

**TOWN OF PERTH PLANNING BOARD
NOVEMBER 16, 2020
6:00 P.M.
PERTH TOWN HALL**

MEETING NOTES

PRESENT:

**RON CETNAR, CHAIRMAN
FRAN SIKORSKI, VICE CHAIRMAN
BOB GORDON
MICHAEL DIMEZZA
TRACY GUTOWSKI**

SEAN M. GERAGHTY, SR. PLANNER

I. CALL MEETING TO ORDER:

The meeting was called to order at 6:00 p.m.

II. APPROVE MINUTES OF LAST REGULAR MEETING:

MOTION: To approve the minutes to the October 19, 2020 meeting.

MADE BY: Michael Dimezza

SECONDED: Fran Sikorski

VOTE: 5 in favor, 0 opposed

**III. SOLAR PARK ENERGY, LLC/ROSE INDUSTRIES, LLC – FINAL DECISION ON
SUBDIVISION AND SPECIAL PERMIT FOR A SOLAR FARM ALONG NYS
ROUTE 30:**

A. Background:

Solar Park Energy would like to construct a 5 megawatt AC Solar Farm along the west side of NYS Route 30 in the Town of Perth (Tax Map Parcel Nos. 178.-2-52, 189.-1-13.111, 189.-1-13.112, 189.-1-14.11, 189.-1-14.12 and 189.-1-17.2). The total amount of property available on the six (6) parcels is approximately 127.1+/- acres. As part of the project, a 52+/- acre parcel will be subdivided in an effort to create the project site.

(NOTE: Planning Board Member Mike Dimezza indicated that he would be abstaining from participating in the review of this application.)

B. October 19, 2020 Meeting:

During its October 19, 2020 meeting, the Town of Perth Planning Board held a public hearing on Solar Park Energy's subdivision and Special Permit applications for a Solar Farm Project along NYS Route 30. Following the public hearing, the Planning Board recognized that the County Planning Board had not yet reviewed the project under Section 239-m of the General Municipal Law and offered its recommendation to the Board. Consequently, the Planning Board tabled final action on both applications until this evening's meeting. The Planning Board asked that the following pieces of information be provided prior to this evening's meeting:

1. A separate subdivision plat that can be signed by Planning Board Chairman Ron Cetnar must be prepared prior to the Board's final decision.

STATUS: Provided.

DISCUSSION: The Planning Board had no additional comments concerning the final subdivision plat.

2. A Planting Schedule should be provided for the Landscaping Plan clearly noting that all of the plantings will be 8' in height at the time of planting.

STATUS: Provided.

DISCUSSION: Mr. Geraghty pointed out that the Landscaping Plan is fairly simple. He stated that the applicants intend to plant 60 Norway Spruce and 60 White Pine along the western border of the project site.

The Planning Board had no comments regarding the Landscaping Plan.

3. If possible, the tie-in location to National Grid's infrastructure should be moved closer to NYS Route 30.

STATUS: A note has been added to the Site Plan drawing showing that a directional bore to the proposed point of interconnection along the east side of NYS Route 30 will take place. The applicants have also noted that the riser pole, utility meter pole, recloser pole and GOAB switch pole will be located near the turnaround area outside of the fence

4. An elevation drawing of the equipment shelters, storage facilities, transformers and substations must be provided.

STATUS: Provided.

5. Some type of written confirmation must be provided from National Grid that the project, as proposed, can be tied into National Grid's infrastructure.

STATUS: A preliminary screening analysis from National Grid has been provided.

6. The Maintenance and Operation Plan should be amended to indicate that a 15' wide strip will be maintained around the outside perimeter of the fenceline in order to provide vehicular access around the perimeter of the site.

STATUS: Provided.

7. A copy of any correspondence between the applicant and Natural Heritage Program concerning the Sedge Wren must be provided.

STATUS: ?

DISCUSSION: Joe Hens, Ingalls & Associates, stated that his firm has reached out to the Natural Heritage Program concerning the Sedge Wren and has yet to receive a response.

