

**TOWN OF PERTH PLANNING BOARD
APRIL 17, 2023
6:00 P.M.
PERTH TOWN HALL**

MEETING NOTES

PRESENT:

**RON CETNAR, CHAIRMAN
DIANE CONARD
MICHAEL DIMEZZA
TREVOR GILDAY
TRACY GUTOWSKI**

AARON ENFIELD, SENIOR PLANNER

ATTENDEES

Heath Sloan, Operations Engineer of Scale Microgrids
Peter Yetto, Project Manager for Ingalls & Associates
Paul Kruger, Development Director, Active Solar

I. CALL MEETING TO ORDER:

The meeting was called to order at 6:09 p.m.

II. APPROVE MINUTES OF LAST REGULAR MEETING:

MOTION: To approve the minutes to the March 20, 2023 meeting.
MADE BY: Michael DiMezza
SECONDED: Diane Conard
VOTE: 5 in favor, 0 opposed

III. MAPLE NORTH LLC – CONCEPT – MINOR SUBDIVISION OF ZYNOBIA HOLDINGS COMPANY AT 4611 STATE HIGHWAY 30:

A. Background:

Maple North LLC is seeking to subdivide 4611 State Highway 30 (Tax Map Parcel No. 178.-2-29.1) which is owned by Zynobia Holdings LLC. The applicant would like to create two (2) lots from an 86.51+/- acre lot.

On January 27, 2020, the Town of Perth Planning Board conditionally approved a 9.5 MW on the same parcel from Solar Park Energy with the following stipulations:

1. The final Decommissioning Plan and cost estimates for the site must be agreed upon by the Planning Board and applicant.
 - o On June 15, 2020, the Town of Perth Planning Board accepted the Decommissioning Plan

2. The Operation and Maintenance Plan for the site must be completed and must include language identifying a 2-year warranty on all plantings to be provided as part of the Landscaping Plan.
 - o Provided
3. All plantings associated with the Landscaping Plan must be installed prior to any construction on the project site.

DISCUSSION:

Fulton County Senior Planner Aaron Enfield questioned on what phase in construction are the applicants at currently.

Heath Sloan, Operations Engineer of Scale Microgrids, stated that construction has not started to the best of his knowledge. The applicant made reference to a Maple West project that has solar panels which went through the Planning Board about the same time.

Mr. Enfield stated that the applicant was here for Maple North, not Maple West. He also indicated that while at the gas station which abuts the property, landscaping is on the property and some solar panels have been constructed on the parcel.

Planning Board members indicated that both Maple North and Maple West are currently under construction.

Mr. Enfield stated that, with the exception of the North arrow sign on the 8.5” x 11” subdivision plat provided, all other elements of the Town’s Subdivision Regulations could not be reviewed.

Mr. Enfield stated that the applicant will need to provide a larger format as an 8.5” x 11” copy is unacceptable for applicants to submit. He stated this will make the Planning Board’s job reviewing the subdivision easier especially when it is dealing with items associated with solar arrays.

Mr. Enfield indicated he was made aware by Code Enforcement Officer Mark Concilla that, on Wednesday, March 15, 2023, two (2) larger drawings were sent over to the Town. Subsequently, he stated the Code Enforcement Officer has been out of the office and the Planning Board was able to view a larger format for the first time prior to the meeting.

Mr. Enfield inquired on what the intended use was for the two (2) subdivided parcels?

Mr. Sloan indicated that the two parcels would hold solar arrays on the property.

Mr. Enfield inquired if this would be two (2) separate solar projects?.

Mr. Sloan stated that was correct.

Mr. DiMezza mentioned that the application the Planning Board received that evening and the information provided to the Planning Board prior to the meeting was inconsistent and asked for clarification.

Mr. Sloan mentioned that, while the submitted application stated a two (2)-lot subdivision, the project will be a three (3) lot subdivision.

Mr. DiMezza asked Mr. Sloan for clarification stating that Lot 1 and Lot 2 would have solar on it, and Lot 3 would be void of any association of solar.

Mr. Sloan stated that was correct.

