

TOWN OF NEW BALTIMORE PLANNING BOARD
Regular Monthly Meeting
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Planning Board Chair Rob Van Etten called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance. Other Board Members in attendance were Ann Marie Vadney, Jean Horn, Bob Court, Pat Bruno and Bill Boehlke. Lee Salisbury was absent. The meeting, with proper public notice, was changed from the regular second Thursday meeting night to the third Thursday due to unavailability of the meeting room due to the NYS Primary election on September 13.

Old Business

Lime Kiln Farm – Special Use Permit and Site Plan Applications

Brent Zimmermann was present on behalf of Lime Kiln Farms. Special Use Permit/Site Plan Application, Site Plan and other required documentation had been submitted to the Clerk prior to the meeting. Reason for application for both a Site Plan and Special Use Permit is to allow the operation of a farm store to sell cow cheese and goat cheese produced on the property. The farm operation currently has 12 cows, 60 goats and 109 sheep.

Mr. Court pointed out he understood the one barn containing the cheese processing plant and then the farm store, and then questioned why it was necessary to include the entire farm, the entire one parcel of the four parcels the farm is comprised of. Parcel in question containing the buildings is 69 acres and a Special Use Permit is not needed to raise goats. The entire farm, including the milking parlor, does not need to be included.

Mr. Boehlke pointed out if it is his own agricultural production, he does not require a Special Use Permit at all. He then questioned if that had been looked into? It was explained that the fine line is “retail”. We are not dealing with raw products. In discussion at last month’s meeting, Mr. Zimmermann and Mr. Voglino indicated that they would just rather go through the application process rather than worry about it. They would just do it, get it done and it is covered. It was further pointed out this will also allow them to sell products not produced on the farm if they so desire.

Turning to the fee due, the Special Use Permit for Commercial Use is \$200; for Non-Commercial \$40. It was noted this is Agricultural and then noted if he is going to sell products other than what is produced on their farm, then that comes up as retail which probably would have to fall under the Commercial. With regard to Site Plan Review, only a small area of the 69 acres is being affected. The fee would fall under the “Up to 10 acres” which is \$300, for a total fee due of \$500. Any deviation from the fees in fee schedule approved by Town Board would have to have Town Board approval. Returning to the Special Use Permit fee for non-commercial versus commercial, it was again pointed out the \$40 for non-commercial would limit sales in the store to their own products while the commercial would allow for them to sell products not produced at their own farms without coming back before the Board at a future date. Mr. Zimmermann responded that if it would not be a big hassle, it would be nice to leave the possibility open. It is a one-time \$200 fee, not a yearly application and/or fee. He would not have to return if and when they want to sell a product(s) not produced on their own farm.

The Special Use Permit/ Site Plan application and Short form EAF were amended to reflect one acre involved rather than the approximately 69 acres as reflected on the applications. The one acre will cover the building and the parking lot. In addition, the words “only own” with regard to products to be sold were crossed out. “Farm store” denotes that it is agricultural products. Mr. Zimmermann initialed the changes and the words deleted.

Mr. Zimmermann has been in conversation with the Code Enforcement Officer regarding store requirements from the Code aspect. As a result of discussion at August meeting, the Board did not have any further questions. Required Public Hearing was scheduled for 7 p.m., October 11. Blue sheet explaining the Public Hearing notification process with regard to certified letters was provided. The application fee for the Site Plan and Special Use Permit Applications of \$500. will be forthcoming.

Lands of Max Horowitz – Altered Lot Line Application & Minor Subdivision Application

Mr. Horowitz had submitted his Minor Subdivision Application and Altered Lot Line Application in advance of the meeting. To re-cap, Mr. Horowitz is adjusting the line between Lot #2 bearing 46.13 acres and Lot C bearing 18.317 acres. An approximately 100 -foot strip is being moved from Lot C to the Lot

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#2 bearing 46.13 acres as depicted on sketch map provided with applications. Purpose for adjustment is to retain the dirt road on the top of the ridge. Minor Subdivision Application is for a two-lot subdivision of the Lot #2 bearing 46.13 acres into parcels of 30 acres and 16.13 acres.

It was moved by Vadney and seconded by Horn to classify the Max Horowitz application as a two-lot minor Subdivision of Lot 2.

Ayes: Van Etten; Vadney; Horn; Court; Bruno; Boehlke

Nays: None

Abstained: None

Absent: Salisbury

Question was raised regarding whether the final subdivision map should contain just the lots being subdivided or whether it would be okay for a parcel owned by someone else properly “x’ed” out to remain on the map. The Board was in agreement it could remain provided it was clearly identified it was not a lot in the subdivision.

