

PLANNING BOARD MEETING
MONDAY—FEBRUARY 13, 2023
7:00 PM—TOWN HALL
1529 NYS RTE 12
BINGHAMTON, NY 13901

Present: Brian Donnelly, Chairperson
Thomas Eldridge, Vice Chairperson
Jamie Szenher, Board Member
Maura Cooley, Board Member
Gerald Smith, Board Member

Also Present: Alex Urda, Town Engineer
Gavin Stiles, Code Officer
Nicholas Cortese, Planning/Zoning Attorney

Absent: Michael Boland, Alternate Board Member

Brian Donnelly: It's a little after 7:00 so I'll call the Planning Board meeting for February 13th, 2023 to order. First on the agenda is the approval of minutes for the January 9th meeting. Is there any discussion? A motion for approval?

Jamie Szenher: I'll make a motion to approve the meeting minutes.

Thomas Eldridge: Second.

Kari Strabo:	Gerald Smith, Board Member	Voted: Abstain
	Maura Cooley, Board Member	Voted: Abstain
	Jamie Szenher, Board Member	Voted: Aye
	Thomas Eldridge, Vice Chairperson	Voted: Aye
	Brian Donnelly, Chairperson	Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—3 Nays—0 Abstentions—2 (Cooley & Smith)

Brian Donnelly: Before we start the new business I do want to welcome Maura Cooley and Gerald Smith to the Planning Board. It's their first meeting and we're excited to have them aboard. New Business, Yellow 20 LLC, 42 Smith Hill Rd, application for a site plan review for a solar farm in an Agricultural Zone. Mr. Urda?

Alex Urda: The referenced application is for a site plan review for the construction of (A) 5 +1- MWAC solar array, ground-mounted, on approximately 23 acres of a 69.5 acre parcel in an agricultural zone.

Discussion:

The application package included in a report/binder:

Dated:

- | | |
|---|----------|
| • Application to Planning Board | 10/03/22 |
| • Letter of Intent | 09/30/22 |
| • Full Environmental Assessment Form (FEAF) | 09/30/22 |
| • FEAF Visual Assessment Form filled out | |

- Site Plan Set (C000, C001, C002, C003, C004, C005, C006, C007, C008, C009, and C010) 09/13/22
- Site Plans updated 12/21/22
- Inverter Information
- FAA Notice of Criteria Tool 09/29/22
- Redacted Lease Agreement 07/07/21
- Stormwater Pollution Prevention Plan (SWPPP) 09/16/22
- SWPPP Update 12/21/22
- Decommissioning Plan 09/26/22
- Operation & Maintenance Plan 09/26/22
- Interconnection Utility Agreement 06/01/22

Updated documents RCVD 01/31/23 responding to BC239 review letter 12/13/22 (Beth Lucas)

- Engineer's Response Letter to BC 239 review comments 01/30/23
- Full EAF 09/30/22
- Site Plan Set (C000, C001, C002, C003, C004, C005, C006, C007, C008, C009, C010, C011, C012, C013, and C014) 01/27/23
- SWPPP 12/21/22
- Decommissioning Plan
- Operation and Maintenance Plan
- Wetland Delineation Report
- Land Lease Option and Lease Agreement
- Description of the "Leased Premises"
- Visual Simulation
- Location 1 - Grandview Drive looking South West
- Location 2 - Heights Court looking North West
- Location 3 - Hider Park looking North West
- Location 4 - John Street looking North West
- Location 5 - 210 John Street looking North
- Location 6 - Otsiningo Park Looking North West
- Location 7 — Intersection of 188 and 181 Looking West

We offer the following comments:

1. Solar Energy Facilities are allowed as principal or accessory uses within this zoning district §73-44 pending application and approval in conformance with Chapter 67 of the Town Code.
2. The application appears to be complete per review below.
3. Review of §67.6 B (1) criteria
 - a. Height and Setback requirements are met per Agricultural Zone.
 - b. Lot Coverage is 24.2% which is less than the 60% max. allowed.
 - c. N/A
 - d. N/A
 - e. A building permit is required with licensed UL or NABCEP installers
4. Review of §67.7 A criteria
 1. Lease info. Lease information is provided. Provide a copy of proof of the final, executed lease agreement for filing.
 2. Stamped Drawings. Complete Project Plans were provided. We need a stamped set for the record.
 3. Equipment sheets. Found in Project Plans detail sheets.
 4. Property Operation and Maintenance plan was provided and appears sufficient. Request

addition of Owner's contact information.

