilger's property will be maintained. Mr. Strabel added with the existing topography from White Road, the back of the solar farm shouldn't be seen. The front fence will have privacy slats as a means of buffering. The Board wants to make sure there are no/minimal impacts to the residents.
7. All solar energy production systems shall be designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.
Addressed above.

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8. All onsite utility and transmission lines shall be, to the extent feasible placed underground.
All utilities will be underground except for 4 poles, which have to be there per grid requirements.
 9. The installation of a clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
Mr. Guzek stated it is an electrical code requirement. A sign will be clearly visible.
 10. The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
Mr. Ingalls stated the compatibility part is ensuring proper screening.
 11. All solar energy system components shall conform with setback requirements set forth in the Sweden Town Code for the particular district.
Addressed in number 4.
 12. Solar modular panels shall not release hazardous materials.
Mr. Ingalls stated there are no hazardous materials with the solar panels.
 13. All appurtenant structures including but not limited to equipment shelters, storage facilities, transformers and substations shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.
Mr. Strabel confirmed with Mr. Guzek that due to the location of the above being set back so far, most of it will not be seen. Chairman McAllister agreed the proposed buffers should screen the view.
 14. Lighting of solar farms shall be consistent with all State and Federal laws. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.
There will be only motion lights.
 15. There shall be no signs except announcement signs, such as “no trespassing” signs, or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis. Any signage laws, regulations and/or ordinances, including the National Electrical Code and/or Emergency Services, shall prevail over the requirements contained in the previous two (2) sentences of this subparagraph in the event that a conflict between same arises.
Proper signage will be ensured during the building permit process. Mr. Ingalls will document required signage on the plans.
 16. There shall be a minimum of 1 parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. However, it shall not be used for the permanent storage of vehicles.
This will be only one parking space.
- E. The following additional conditions shall apply to solar farms:
1. The solar farm owner or operator shall provide a copy of the project summary, electrical schematic and site plan to the Sweden Fire Marshall. Upon request, the owner or operator shall cooperate with all local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries through the life of the installation.
The Fire Marshal has reviewed the application and submitted comments dated April 30, 2019.

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Discussion moved to review comments not addressed to date.

Stormwater Manager Comments

- Endangered species – removal of mature trees between March 1 and November 1 - addressed.
- Notice of Intent – area of disturbance – MS4 – SPDES Permit – addressed.

Fire Marshal Comments

- Reviewed newest set of plans dated April 29 and agrees with the modified longer emergency access road.
- Post required at roadway to identify property address and emergency contact information. Mr. Ingalls questioned who supplies a 911 address. The Clerk explained the Town Assessor can provide an address. The Clerk will find out what the new address is and relay that information to Mr. Ingalls.

MC Planning & Development/DRC Comments – dated May 10, 2019

Chairman McAllister read the comments.

Mr. Ingalls addressed the wetlands by stating the NYS wetlands have been delineated with a 100 ft. buffer. DRC standard comments have been addressed.

Chairman McAllister confirmed with the Clerk and Mr. Ingalls that an Ag Data Statement was completed. This property is located in an Agricultural District.

E. The following additional conditions shall apply to solar farms (continued):

2. No solar farm shall be approved or constructed until satisfactory evidence has been provided that the utility company operating the electrical grid where the installation is to be located has authorized the interconnected customer-owner generator.

To date, the Town has not received documentation that National Grid will buy the power from the solar farm. A copy of such should be provided.

3. A solar farm owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the Sweden Fire Marshal and emergency services. The owner or operator shall be responsible for the cost of maintaining the solar farm and any access road(s), unless same is accepted as a public way.

The above will be addressed as conditions of the Special Use Permit.

Mr. Strabel stated that Abandonment and Decommissioning will be reviewed by the Town Engineer. Mr. Guzek added that there is a bond for any extra work to be done. He wants to make sure there will be adequate money to leave the site to its original state. An annual bond must be purchased in order to modify its value annually. The Town Engineer will review the bond annually. The Clerk will discuss with the Fire Marshal as far as entering a review notice annually in CivicGov.

Mr. Strabel concluded that the above review confirms the Planning Board's commitment to approve the solar farm project as long as updated drawings are submitted with all modifications and required documents.

The Clerk stated five copies of updates plans/documentation for the Board and a separate set directly sent to Mr. Oberst for the July 8 meeting is satisfactory.

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Mr. Guzek apologized for being late as he had a school board presentation. He asked for a summary of the process events to date since the Incentive Zoning application was denied by the Town Board. Counsel Lester replied that the 2017 Solar Law must be used as that was the law in place when the application was made. Several extensions to hold review by the Planning Board were made so that the applicant could seek Incentive Zoning approval for personal reasons from the Town Board. Incentive Zoning was denied and now the project is back before the Planning Board, still under strict compliance with the 2017 Solar Law. Mr. Ingalls added that the plans have to be modified to reflect the 200 ft. setback on the north and west side. Mr. Guzek stated by meeting the 200 ft. setback, there will be a huge financial loss. Does the emergency access road still have to be as long as it is proposed with the modifications? Mr. Ingalls stated the emergency access lane will meet fire code, but not as long.

The Zoning Board of Appeals is still an option.

Counsel Lester stated, for the record, the applicant requested the review extensions while the Incentive Zoning project was being reviewed at the Town Board. An email should have been sent to the Clerk requesting continued review at the Planning Board to start again. Mr. Guzek will check to see if he sent it.

Counsel Lester suggested that he give his permission tonight as it will be part of the record. Mr. Guzek agreed. Mr. Guzek is requesting the Planning Board to continue review of the Helios Solar Farm application now that the Town Board has denied the applicant's Incentive Zoning application.

Mr. Ingalls explained Incentive Zoning allows the applicant to set its own setbacks and other requirements.

Mr. Guzek appreciates the review tonight and will make all the necessary modifications and submit updated drawings by the required deadline of July 3. Mr. Guzek asked about SEQRA approval. Mr. Strabel stated that was discussed previously, and the Planning Board will accept the Town Board's resolution for a negative declaration, no impact. Mr. Ingalls asked for a copy of the Negative Declaration be sent to him.

The meeting was adjourned on motion at 8:30 p.m.

Respectfully submitted,
Phyllis Brudz – Planning Board Clerk