Mr. DiMezza inquired if this project was already approved for a 9.5 MW parcel, then why are they coming back to subdivide the property?

Mr. Sloan stated it is a requirement from National Grid to only have 5 MW per parcel.

Planning Board Member Mike Dimezza questioned that, if this was a requirement of National Grid in 2020, then why wasn't it dealt with during that time? Mr. Dimezza also questioned why the applicants waited until 2023 to seek the subdivision?

Mr. Sloan stated it was the intention of the project to be subdivided and indicated it was never done by the Planning Board.

Planning Board Member Tracy Gutowski stated that Sean Geraghty was very thorough while working with the Town of Perth Planning Board for several decades and indicated that it most likely was a fault of the applicant.

Mr. DiMezza indicated that the Planning Board will need to see the solar arrays on the next submittal to the Planning Board. He stated this would be helpful for the review process. Subsequently, he inquired if the two (2) solar projects were contiguous?

Mr. Sloan stated that they were contiguous. He also mentioned that is not typical to show structures on a subdivision.

Planning Board Member Treavor Gilday asked for clarification on why an applicant would not put structures such as solar arrays onto a subdivision plat?

Mr. Sloan stated that is not typical to show on Site Plans or Subdivisions and stated that they could provide if necessary.

POST MEETING NOTE:

Per the Town of Perth's Subdivision Regulations and NYS General Municipal Law Section 277 indicate that existing conditions be required.

Mr. Enfield questioned how this subdivision will affect the approved Special Use Permit and how much will it be altered? He questioned if this project would need to go back to the Planning Board for a new Special Use Permit? Mr. Enfield stated that if it is altering it significantly, the Town of Perth Town Board recently approved an amendment to the Solar Law and should the Planning Board feel it does alter enough, the new regulations would need to be utilized as part of the review process.

Mr. Sloan indicated that it was the intention during the Special Use Permit application that this project was going to be subdivided.

POST MEETING NOTE:

A September 11, 2019 Project Narrative by Solar Park Energy 15 Maple Solar Project by Ingalls & Associates, LLP does not indicate an intention to subdivide the property.

Mr. Gilday stated that this subdivision would signify a new Special Use Permit.

Mr. Enfield reminded Planning Board members that the new law stipulates height restrictions of 12' on panels and 500' setbacks on all sides. Subsequently, he stated that no prime agricultural soils shall have solar built on. Mr. Enfield mentioned that almost the entire east portion of the property has Prime Agricultural Soil and would need to be avoided.

Mr. Enfield also stated that the Decommissioning Bond in 2020 was listed at 2.5% for the inflation rate. He stated the current rate is at 6.5% and would need to be adjusted.

Mr. Enfield mentioned that he will review the notes from when the project was approved to see if a subdivision was ever brought up in the dialogue. He stated if a Subdivision was not approved as part of a Special Use Permit approval that it will be unlikely that it was ever brought up in discussion.

Mr. Sloan inquired if the minutes are available? Subsequently, she inquired on what happens when the property may not be a solar field anymore indicating the landlocked parcels?

Planning Board Member Tracy Gutowski indicated that she believed they were on the Town's website.

Mr. DiMezza pointed out that these two (2) subdivisions would be creating landlocked parcels which is something that the Town of Perth typically does not approve.

Mr. Sloan stated that there is an access road off NYS Route 30 for the two (2) projects.

Mr. DiMezza inquired if there will be a deeded easement?

Mr. Sloan stated that the roads would be used for the two (2) parcels.

Planning Board Chairman Ron Cetnar indicated that it would be necessary to see beforehand if they are buildable lots.

Mr. Enfield stated that a Short Environmental Assessment Form has not been provided and the Planning Board cannot commence the SEQR process at this time.

Mr. Sloan asked why they did not receive the SEQR Form and stated he had a SEQR Form dated April 7, 2023.

Mr. Enfield stated that Mr. Concilla gave the Fulton County Planning Department all the information provided by the applicant and the SEQR form was not part of the application submittal. Mr. Enfield stated it can be provided in the next submittal to the Town.

Mr. Sloan inquired why the SEQR process would need to occur again?

