

**TOWN OF SWEDEN
Planning Board Minutes
November 25, 2019**

A regular meeting of the Town of Sweden Planning Board was held on Monday, November 25, 2019, at the Town Offices, 18 State Street, Brockport, New York, commencing at 7 p.m.

Members present: Richard Dollard; David Hale; Craig McAllister; Arnie Monno; David Strabel.

Absent: Wayne Rickman, Matthew Minor

Also, present: Nat O. Lester, III, Planning Counsel; Jim Oberst, P.E., MRB; Richard Maier, Maier Land Surveying; Tom Guzek, SolarPark Energy; Joe Hens, Ingalls & Associates; Aaron Beyler, BME Associates; John Hohman; Diane Perez; Dan Spurr; Mark and Kris Cyr; Cas Pizzo; Kris Sanger; Mark Rabjohn; Randy Hoke, Rhonda Humby; Ed Anderson; Annette Seyler; Robert Sweeting; Michelle Rath; Brian Sage.

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 October 28, 2019, be approved.

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

Moved by Mr. Strabel, seconded by Mr. Hale, that the regular meeting be adjourned to the public hearing.

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

The Public Hearing began at 7:05 p.m.

Chairman McAllister read the notice of public hearing and affidavit of publication.

Chairman McAllister asked if there was anyone present for the Edward White Resubdivision, Phillips Subdivision, Covell Road Subdivision applications. There were none. The audience was interested in the Helios Energy New York Solar Farm Subdivision, Site Plan and Special Use Permit application.

Chairman McAllister asked whoever is interested to come to the podium, state your name and address. A resident asked if there would be an overview first due to the changes made to the project.

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

Mr. Joe Hens addressed the Board. He introduced Tom Guzek, representative for Helios Energy. He explained that the last plan before the Town Board in May was to meet setbacks for the proposed zoning, R1-2, One-Family Residential. The setbacks are 100 ft for the front, 200 ft. for the side and rear. Before the side and rear were 100 ft.; this plan now shows all setbacks met. Due to the setback changes, the project has been condensed to the center of the property with an access road changed to run along the top of the array.

Also, proposed are 18 Eastern Red Cedars to substantiate existing foliage along Lake Road. An 8 ft. high chain-link fence with green privacy slats is proposed to provide additional screening along Lake Road.

Chairman McAllister asked Mr. Hens to restate the buffers already proposed for the abutting residential property. The buffer proposed with the previous plan for the abutting residential property to the north is staying the same, which is the Spurr property and will have 17 Eastern Red Cedars staggered every 20 ft., planted 8 ft. high and left to grow.

Daniel Spurr, 175 White Road – Mr. Spurr stated he is the Spurr guy mentioned earlier. He questioned why we are even at this meeting when the project was turned down. He questioned the project's benefit to the Town. The project will decrease property values. Chairman McAllister explained the project was turned down for Incentive Zoning only, which was for reduced setbacks.