5. 8 Foot Fence is provided on the plans and details.

6. TOC Planning Board Conditions? TBrian Donnelly

7. The applicant provided a decommissioning plan format similar to NYSERDA samples.

- i. The applicant's email from 2/10/23 indicates the BC 239 comments were addressed however I do not see where the plan includes 'tree restoration' over the 17 acres.
- ii. The 'current total' estimate is substantially lower than the NYSERDA sample (Yellow 20 \$30,100/ 3.63 WM versus NYSERDA \$60,200/ 2MW sample). Explain? I would have expected roughly double NYSERDA's sample.
- iii. NYSERDA may underestimate seeding costs. For \$125 of seed you might cover < 1 acre. Please review.
- iv. If the decommissioning disturbance is >1 acre a SPDES permit will be required.
- v. This plan requires Planning Board Acceptance.

8. Applicant shall apply for a building permit if approved.

5. Review of §67.7 B criteria

1. Site plans were submitted. We need a sealed/signed set for recording.
2. Application signed applicant. Owner Signature? Nick: the owner signed the 'Permission' portion granting site access, as well as the lease documents.
3. The applicant completed a pre-application meeting via Microsoft Teams on 10/20/22 with the Town of Chenango Code Office and included Nick Cortese, Attorney for the Town, and Alex Urda, Engineer for the Town.

6. Review of §67.7 D criteria. Ask applicant about these two items

1. A Letter provided regarding system installation per applicable codes, etc. ?
2. Written statement that the applicant is authorized to business in New York State?

7. Review of §67.7 F criteria An original report 'binder' was provided dated 9/30/22 and has been amended.

1. The applicant's Engineering Report appears complete and to include the required items with the exceptions of
 - i. #15 FAA concurrence of no impacts?

8. Stormwater Pollution Prevention Plan review is ongoing. Preliminary review was completed and final review is in process.

- a. Change MS4 entity throughout (including NOI) to 'Town of Chenango'
- b. The NOI needs to be updated. In general, correct NOI #22 to Yes relative to post construction practices required and update subsequent answers accordingly.
- c. Confirm Rainfall data is from NOAA Atlas 14. The 1 and 10 year events seem slightly lower than NOAA for that location.
- d. In the proposed condition Hydrocad models
 - i. the areas act as if the entire watersheds contribute to the ponds. It appears that there should be bypass areas that flow past and are not detained.
 - ii. When trees are removed, I am concerned that the post developed flow rates from the sub areas are less than pre. I am concerned about the woods 'fair' versus woods 'good' and subsequent comparison to meadow.

9. Wetlands/Wetland Streams onsite were delineated and avoided.

10. Landscaping is found on C005.

11. Visual Renderings

- a. 'Location 4' This is from the cul-de-sac of John St. looking through 210. Is this 'ok' with the Board for positioning?
- b. 'Location 5' I believe should be labeled as 216 John Street (not 210)
- c. 'Location 7'

12. Broome County 239 review was required and returned. The applicant responded to the majority of them. Refer to 239 comments to consider. Several to consider:

- a. SHPO archaeological sensitive area. What is the status of this review with SHPO relative to SEQR review and the SWPPP?
- b. FAA review status?
- c. Visualization over the 188/181 interchange/bridge..address NYSDOT comments on glare?

Recommendations:

We have no engineering objections with respect to the project this time but I will be working with their engineering on SWPPP review questions.

Brian Donnelly: Gavin with the Ordinance Department, do you have any comments at this time?

Gavin Stiles: No sir.

Brian Donnelly: And the applicant is here. Do you have comments you want to make at this time?

Websley Darbouze: No, I guess we'll need some time to review and provide responses to this but we were hoping to get the Board to declare lead agency if possible since last time we provided with the viewshed analysis and the answers to the County comments. I believe that this would be the next step in the process.