Mr. Geraghty indicated that, once the response is received from the Natural Heritage Program, a copy must be provided to the Planning Board.

C. County Planning Board Referral:

In accordance with Section 239-m General Municipal Law of New York State, the Fulton County Planning Board reviewed Solar Park Energy's Special Permit application for a Solar Farm Project during its October 20, 2020 meeting. At that time, the Planning Board recognized no regional implications that could occur from the proposed project and offered no recommendation to the Town of Perth Planning Board regarding Solar Park Energy's Special Permit application.

DISCUSSION: The Planning Board had no comments regarding the County Planning Board's review of the application.

D. Fulton County Agricultural District No. 1:

In accordance with Section 305-a of Article 25AA of the Agriculture and Markets Law of New York State, any subdivision application or Special Permit application for a piece of property within an Agricultural District containing a farm operation or on property within 500' of a farm operation located in an Agricultural District must receive notice of the proposed action.

The Fulton County Planning Department forwarded a letter, along with an Agricultural Data Statement and map, to Agricultural District property owners within 500' of the property that is the subject of Solar Park Energy's subdivision and Special Permit applications. To date, the Planning Board has received no comments regarding either application.

DISCUSSION: The Planning Board had no comments concerning Fulton County's Agricultural District.

E. State Environmental Quality Review:

During its September 21, 2020 meeting, the Town of Perth Planning Board classified the proposed project as a Type I Action and proposed that it serve as the Lead Agency for the purpose of issuing a determination of significance under SEQR. Copies of the preliminary Site Plan drawings, along with the Full Environmental Assessment Form, were sent to other Involved Agencies asking that comments concerning the Planning Board's proposal to serve as Lead Agency or on the project itself be submitted, in writing, by Monday, October 19, 2020.

STATUS: To date, the Planning Board has received the following comments:

NYSDEC:

In a letter dated October 1, 2020, the NYSDEC concurs with the Town of Perth Planning Board's proposal to serve as the Lead Agency. NYSDEC notes that any disturbance of more than 1 acre of land will require a SPEDES General Permit for Stormwater Discharges from Construction Activities. NYSDEC also notes that the "Sedge Wren", a threatened species, may be in the project area and has suggested that the New York Natural Heritage Program be contacted.

NYSDOT:

In an email dated October 15, 2020, the NYSDOT concurred with the Town of Perth Planning Board's proposal to serve as the Lead Agency. NYSDOT offered a list of ten (10) items that the applicants will need to address during the Highway Work Permit process.

MOTION: Declaring the Town of Perth Planning Board the Lead Agency for the purpose of issuing a determination of significance under SEQR for Solar Park Energy's Solar Farm Project along NYS Route 30.

MADE BY: Ron Cetnar

SECONDED: Fran Sikorski

VOTE: 4 in favor, 0 opposed, 1 abstained (Mike Dimezza)

FURTHER DISCUSSION: Planning Board Vice Chairman Fran Sikorski asked if the Planning Board is responsible for looking at the components of the project that are within Montgomery County?

Mr. Geraghty stated that the Town of Perth Planning Board is only responsible for reviewing that portion of the project that occurs within the Town of Perth's municipal borders.

Planning Board Member Bob Gordon had a question concerning the topography of the site and asked if the project will be screened from NYS Route 30.

Mr. Hens stated that there is a great deal of existing vegetation that will effectively screen the project. He stated that the only clearing to be done on the project site will be for the access road.

Planning Board Chairman Ron Cetnar asked about the applicant's previous agreement to maintain a 15' wide strip around the perimeter fence for emergency vehicle access?

Mr. Hens pointed out that the Maintenance and Operations Plan for the project has been amended to show that an area 15' around the perimeter fence will be maintained.