With regard to the altered lot line, the way the Town Law reads, you have to submit the deeds at the same time as the survey map. Discussion followed regarding how the altered lot line and subdivision could be handled at same time and in one Public Hearing. Section 114, Altered Lot Lines and Boundary Line Adjustments, of the Code was referred to and in particular:

Section 4E. Review and approval.

(1) Prior to approving an altered lot line, the New Baltimore Planning Board shall review:

- a. The map and survey of the land to be conveyed by the grantor.*
- b. The map or survey showing both the adjacent landowner’s property and the land to be conveyed by the grantor as a single parcel of land.*
- c. The deed conveying the parcel in issue to the adjacent landowner.*
- d. The deed of the adjacent landowner which describes his existing property and the parcel being acquired from the grantor, either as a single parcel or as two separate parcels in accordance with the provisions of Subsection D above....*

Mr. Horowitz advised the Board that his surveyor would have the maps ready in time for the Public Hearing and he felt his attorney could have the deeds ready as well. It was felt the Public Hearing could be held for both, rather than two separate Hearings, and the final approval phase completed, conditioned if necessary on receipt of items still needing to come in, namely deed(s) if lawyer does not have them completed. .

It was moved by Vadney and seconded by Horn to hold a Public Hearing on the Application for Altered Lot Lines for the moving of acreage from Lot #C to Lot #2 currently containing 46.13 acres as reflected on the sketch map.

Ayes: Van Etten; Vadney; Horn; Court; Bruno; Boehlke

Nays: None

Abstained: None

Absent: Salisbury

Public Hearing on both applications was scheduled for 7:15 p.m., October 11. Instructions (the blue sheet) for the sending of the certified letters was provided.

Lands of Sara (Nolan) Young and Ethan Nolan

The Clerk advised that a notarized Agent’s Authorization Form was in file authorizing Scott Joralemon to act on behalf of Ethan Nolan. Sara Young and Scott Joralemon came forward. Sara Young currently has a parcel of land with her house on it on Aquetuck Road. As part of her father’s estate settlement, an

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adjacent 15.91 acre parcel including a 60-foot right-of-way is to be divided equally between Sara and her brother Ethan. Question at hand before proceeding with the subdivision is with regard to the splitting of current 60-foot right-of-way, so half goes to her property and the other half to Ethan's property.

It was noted that nothing had been found in the Code as a minimal size for private driveways; other than the 60-feet in a major subdivision. Ms. Horn advised that she had raised the question at the County and only response she received was wide enough for a fire truck. It was pointed out that there are provisions for a shared driveway for two lots and that you can even have shared driveways in a major subdivision. Question was raised as to whether she planned to add the acreage from the subdivision to her current parcel. She indicated that it would depend on whether she could get agricultural status for it and Board expressed concern that they did not want to see it be a landlocked parcel. As it currently appears, there would be access to her back parcel but it would run very close to her house and may not prove convenient if back parcel sold to someone else. If joined, there would not be that concern. With the subdivision, the right-of-way would no longer be called a right-of-way. The Board was in agreement for the 30-foot split of the 60-foot right-of-way.

Minor Subdivision Application packet was provided. Their next appearance will be at the October meeting for the classification of the application and the setting of a Public Hearing date.

Eagle Associates Concrete Drilling & Sawing, Inc.

Present on behalf of Eagle Associates was Eric Hoglund. Mr. Hoglund advised the Board that in July, he submitted a letter to the Town stating that they currently have their NYS Automobile Dealer license and they are submitting an application to add a license for Motor Vehicle Repair Shop. When that application is submitted, a letter is needed from the Town indicating that it is an allowed usage in the zone where located. He spoke with the Planning Board Chair who recommended he come in and speak to the Board about Site Plan Review. Mr. Hoglund continued he was a bit unclear about Site Plan review since they are using an existing building, they have an existing shop, they are an existing business and they are just adding another license when already a licensed automobile dealer.

It was determined that a Special Use Permit was not needed. It is an allowed usage in the Commercial District with Site Plan per the Town's Code Book usage table. The business has previously been through the Site Plan process and received approval when wishing to site additional storage buildings on the property. Mr. Hoglund pointed out going down 9W there are two or three more repair businesses. He explained even with the Dealer License, technically we are not supposed to work on a vehicle that we plan to re-sale without the motor vehicle repair license.

Mr. Hoglund views it as just adding another legal license to what is already being done. They are just asking for a letter stating that it is an allowed usage, a zoning verification, and that we are fine. It will be the same building, same hours, same everything, no additional lighting, no expansion outside the building. Nothing is changing on the site. Perhaps, a new sign that will require approval at some point in the future.