Mr. Enfield reminded Mr. Sloan that he is subdividing a parcel, which triggers the SEQR process.

Mr. Enfield inquired what the Planning Board would like to do with their next steps?

Mr. DiMezza indicated there was a lot of information and clarification that needs to be done from the applicants (how far along the solar projects are, providing the existing approved solar arrays, proposed lot lines, SEQR form) before the Town of Perth Planning Board can review the application again.

Mr. Gilday indicated that the subdivision will also affect the 50' setback, indicating that there are no stipulations of solar farms being exempt from the provision.

Mr. Gilday again expressed his concern that this project will alter the current approved Special Use Permit.

Mr. Enfield reiterated the fact that the project was approved in 2020 and perhaps there were changes on the State level which indicates a 5 MW which would make the project grandfathered in from the 5 MW cap.

Mr. Sloan stated he would review the notes from the original approval.

The Planning Board decided to table further discussion on the project until more information is provided.

IV. ACTIVE SOLAR DEVELOPMENT – PERTH SOLAR HOLDINGS, INC. – MINOR SUBDIVISION OF RAINDANCER STEAK PARLOUR INC. AT 4582 STATE HIGHWAY 30:

A. Background:

Active Solar would like to construct a 5 MW (AC) Solar Farm and Subdivision along the west-side of NYS Route 30 (Tax Map Parcel Nos. 178.-2-34 that is 4.52+/-, 178.-2-35 that is 29+/- acres and 178.-2-36 that is 9.75+/- acres) and is owned by Raindancer Steak Parlour Inc. From the three (3) existing parcels, the applicant would like to have one parcel that is 28.75+/- acres which would house the Solar Farm, and the second parcel that is 14.80+/- acres. A portion of the parcels is in Agricultural-Residential (A-R) District and the Commercial Residential (C-R) Zoning District.

A Solar Farm is an allowed use under the Perth Zoning Ordinance as a Special Use Permit. The 2017 Town of Perth NY Zoning Ordinance defines a Solar Farm as “the use of land where a series of one (1) or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one (1) or more solar collectors placed in an area on a parcel of land collectively has a nameplate generation capacity of at least 15 kw direct current (dc) or more when operating at maximum efficiency.”

Chapter VI of the 2013 Town of Perth Comprehensive Plan indicates that the Town should encourage the development of solar, residential and small commercial solar, as well as large-scale solar, so homeowners become more energy self-sufficient. However, the Plan states that the magnitude of the systems need to be analyzed so there are no negative consequences to neighboring property owners that would outweigh the benefits.

On March 21, 2023, Code Enforcement Officer Mark Concilla authorized a merger of the three (3) parcels of the properties pursuant of Article 4(D)4 of the Town of Perth Zoning Ordinance.

As part of the Solar Farm project, a subdivision will be required.

B. Fulton County 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: Partially Provided.

DISCUSSION:

Mr. Enfield indicated that topography will be necessary on the Subdivision plat.

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: Not Provided.

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

STATUS: Provided.

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. Current and proposed wells and septic systems will need to be indicated on the Subdivision Plat.

DISCUSSION:

Planning Board members discussed whether or not a perc. and pit test would be necessary for the site, as it could be used as a buildable lot after the solar arrays are decommissioned. After a back and forth conversation, they agreed it would not be necessary, however, they indicated that the current well and septic system will be necessary.

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. Fulton County Agricultural District #1

In accordance with Section 305-a of Article 25AA of the Agriculture and Markets Law of New York State, a Site Plan subdivision 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 include an Agricultural Data Statement. All Agricultural District property owners within 500' of the project site must receive notice of the proposed action. It has been identified that the following property owners are within 500' of the Raindancer Steak Parlour parcel:

1. Anthony London at 105 McKay Road (Tax Map Parcel No. 189.-1-13.111)
2. Mark Orłowski at 4608 State Highway 30 (Tax Map Parcel No. 178.-2-33)

D. Fulton County Planning Board 239-M Review:

In accordance with NYS General Municipal Law Section 239-m, the Town of Johnstown Planning Board shall refer projects to the Fulton County Planning Board to assess any regional impacts that are within 500' of a municipal boundary, county or state existing or proposed road, a county or state existing or proposed park or recreation area, a county or a state-owned property (existing or proposed, on which a public building or institution is location), or a farm operation located within an agricultural district. Project referrals include Site Plan, Special Use Permit, Zoning Amendments, Comprehensive Plans, or other authorizations which the Board may issue under zoning provisions.