MOTION: Authorizing the filing of a negative declaration under SEQR for this proposed action since:

1. The location of the project is a significant distance off of adjacent public roads, which will help to effectively screen the project from the view of neighboring property owners.
2. There will be no traffic implications resulting from the proposed action.
3. Public utilities are readily available to service the new solar facility.
4. Wetland areas on the project site are generally being avoided so that there will be minimal impacts to the wetlands and no wildlife will be adversely impacted by changes to those wetlands.

MADE BY: Ron Cetnar
SECONDED: Tracy Gutowski
VOTE: 4 in favor, 0 opposed, 1 abstained (Mike Dimezza)

E. Planning Board Action:

In accordance with Article V of the Town of Perth Subdivision Regulations, the Planning Board, within sixty-two (62) days after the public hearing on the subdivision plat for a minor subdivision, shall by resolution, conditionally approve, with or without modification, disapprove or grant final approval of the proposed subdivision plat.

MOTION: To approve Solar Park Energy's subdivision application for a piece of property off of NYS Route 30.

MADE BY: Tracy Gutowski
SECONDED: Fran Sikorski
VOTE: 4 in favor, 0 opposed, 1 abstained (Mike Dimezza)

In accordance with Article IX of the Town of Perth Zoning Law, the Planning Board must grant, deny or grant subject to conditions the application for Special Use Permit within sixty-two (62) days after the public hearing.

MOTION: To approve Solar Park Energy's Special Permit application for a Solar Farm along NYS Route 30.

MADE BY: Tracy Gutowski
SECONDED: Fran Sikorski
VOTE: 4 in favor, 0 opposed, 1 abstained (Mike Dimezza)

IV. STEPHEN AND JENNIFER SAVAGE – SUBDIVISION ALONG MCKAY ROAD:

A. Background:

Stephen and Jennifer Savage own a piece of property along the east side of McKay Road in the Town of Perth (Tax Map Parcel No. 178.-2-4). The property is approximately 50.5 acres in size. The applicants would like to create three (3) building lots along the road that are all approximately 1.5+/- acres in size. The remaining 45.8+/- acres will be kept by the applicant for future development.

DISCUSSION: Mr. Geraghty pointed out that if the applicants intend to develop the remaining 45.8+/- acres that are identified on the preliminary subdivision plat, then the Planning Board is going to need some additional information from them before completing its review. Mr. Geraghty pointed

out that, while the Planning Board recognizes that the applicants are simply trying to subdivide three (3) new building lots from the property, New York State's environmental regulations and, specifically, the State Environmental Quality Review Act (SEQRA), does not allow applicants to segment the review of a project. Mr. Geraghty explained that, at the very least, the Planning Board will need to get some preliminary information from the applicants concerning the future development of the remaining 45.8+/- acres so that it can be determined if there are any potentially adverse environmental impacts that could occur on the property based on the full development of the site. Mr. Geraghty stated that, if the Planning Board does not request information on how the applicants intend to develop the remaining property, the Planning Board runs the risk of having its review of the application challenged.

B. Planning Department Review:

Article 4.5 of the Town of Perth Subdivision Regulations identifies the information an applicant is required to submit to the Planning Board for a minor subdivision proposal. Upon review of the proposed preliminary plat by the Fulton County Planning Department, the following issues have been raised:

1. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.

STATUS: Provided.

2. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200' thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10'.

STATUS: Topographic features have been shown for the area where the three (3) new building lots will be created.

DISCUSSION: Mr. Cetnar asked if the wells are all located at least 100' away from the proposed septic fields?

Chris Foss, representing the applicants, indicated that all of the wells and septic systems, as shown on the preliminary plat, are at least 100' from each other.

Mr. Cetnar asked how wide the proposed access road to the remaining property will be?

Mr. Foss stated that the road will likely be 50' in width.

Mr. Cetnar suggested to Mr. Foss that he make sure to check with the Town about the updated specifications for a Town road. He indicated that the Town may actually require a 60' right-of-way.

Mr. Cetnar asked the applicants if they intend to construct a cul-de-sac as part of the development of the remaining acreage?