Ms. Horn questioned if the Code Enforcement Officer would have to go there. It was noted that the Code Enforcement Officer does a fire inspection every couple of years. Mr. Hoglund explained that there are proposed buildings shown on site plan before Board that have been approved but not yet constructed. There are no plans for their construction at present time.

It was moved by Vadney and seconded by Bruno to approve the site plan review for Eagle Development as submitted for purpose of obtaining motor vehicle repair license.

It was then pointed out that an application had not been submitted or fee paid. Ms. Vadney pointed out she didn't even see a need for a Site Plan Application and review for everything in the building. She did not interpret our Code as having to approve a site plan review for everything done in the building. It was noted there are no outward expansions. What he will be doing is just an expansion of what was being done, only now it will be for the public as well as for vehicles and equipment used by the business. Equipment/vehicle repair was going on the site by the previous owner as well. Ms. Vadney further

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pointed out that she did not feel an application was needed or a fee needed to be paid since it really is not Site Plan review.

It was moved by Vadney and seconded by Boehlke to waive the Site Plan Application and fee.

Ayes: Van Etten; Vadney; Horn; Court; Bruno; Boehlke

Nays: None

Abstained: None

Absent: Salisbury

Necessary letter will be prepared for Mr. Hoglund to submit with his application stating that Eagle Associates is located within a commercial district in the town and that a motor vehicle repair shop is an allowed use under our current zoning at his location.

SOLAR GENERATION

Present on behalf of Solar Generation were Paul McMenemy, President and Owner of Solar Generation, and Zachery Schrowang, Chief Operating Officer. Solar Generation does residential and commercial solar and they also do community solar farms. They are proposing to purchase land from Max Horowitz (who was present in the room and who had also provided the necessary notarized letter of authorization for Solar Generation to discuss their plans before owning the property) and develop a mini solar program for local people who may not be able to have solar at their house because of shade, expense, a roof that is not ideal, etc. They can buy into the program; and in that way, they can still go green but have a reduced electric cost as well. It is run by NYSERDA, another group. It is a community solar program by NYSERDA.

Questions were raised. Your electricity would not go back to the grid? It would be completely for people to use? Answer was it goes into the grid. It is sort of a back office exercise and your bill with Central Hudson would get reconciled against what the panels produce. You get a credit on your bill and then the cash comes back into the project at the end of the day. It is more like a reconciliation, as opposed to the actual electrons going to your toaster. Question was raised didn't that recently change? Didn't you used to access that directly? Answer: No, electrons go where they want to go.

The project is NYSERDA backed and Solar Generation is the developer. Solar Generation will purchase Mr. Horowitz's land, own it and participate with NYSERDA to share this with the community participants and the Town as well. Question was raised as to whether they had had much community support and if this is all signed up? The response was we are prepared to write Mr. Horowitz a check; we are comfortable.

Response to question of whether they had any other facilities locally was they have installed over 370 installations in different Towns from here down passed Poughkeepsie. Looking at map that had been handed out, question was raised as to whether the parcel goes right to 9W.

Property being purchased goes to the 9W. Access to site will be by the access road off 9W to the tower site as pointed out on map before the Board. Due to the topography, the project will not be seen from the road, won't disturb anyone, doesn't make any sound. No one on back/east side since it is bordered by railroad track and/or Thruway. Solar Generation is proposing to purchase approximately 70 acres, but before going any further with land purchase, they want to be sure they will be able to do the project in the Town. The Solar Farm would be sited on top end (north end) of the property and the project will be within the density of the Town's Zoning.

It was noted that new panels are coming out every day and question raised as to the type of panels they are proposing to use. The panels they are thinking to use are designed by Trina, a very well-known and used company world-wide. Modules are 345 watt, a premium product. It will be a low profile array, most likely under 12 feet high and two or three feet at the bottom for snow slope, two high. Pictures presented are an approximation. They have not yet walked the property extensively and the panel arrays

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may be moved over a little.

Question was raised with regard to whether there is any clause in their contract with Trina with regard to longevity of the panels. The Board was informed that Trina and most other solar panel companies generally have a 25-year power production warranty of 80%, which means 25 years from now, the panels will still be producing 80% at the bare minimum of what their rate of power is. They have seen very early systems which are still working. There are no moving parts; they do degrade a little bit over time because they are baking in the sun. Question was raised about what in 25 years? Answer, they will be producing roughly 300 watts in the worst case scenario but probably more like 95%. Question, and in 40 years or bottom line what is your plan when they are no longer useful? Response was they have a de-commissioning plan in our agreement.