Robert Sweeting, 20 High View Circle – Mr. Sweeting owns property across from the proposed project on the east side of Lake Road at 5590 and 5578 Lake Road. He was not aware that the applicant could continue with plan approval after it was turned down by the Town Board. After the public hearing held in August, we were informed that the project consisting of 75 panels was turned down. Chairman McAllister stated the denial was for Incentive Zoning. Mr. Sweeting stated that was not made clear, now it is, but at the meeting, there was only one plan (A) proposed. Chairman McAllister stated which was the same plan the Planning Board reviewed. The new plan (B) is the result after several planning meetings to meet setbacks, location of access, snow removal and buffers. Mr. Sweeting questioned what the benefit is from Plan A to Plan B. Chairman McAllister confirmed that Plan B conforms to the zoning already in place. Mr. Sweeting feels that the option for the developer to seek approval for Plan A, larger system, with Incentive Zoning, and get turned down, and not be told there was still an option to continue with Plan B was deceiving to the neighbors of the proposed project. Chairman McAllister stated this is the Planning Board's first review of a solar farm project, so outside counsel was contacted to get an interpretation of the law, which allowed the project to be reviewed again. Mr. Sweeting asked how many projects have this type of approval process. Chairman McAllister stated not a lot, usually the Town Board improves Incentive Zoning applications. What recourse do the residents affected by this approval have? Counsel Lester stated that the Planning Board followed the law that is currently in place for approval of solar farms. Mr. Sweeting stated so as a resident there is really nothing to be done because the law is already in place. This is just a formality even with all the comments made at the public hearing. Chairman McAllister stated the Planning Board is required to consider all the comments made and develop a project that best suits the residents and the applicant. Mr. Sweeting asked the developer, Mr. Guzek, if he feels comfortable coming into a Town where the proposed project is not wanted. Chairman McAllister asked Mr. Guzek to discuss the benefits to the Town. Mr. Guzek stated there will be a 10 percent discount to all residents in the Town. He added the discount to all residents was required in order to move forward. Mr. Sweeting was not aware of this change, and once again, expressed his frustration with the lack of communication. He recommended in the future that the Town Board be clearer on what happens when a project is turned down. Now the Town has a lot of unhappy residents. Chairman McAllister explained that this is the third public hearing, two for planning and one for the Town Board. Sorry you missed the first planning hearing. Mr. Sweeting thanked the Board for its time.

John Hohman – 40 Old Post Rd – Fairport, NY – Mr. Hohman owns property on Lake Road, almost the entirety to the southern boundary of the property in question. He discussed whether the water park or monetary donation that was proposed with the Incentive Zoning was off the table. Mr. Strabel indicated that a water park was built earlier this summer at the Town Park. Mr. Hohman confirmed with Mr. Hens that the solar panels are not stationary, and a refrigerator-like motor is attached to each rack. Mr. Hohman asked for a location that could be visited to better

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understand the impact of the sound of the motor. This information would be beneficial to the residents should they decide to sell their homes or build new homes. He currently hunts on his property and the sound of a car door closing can be heard across the property. Mr. Guzek commented that all similar projects are early in the development so there isn't one available to check out in the vicinity. Mr. Hens stated with the revised plan having the panels centrally located on the property, the noise won't be heard at the property lines. Mr. Hohman had one last question regarding all Town residents receiving 10 percent discount on their utility bills. Mr. Guzek stated it is optional, residents need to sign up. Mr. Hohman works in the biotech, energy industry and understands incentives and that nothing is free, all costs are factored in. The best incentive to the unhappy residents, who feel they were blindsided with this project approval, would be for the solar company to have the cost of average consumption for a property that abuts the project property be free to existing and future homeowners. With the millions being spent on solar development, the cost would be miniscule in comparison. Mr. Guzek explained what makes this difficult is the project has a specific revenue model based on the number of kilowatts generated and the amount that will be sold. What is unknown is the open-ended value for a future homeowner. The average kilowatt usage should at least be offered free to existing homeowners abutting this project. Mr. Guzek explained that power is being supplied into the grid and National Grid is the delivery mechanism which cuts into the profit. The Public Service Commission set forth how much renewable energy was needed for the state and everyone in the state pays for the renewable energy.

Brian Sage – 5517 Lake Road – Mr. Sage stated he rents the land out to Mr. Eric Zuber, who is present. At the last Town Board meeting, he was informed he would get the agricultural exemption on his property forever. Chairman McAllister stated that option came from the Town Board and doesn't apply here. Mr. Sage stated it's the same application. Chairman McAllister clarified the application for Incentive Zoning was denied, not the project. Mr. Sage commented the process was very unorganized.

Moved by Mr. Monno, seconded by Mr. Mr. Dollard, to adjourn the public hearing to the regular meeting.

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

The Public Hearing ended at 7:36 p.m.

Redman Heights Resubdivision. 5230, 40, 50, and 60 Redman Road. 083.03-1-5, 6, 7, and 8.

Mr. A.J. Barea addressed the Board and distributed plans. He is representing Mr. Arnold Monno for the combination of four lots, which he owns on Redman Road. The original subdivision was created in 1970 for five lots, one has been sold, and the remaining four will become one. No site development is proposed.