GML Section 239-m 4 B (vi) indicates that any Farm operation in an agricultural district is subject to a review by the Planning Board. Property owners Anthony London (Tax Map Parcel No. 189.-1-13.111) and Mark Orłowski (Tax Map Parcel No. 178.-2-33) are within 500'. Once the Special Use Permit application has been deemed ready to send to the Fulton County Planning Board.

DISCUSSION:

Mr. Enfield stated that, while not necessary for the Subdivision of the property, as part of the Special Use Permit, a 239-m review will be necessary.

E. State Environmental Quality Review:

It is recommended that SEQR be delayed as you cannot segment SEQR. Once items associated with the Special Use Permit has been updated, the Town of Perth Planning Board can start SEQR at that time.

DISCUSSION:

Mr. Enfield stated that SEQRA cannot be segmented and that once Active Solar has all the materials ready for a review then they can begin a coordinated review.

Paul Kruger, Development Director for Active Solar, indicated that he would take the notes from the Town of Perth Planning Board and would incorporate them into the next submission.

F. Planning Board Action:

DISCUSSION:

After a back and forth conversation, the Planning Board felt that they should table further discussion until more information is provided.

MOTION: To table further discussion on Active Solar’s project until more information is sent to the Town of Perth Planning Board.

MADE BY: Michael DiMezza

SECONDED BY: Treavor Gilday

VOTE: 5 in favor, 0 opposed.

V. COMPREHENSIVE PLAN UPDATE:

During the March 20, 2023 meeting, the Fulton County Planning Board indicated their desire to update the Comprehensive Plan. Town of Perth Supervisor Greg Fagan concurred with the Planning Board and recommended that coordination be done with the Fulton County Planning Board prior to the Town Board making a resolution for the Town of Perth Planning Board to serve as the Comprehensive Planning Commission. Fulton County Planner Chris Stankes will be assisting in the update.

DISCUSSION:

Mr. Enfield stated that, before anything is to occur, the Town Board will need to pass a Resolution authorizing the Town of Perth Planning Board as the Planning Commission.

Mr. Enfield recommended that the Planning Board read the Comprehensive Plan to understand the 2013 update and to start to make notes on recommendations. Subsequently, he stated that the update could be achieved within a year of commencing the project.

Mr. Enfield recommended that review of the Comprehensive Plan be done prior to Planning Board meetings. He stated that Fulton County Planner Chris Stankes will assist in the update.

Chairman Cetnar indicated that he would follow up with Supervisor Greg Fagan on moving forward.

VI. OTHER BUSINESS:

A. Planning Board Chairman:

Next Meeting

Mr. Cetnar indicated that the next Planning Board meeting will be held on Monday, May 15, 2023.

Solar Law

Chairman Cetnar mentioned that the Perth Town Board passed the amendments to the current solar law.

B. Fulton County Planning Department:

Tyron Tech Park

Mr. Enfield indicated that there has been no change to the timeline of Vireo Health, as well as Winstanley, from the previous month.

FOIL Request

Mr. Enfield stated that he worked with Town Attorney Carmel Greco on handling a FOIL request from a law firm in Dutchess County seeking out information on the Positive Declaration the Planning Board did on the Borrego Project.

C. Other:

Greenspace Fees

Mr. Gilday inquired if the Town of Perth has a greenspace fee that is associated with projects? He indicated that some communities in Saratoga County are able to utilize the greenspace fee for the development and upkeep of parks and public places within the community.

VII. CLOSE OF THE MEETING:

MOTION: To close the meeting at 7:02 p.m.

MADE BY: Treavor Gilday

SECONDED: Tracy Gutowski

VOTE: 5 in favor, 0 opposed.