Thomas Eldridge: I still have one question that wasn't in Alex's thing. What is the road frontage on the cul-de-sac? We need a figure, not a measurement from the GIS, not a guesstimate. We need an actual figure on road frontage.

Websley Darbouze: A figure, like a number? Ok.

Alex Urda: I thought you were going to add it to page four but I don't...

Gerald Smith: Actually, I have a correction. Under your full EAF part one under project and setting on page three, item C.4.b-What police or other public protection forces serve the project site-you've got Binghamton with a 'p' Police Department in the Town of Dickinson so that would be the Broome County Sheriff's Department. City police have no jurisdiction there.

Alex Urda: Just so you know Nick goes through the EAF once we determine lead agency and then whatever meeting we go through SEQR. It takes about an hour to go through the whole EAF.

Nicholas Cortese: Depending on what level of concern you guys have with each one. It can take a lot longer than that as you guys know. So, I guess if you guys could provide the Board with a quick summary of what happened in the last month because I'll be honest with you, Alex has been looking at new stuff, I haven't seen anything new so if you could just update us as to what's going on.

Websley Darbouze: The one thing we were already dealing with was the County letter, addressing their comments, and secondly, we also had to provide the viewshed analysis so we made that submission, we did the analysis, but as far as the plans go, there was a concern regarding NYSERDA slopes because the site is fairly sloped, about 20% slopes in some areas, therefore we went to the DEC and one of their guidance details level spreaders to get the contours out of the way to mitigate the impact of that so we did that we added that throughout the project, literally throughout all 17 acres of the project so that was one of the bigger changes that we did. Another one was due to the viewshed analysis that we did, we realized that there was a view of Grandview that you could see the site through so we added a robust layer of landscaping, evergreen-type landscaping in the front yard basically mitigating that impact. These two were the main changes

to the plans and we added language as to tree restoration and the project applicant would basically talk to an arborist or somebody more related to that when it comes to mitigating tree restoration for the project site.

- Nicholas Cortese: Alex, do you have any specific comments that are pertinent for what's happened in the last month here other than what you went through in your list already?
- Alex Urda: Mainly, like they said, they're addressing a lot of the 239 comments which some needed to be addressed, some maybe not. It's going smoothly on their end as far as back and forth with them.
- Gavin Stiles: Do they not have a contiguous 240 feet of frontage?
- Alex Urda: It's around the cul-de-sac so it's whatever I came up with last time but it just didn't get added to the drawing.
- Thomas Eldridge: Somebody, their engineer not our engineer, somebody needs to physically measure that road frontage and it can't be a guesstimate and it can't be from the GIS, it needs to be an actual measurement of what the road frontage is.
- Nicholas Cortese: That'll determine whether or not they need a variance obviously. Thoughts from you guys? You guys walked into kind of a complicated situation off the bat so if you guys have any questions feel free to ask. I'll do the best that I can to answer them. Obviously, Alex and Gavin are here to answer your questions, too.
- Gerald Smith: Can I ask a really stupid question? Why did you pick putting a solar farm on the side of a hill rather than a flat top that faces south?
- Bartolo Jimenez: First we needed to find what was available from the power lines, and this is an application where we find (inaudible) and a property owner willing lease to lease or sell their parcel.
- Gerald Smith: I just think a sloped thing, when it's done, would bring in more erosion problem that you've had to mitigate considering I grew up here at the top of the hill it's level flat and faces south and you would get 100% sun. I just wondered why. The other question I had was how many solar panels, I didn't have a chance to read it thoroughly, are you planning to install? The map obviously shows the individual thing which looked like a lot. It's a lot of stuff.
- Thomas Eldridge: You see the bottom part where the round circle is?
- Gerald Smith: Yeah, where they're catching water.
- Thomas Eldridge: Just to the right of that there's a NYSEG substation. That's why they chose there.
- Gerald Smith: Even though at the top of the hill there's a NYSEG line, it's not a substation. That's why. Which makes more sense.
- Thomas Eldridge: Everything else you were saying also makes sense.
- Nicholas Cortese: So, just to discuss the lay of the land with the Board members, in case you're not aware and for you guys I'm sure you're not aware, you're not going to want to hear this but on March 8th, the Town Board is holding a public hearing to potentially enact a moratorium for solar and I can't say honestly whether or not it will succeed but I'm inclined to believe it has the support to succeed. I believe that the Town Board is of the mind that their solar law is out of date with respect to modern solar regulation. Even though it's only ten years old there's a lot that's