Mr. Foss stated that the applicants are looking at some type of circle that will allow vehicles to loop through the development.

Mr. Cetnar asked if there are any wetlands on the property?

Mr. Foss indicated that there are some wet areas in the northeast corner of the property that will be avoided. He stated that the majority of the site is high and dry.

Mr. Sikorski questioned the location of the applicants' property. He asked if the applicants have begun brushhogging some of the land?

Mr. Savage indicated that he has done some brushhogging on the site.

Mr. Gordon asked if there is a house located adjacent to the proposed Lot #1 in the subdivision?

Mr. Foss indicated that there is not a house on the north side of the applicants' property.

Mr. Gordon stated that he wanted to make sure that the proposed septic field location for Lot #1 is at least 100' away from any neighboring well.

3. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.

STATUS: Provided.

4. The tax map section, block and lot number, if available.

STATUS: Provided.

5. All of the utilities available on all existing streets.

STATUS: Provided.

6. The proposed pattern of lots including lot width and depth, recreation areas, systems of drainage and sewer and water supply within the subdivided area.

STATUS: Percolation and pit test results for the three (3) new building lots have been provided. A proposed road is shown on the subdivision plat leading into the remaining acreage which is identified for future development.

DISCUSSION: Mr. Geraghty, once again, talked about the future development of the property. He stated that the Planning Board will need to know the approximate number of additional building lots that the applicant would like to develop on the property so that the Board can ascertain how much clearing will take place on the property, how much material may have to be moved on the property and how much pavement surface will be constructed to access the individual lots. He indicated that detailed engineering is not required at the moment, but the Planning Board needs to have an understanding of how many more lots the applicants would like to develop on the property.

7. All existing restrictions on the use of land including easements, covenants and zoning lines.

STATUS: There are no easements or covenants identified on the subdivision plat.

DISCUSSION: The applicants indicated that there are no easements or covenants to go along with the subdivision plat.

8. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings the distances, made and certified by a licensed land surveyor.

STATUS: Provided.

9. All onsite sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and a note to this effect shall be stated on the plat and signed by a licensed engineer.

STATUS: Not provided.

DISCUSSION: Mr. Geraghty indicated that he would get the necessary language to Mr. Foss.

10. The proposed subdivision name and the name of the Town and County in which it is located.

STATUS: Provided.

11. The date, north arrow, map scale, name and address of record owner and subdivider.

STATUS: Provided.

12. A completed Short Environmental Assessment Form.

STATUS: Provided.

C.State Environmental Quality Review:

Section 617.1 of 6 NYCRR states that, the basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision making processes of State, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant effect on the environment, and if it is determined that the actions may have a significant effect, prepare or request an environmental impact statement. Under these terms, the review of a subdivision application is subject to SEQR. Therefore, the following issues must be addressed:

1. Does the Planning Board feel that the Short Environmental Assessment Form, provided by the applicant, has been completed adequately?

DISCUSSION: Mr. Geraghty pointed out that if the applicants intend to further subdivide the property, then it will become a major subdivision in the Town of Perth and will require the completion of a Full Environmental Assessment Form. Once again, Mr. Geraghty talked about some of the pitfalls that could occur if the Planning Board does not carefully examine the potential environmental impacts of the applicant's project at full development. He conceded that it may be just an administrative issue, but he did not want the Planning Board to conduct an environmental review that could easily be challenged and thrown out. Eventually, the Planning Board agreed to allow the applicants to submit a Full Environmental Assessment Form for the project outlining how much future development will take place on the property and to allow the County Planning Department to approve the content of the form before sending it to other Involved Agencies.

2. Does the Planning Board feel that any additional information should be provided as part of the SEQR process?

DISCUSSION: The Planning Board did not ask for any additional information with the Full Environmental Assessment Form.