Question raised regarding what transmission lines they would be accessing; response was that they would be using both, the 9W circuit currently being upgraded and the circuit across the CSX lines. They will be using the 9W one first since the CSX one, while a bit larger, is a bit more filled up. The 9W one is almost empty right now.

.Question was then raised regarding the process they would need to go through. Response was that they are the first. From their reading they believed it to need a Special Use Permit. Question was raised, how many kilowatts total will be generated by this? Response was 2.25 megawatts, three separate projects of 750 kilowatts. That is the size from NYSERDA, 750 kilowatts. thousand watts, so there would be three separate projects. We will do the first one hopefully next spring if we can get through this with you guys. They had gone through the Code which was obvious with the layout shown, all compliant. Out of approximately 70 acres to be purchased, 25 to 30 out of the 70 will be used for the three projects. It will be well buffered by the ridge and tree line which will be left, not seen from Route 9W, Route 144 or by neighbors. It appears to be a perfect area.

Town resident Jennifer Suchy asked if there was room for public comment and time was granted to her. She advised the Board that she had been very involved with the Cocksackie development, especially Hecate, one of nine projects in Cocksackie. She had purposely come because Solar Generation was going to be here tonight. My concerns are many.

As you are probably aware, a dramatic impact can be made on residential areas. There is a whole host of reasons why solar really needs to be heavily considered before any kind of development takes place. It sounds like there isn't any mega wattage going on here but 70 acres is quite substantial. There is room for growth from that. As far as that being said, I don't know 2.2 megawatts, three projects going on, 750 kilowatts. I only see growth from there. When it is along the railroad tracks and three-phase wiring that is one thing; but when it starts impacting on neighbors, that is a problem because it opens a Pandora's box for other situations like this that seems to perpetuate and grow.

In the Town of Cocksackie, there are two large, Article 10 projects, and several smaller projects from her understanding going on, for a total of nine in all. Cocksackie is in the process of ramping up their Code particularly with regard to the Article 10 projects and the other smaller projects.

This is impacting residential areas, wildlife habitats, endangered species, the concern of de-valuing property, downgrading home values. Sound is another one. There is a transfer box that hooks up to this equipment. It does radiate some sound depending on the size of the project. She was a skeptic when it comes to a project of this size because she can only see how it can get bigger, bigger and bigger. She wants to be sure that the Board seriously considers, really gets to know what this new coding is on all of this before any solid decisions are made.

The Board thanked her for her comments and the Chair asked if anyone wanted to address the points brought up. Ms. Vadney commented if this was to get any bigger, you would have to come back before us. The gentlemen agreed. She continued that she was not against the use of solar power; but on the scale that it is occurring and the way it is being handled, Article 10's, it is quite distressing especially if you live near it. Ms. Suchy added and the neighbors need to be notified. It was pointed out the neighbors would be as part of the Public Hearing process. It was noted in this instance, there are no close neighbors

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but the closest would have to be notified. This is nowhere near an Article 10, nowhere near the acreage. It was pointed out it is a whole different ball game in Cocksackie with possibly nine projects scattered over 3,500 acres.

The gentlemen advised they are a local Company out of Woodstock, having been around for 15 years. The Chair pointed out in this instance, the gentlemen have taken their time, looked at the visual impact. This property which really isn't developable for houses because of the rock, covers the visual impact. The gentlemen explained this helps the grid too. This is an issue that is going across all the utilities in the country. If you read about the grid, it is antiquated. As the population grows and as there is new technology and equipment, electric cars, the utilities can't keep up. They are actually begging for people like us to come in and help support the grid because they can't afford to spend the billions of dollars for the infrastructure that they need for substations, the feeder lines. Ms. Vadney pointed out but you still need the grid to make this happen. It is not expanding the grid but it still has to be maintained.

Ms. Horn questioned is it cheaper for the people who do buy into this? Response, yes, there is a cost savings probably over a penny and a half per kilowatt hour, which means about 15% over your total bill, on the supply side. It was again noted it would be very difficult to build a house on the property being considered and you have the buffer there. As far as noise goes, you have the Thruway; the railroad and 9W. No creeks run through there. The Board could not really see any down sides to this. Concern was expressed regarding what our neighboring Town is facing; they are being run over. It is not a nice situation.

It was noted per our regulations, a removal escrow has to be set up. That would be done through Solar Generation and discussed further at the appropriate time. It was further noted that this location appears perfect; a downside was difficult to find, a good land usage.

Question, what is the biggest project that you have done? Response, what we have done is in the 250 range and collectively we have probably done several megawatts over 370 projects. Most of our projects are 15, 7's, a few 50's. This will be the largest parcel we have done. Concern was expressed regarding keeping the tree line, noted it could not be a deed restriction by the Board but could be a condition in any Planning Board approvals.