Mr. Strabel asked relative to the four lots, where are the power lines. Mr. Barea stated the power lines are located 200 ft. to 300 ft. away from the most easterly point of the lots.

Moved by Mr. Strabel, seconded by Mr. Dollard, that the Redman Heights Resubdivision be accepted for review.

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

The Public Hearing will be January 13, 2020.

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Nowak Site Plan. 201 Capen Road. 113.01-1-44.

Chairman McAllister continued review of the application. The Town Engineer signed off on the plans last week. Final approval is requested.

Moved by Mr. Hale, seconded by Mr. Monno,

WHEREAS, the Town of Sweden Planning Board has received an application for approval of the Nowak Site Plan, located at 201 Capen Road, which was accepted for review on September 23, 2019, and

WHEREAS, a public hearing was held by the Planning Board on October 28, 2019, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board, as Lead Agency, on October 28, 2019, determined that the Nowak Site Plan was an unlisted action, which will not have a significant impact on the environment,

NOW, THEREFORE, BE IT RESOLVED, that the Nowak Site Plan be approved contingent upon receiving all required signatures and the Chairman be authorized to sign.

Mr. Dollard – Aye

Mr. Hale – Aye

Chairman McAllister - Aye

Mr. Monno - Aye

Mr. Strabel – Aye

Edward White Resubdivision. 2101 and 2109 Colby Street. 099.02-1-7.1and 099.02-1-7.23.

Mr. Glogowski was not in attendance to address this project. The Board passed on this project as MRB's comments were not addressed.

Phillips Subdivision. 460 and 444 Holley Street. 068.14-1-13 and 068.14-1-14.

Mr. Rich Maier addressed the Board. Chairman McAllister stated this is his sister-in-law's property and will be abstaining from the vote and signing of the mylar.

Mr. Maier has addressed MRB's comments; modified the signature block and labeled the driveway. The applicant is conveying a small strip of land from 444 Holley Street to 460 Holley Street.

Moved by Mr. Strabel, seconded by Mr. Dollard,

WHEREAS, the Town of Sweden Planning Board has received an application for approval of the Phillips Subdivision, located at 460 Holley Street and 444 Holley Street, which was accepted for review on October 28, 2019, and

WHEREAS, a public hearing was held by the Planning Board on November 25, 2019, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Subdivision Application, Short Environmental Assessment Form, and comments of the Town Engineer,

NOW, THEREFORE, BE IT RESOLVED, the Planning Board declares itself lead agency for the environmental review of this application and determines that the Phillips Subdivision is an unlisted action, which will not have a significant impact on the environment, and grants Preliminary Approval, and

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NOW, THEREFORE, BE IT FURTHER RESOLVED, that the final hearing be waived, and the Phillips Subdivision be granted final approval, contingent upon receiving all required signatures, and the Chairman be authorized to sign the mylar.

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

Covell Road Subdivision – 2 Lots. Lake Road and Covell Road. 114.03-1-36.

Mr. Rich Maier addressed the Board. MRB's comments are more extensive on this project. There is a drainage swale on the north end of the property, which has been shown on the map. Also, added to the plan is the zoning data, which shows that a variance for lot depth will be required if the lots are developed. The note, not approved for building, has been added to each lot. The signature lines have been revised. The SEQR has been updated regarding the wetlands. The Town Engineer is ready to sign.

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

WHEREAS, the Town of Sweden Planning Board has received an application for approval of the Covell Road Subdivision – 2 Lots, located at the intersection of Lake Road and Covell Road, which was accepted for review on October 28, 2019, and

WHEREAS, a public hearing was held by the Planning Board on November 25, 2019, and all persons wishing to be heard were heard, and

WHEREAS, the Planning Board has reviewed the Subdivision Application, Short Environmental Assessment Form, and comments of the Town Engineer,

NOW, THEREFORE, BE IT RESOLVED, the Planning Board declares itself lead agency for the environmental review of this application and determines that the Covell Road Subdivision - 2 Lots is an unlisted action, which will not have a significant impact on the environment, and grants Preliminary Approval, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the final hearing be waived, and the Covell Road Subdivision – 2 Lots be granted final approval, contingent upon receiving all required signatures, and the Chairman be authorized to sign the mylar.