3. Section 617.6 (b) of 6 NYCRR states that, when a single agency is involved, the agency will be the lead agency when it proposes to undertake, fund or approve a Type 1 or Unlisted Action that does not involve another agency. If the agency has received an application for funding or approval of the action, it must determine the significance of the action, within twenty (20) calendar days of its receipt of the application, an Environmental Assessment Form or any additional information reasonably necessary to make that determination, whichever is later. Therefore, does the Planning Board wish to issue a Determination of Significance under SEQR at this time?

MOTION: Authorizing the County Planning Department to forward a copy of the completed Full Environmental Assessment Form, along with the subdivision plat, to other Involved Agencies and offer each Agency twenty-five (25) calendar days to comment on the Planning Board's classification of the project as a Type 1 Action and its proposal to serve as the Lead Agency.

MADE BY: Bob Gordon

SECONDED: Mike Dimezza

VOTE: 5 in favor, 0 opposed

D. Planning Board Action:

In accordance with Section 276 of the Town Law of New York State, the Planning Board must hold a public hearing on any subdivision application within sixty-two (62) days of the date of submittal of the completed application. Consequently, does the Planning Board wish to schedule a public hearing at this time?

DISCUSSION: Mr. Geraghty pointed out that, by the time the applicants are able to prepare a Full Environmental Assessment Form and update the preliminary plat, it will likely not leave enough time for other Involved Agencies to comment before the Planning Board's December meeting. Mr. Geraghty suggested that the Planning Board schedule a hearing on the Savages' subdivision application in January.

MOTION: To schedule a public hearing on Stephen and Jennifer Savage's subdivision application for a piece of property along McKay Road for 6:00 p.m., Monday, January 11, 2021.

MADE BY: Mike Dimezza

SECONDED: Tracy Gutowski

VOTE: 5 in favor, 0 opposed

V. PROPERTY TRANSACTION BETWEEN DANIEL AND CHRISTINA DELUCA AND MICHAEL AND KAYLA WESLEY:

A. Background:

Daniel and Christina Deluca own a piece of property along Della Valle Drive Extension (Tax Map Parcel No. 178.-4-2.12). Michael and Kayla Wesley also own a piece of property along Della Valle Drive Extension (Tax Map Parcel No. 178.-4-2.2). There is a parcel situated between the Deluca and Wesley properties that is proposed to be split by each of the owners. As part of the transaction, the Wesleys and the Delucas will each acquire approximately 20,789 sq. ft. of the parcel and combine it with their respective properties.

PLANNING BOARD DISCUSSION: Mr. Sikorski asked if Della Valle Drive Extension has been paved?

There was then several minutes of discussion amongst Planning Board members concerning the Town's takeover of Della Valle Drive Extension and its ongoing maintenance of the road.

Mr. Dimezza pointed out that Mr. Wesley was not suppose to get a Certificate of Occupancy for his home until Della Valle Drive has been paved.

Chris Foss, representing the applicants, indicated that he hasn't yet seen a deed description of the road, if it has been turned over to the Town.

Mr. Geraghty stated that he would check with the Town Code Enforcement Office in the morning to see if the Town Board has officially taken over ownership and maintenance responsibilities for Della Valle Drive Extension.

MOTION: Recognizing that the property transaction between Daniel and Christina Deluca and Michael and Kayla Wesley is not subject to the Town's Subdivision Regulations as long as both parties combine the property that they are acquiring with their existing residential parcels and to approve the transaction as a lot line adjustment.

MADE BY: Bob Gordon

SECONDED: Ron Cetnar

VOTE: 5 in favor, 0 opposed

VI. OTHER BUSINESS:

A. Chairman's Update:

Mr. Cetnar pointed out that, because of Christmas week, the Planning Board's December meeting will be moved to the second Monday of the month, which is December 14. He indicated that, likewise, because of the Martin Luther King holiday in January, the Planning Board's meeting for that month will be held on January 11, 2021.

VII. CLOSE OF THE MEETING:

MOTION: To close the meeting at 6:36 p.m.

MADE BY: Bob Gordon

SECONDED: Tracy Gutowski

VOTE: 5 in favor, 0 opposed