Ms. Vadney questioned if there was a pond on the property. Mr. Horowitz responded that it is way south, not on the land they are proposing to purchase, rather closer to Rte. 144. The gentlemen again questioned for informational purposes what they would have to do, what applications they would need to submit. Special Use Permit and Site Plan were mentioned but first step, the subdivision has to be completed and they have to purchase the property. In the meantime, the Board will become familiar with the necessary steps in the process. The gentlemen were thanked for coming.

Ms. Suchy further advised the Board that she had a lot of friends directly involved, fighting what is taking place in Cocksackie. She has found the ones taking the most active part in fighting against all the Solar Projects coming in are transplants from other Towns, not the native residents. Mr. Van Etten questioned if she saw an issue with this project. She expressed concern about the residents and Mr. Van Etten responded the Board had concern for them as well. She expressed concern about property being de-valued. It was noted that that was a matter of opinion, could apply in larger projects but didn't appear to apply in this case. Ms. Suchy cautioned decisions you make now, your approvals now can set precedents for the future.

Per meeting attended, it was noted the size of the Cocksackie projects can fill up the grid so projects in other Towns can't be accepted. There is room on the 9W side but the railroad side, where these other projects are proposed, is pretty well filled up. Concern was expressed regarding the decommissioning on the big solar projects, where the funds set aside will not near cover the cost involved. Concern was also expressed regarding the incentives involved in the PILOT programs and the long term effects.

Ms. Suchy will provide the Board with a copy of the Copake Law, Cocksackie Law and SEQR process for large scale projects.

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Solar Training

The Clerk will follow up to get the required training certificates (three hours) for Board Members Van Etten, Court and Salisbury who attended the Solar training on September 5. They were to be e-mailed but have not been received.

Solar Question

Question was raised regarding who holds the escrow monies for decommissioning of the solar system. Further questioned is it not a bond? Mr. Van Etten pointed out this will have to be a question for the Town attorney. Mr. Court then cited from Chapter 111 of our Town Code, 111-5, C. Section 13 (b)

...the amount shall be up to 20% of the construction cost. Acceptable forms shall include, in order of preference: cash, letter of credit or a bond that cannot expire or a combination thereof.

Ms. Vadney expressed her concern when it comes to bonds. Mr. Boehlke referenced further in the same sub-section:

...If the owner, applicant or lessee fails to remove any associate structures or restore the site to the condition approved by the Planning Board, all costs of the Town incurred to comply with this condition shall be paid using the surety provided by the applicant.

Ms. Vadney again expressed her skepticism when it comes to bonding and concern for the taxpayers if a project is abandoned and the property, it is left for the Town to clean up the site. It was then pointed out this would come down to being a Town Board matter if such occurred, not the Planning Board and then noted but it was the Planning Board that approved the project.

With regard to any PILOT, that is something the Town Board has to deal with, the Supervisor has to negotiate before the approval process starts before the Planning Board.

Further, the Town should have a policy in place before the Town faces any crisis in connection with a solar farm. (i.e. what is contained in these solar panels that could be a hazard to the Town if smashed or broken.) and secure and guaranteed funding for any clean up of a site left to the Town. The Town needs to know upfront what is in the panels, etc. Question was raised as to who determines the construction value? (i.e. Value \$100,000, 20% of that \$20,000) Would that cover the take-down expense; and if toxic, where would it be taken? Then DEC would be involved. It was noted that companies do not yet exist for the breakdown of these panels. They will be coming and it is sure to be very expensive in the beginning.

Question was raised as to whether some further clarification was needed in our Chapter 111 of our Code. Suggestion was made that it should be amended to read:

20% of construction cost as determined by a third party designated by the Town and paid for by the applicant.

The Chair suggested that everyone take another look at Chapter 111 before the next meeting. We have quite a few issues at this point—the assessment issue, the cash/or bonding; the decommissioning which was felt to be the biggest issue.

MINUTES

Approval of the August 9 regular monthly meeting minutes will be held until the October meeting to give all Board Members the opportunity to review them.

CORRESPONDENCE

1. From Assessor Bennett copy of August, 2018, Real Property Transfer Report
2. Building Permit Applications: 1 Single Family Home; 1 House Total re-hab; 1 salt shed.

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3. Demolition Permit Application: 1

ADJOURNMENT

At 9:10 p.m.. it was moved by Van Etten and seconded by Horn to adjourn the meeting.

Ayes: 6 Nays: 0 Abstained: 0 Absent: 1

Respectfully Submitted by:
Marjorie Loux
Clerk