Mr. Dollard asked to see the plan with the note, not approved for building. Mr. Maier pointed to the note on the mylar.

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

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

Chairman McAllister continued with this application for final approval.

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

Resolution: In the Matter of the Application of Helios Energy New York 3, LLC for Subdivision, Site Plan and Special User Permit Approvals of a Solar Farm Operation.

WHEREAS, the Town of Sweden Planning Board has received an application for approval from Helios Energy New York 3, LLC, (“Applicant”) for:

- A) Subdivision Approval;
- B) Site Plan Approval; and
- C) Special Use Permit Approval to operate a solar farm,

on approximately 47 acres of a 114.7-acre property located at 5585 Lake Road, Tax Account No. 098.04-1-2.1, 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, a resolution was duly adopted by the Town of Sweden Planning Board (hereinafter the “Board”) for public hearings held by said Board at the Sweden Town Hall at 7 p.m. on August 13, 2018, and November 25, 2019, to hear all interested parties on the Application for subdivision, site plan and special use permit approval; and

WHEREAS, at a previous meeting of this Board held on September 9, 2019, this Board adopted a resolution determining that the Project/Application constituted a Type I action under SEQRA regulations and this Board declared at said meeting its intention to serve as lead agency for coordinated SEQRA review of the Project; and

WHEREAS, notice was sent to all involved agencies of this Board’s intent to serve as lead agency, all pursuant to 6 NYCRR Section 617.6(b) of the SEQRA regulations; and

WHEREAS, at a meeting of this Board held on October 28, 2019, this Board declared itself as lead agency as to the Project/Application pursuant to 6 NYCRR Section 617.6(b); and

WHEREAS, at the October 28, 2019, meeting this Board adopted a negative declaration pursuant to the SEQRA regulations; and

WHEREAS, a public hearing was duly held by the Planning Board on November 25, 2019, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said application;

NOW, THEREFORE, BE IT RESOLVED, that Helios Energy New York 3, LLC’s application for Subdivision approval be granted preliminary approval; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Helios Energy New York 3 LLC’s application for Subdivision approval and Site Plan be granted final approval, contingent upon receiving all required signatures, and the Chairman be authorized to sign the mylar; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that Helios Energy New York 3, LLC’s application for a Special Use Permit be granted approval for a solar farm with the development thereof subject to the following minimum requirements: (§174-8 (D) 1-17 Standards) and (§174-8 (E) 1-3 Additional Requirements)

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- D. In addition to any site plan approval required by the Sweden Planning Board herein, a special use permit is required for a solar farm. The development shall conform to the following standards which shall be regarded as minimum requirements.
1. Solar farms shall be on a parcel of not less than 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.
 3. All mechanical equipment on a solar farm, including any structure for batteries or storage cells, are completely enclosed by a minimum eight-foot high fence with a self-locking gate.
 4. The total surface area of all ground-mounted and freestanding solar collectors, including solar voltaic cells, panels and arrays, shall not exceed 80 percent of the total parcel area.
 5. The installation of a vegetated perimeter buffer to provide year-round screening of the system from adjacent properties.
 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.
 7. All solar energy projection systems shall be designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.
 8. All onsite utility and transmission lines shall be, to the extent feasible, placed underground.
 9. The installation of a clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
 10. The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
 11. All solar energy system components shall conform with setback requirements set forth in the Sweden Town Code for the particular district.
 12. Solar modular panels shall not release hazardous materials.
 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.
 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.
 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 twenty-four-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 sentences of this subsection in the event that a conflict between same arises.

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16. There shall be a minimum of one 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.
 17. A building permit shall be required for all solar farms before construction begins.
- 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 Marshal. 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.
 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.
 3. A solar farm owner or operator shall maintain the facility in a 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.

Mr. Dollard – Aye

Mr. Hale – Aye

Chairman McAllister – Aye

Mr. Monno - Aye

Mr. Strabel – Aye

The meeting was adjourned on motion at 8:45 p.m.

Respectfully submitted,
Phyllis Brudz – Planning Board Clerk