happened in the last decade. So, just to make everybody aware of that, that public hearing is coming up on March 8th and again, you never know what a Board is going to do but I have a reason to believe that it will not be enacted. That being said, if the Board feels comfortable that the application is complete, we don't know what's going to happen at the Town Board meeting obviously, so we do have to kind of diligently pursue this application until such time as we don't have to when or if the moratorium is enacted so if people feel comfortable enough that the application is sufficiently complete to make a motion to declare this to be a Type I action under SEQR and declare lead agency status we can certainly do that but if the moratorium ends up being enacted then everything will be held in abeyance until such time as the moratorium expires and if the moratorium is enacted it will be for the purposes of updating the solar law and then this project will essentially start all over again. What do you guys want to do as far as that's concerned because again, we don't know what the Town Board is going to do. I can take an educated guess but I don't know for sure.

Jamie Szenher: We're almost better holding off. We have to go through the whole thing all over again?

Nicholas Cortese: Yeah potentially because ultimately the project would conceivably end up being substantively different with a new suite of solar regulations to govern it. That being said, if the moratorium does not pass, then you've got to keep going with this application which is why we're here tonight, doing this tonight. So, my suggestion would be to declare lead agency and if the moratorium does go into effect, then the language of the moratorium will hold in abeyance the processing of any applications and the running of any timelines that would require acceptance by operation of law. So, this is kind of a place holder for now because again, we don't know what's going to happen but that would be my suggestion to you all tonight. If you're not of the mind to do that, if you feel like the application is not complete to your satisfaction then we don't have to do it, but that's up for you guys to decide, not me.

Thomas Eldridge: Alex, how much, your list of things and the county's things and the state or whoever wanted the glare, what would you say percentage wise of completion is that?

Alex Urda: It's near complete. I don't know that any of it keeps you from establishing lead but you wouldn't be able to formally enact on SEQR tonight.

Nicholas Cortese: I don't think we're in a position to even start going through SEQR even if it were the case that the moratorium doesn't end up happening. That would end up happening before our next meeting in March so we'll know one way or the other by then what's going to be in front of us but let's just say in this scenario that the moratorium doesn't go through, I think probably to stay on the timeline we would be looking at starting to go through SEQR at next month's meeting and obviously if it does go through we're in a very different world at that point but in order to start going through SEQR we have to start declaring lead agencies so Diane can send out all the letters to all the interested agencies and so on and so forth. This is just to kind of get that process started should we have to keep going with it. That's kind of the procedure, I guess. But again, if you feel like there are things missing that you need in order to deem the application to be complete, then that's your decision based on what you've been able to review so far.

Thomas Eldridge: Declaring lead agency doesn't really do anything, it just keeps the ball rolling if this thing doesn't get canned.

Nicholas Cortese: That's right.

Brian Donnelly: So we don't have to bother with that next meeting. Do we have to do something to declare that we feel this is substantially complete and then do lead agency?

Nicholas Cortese: I would just say that it'd basically be like an oral resolution that we would develop right now. So, it would be that you deem the application to be substantially complete, you deem it to be a Type I action under SEQR, and you declare lead agency status. That would be the motion you'd be making if you want to do that.

Brian Donnelly: Does someone want to make that motion?

Jamie Szenher: What he said.

Kari Strabo: Was that a motion?

Jamie Szenher: Yes.

Maura Cooley: I'll second.

Kari Strabo: Gerald Smith, Board Member Voted: Aye
Maura Cooley, Board Member Voted: Aye
Jamie Szenher, Board Member Voted: Aye
Thomas Eldridge, Vice Chairperson Voted: Aye
Brian Donnelly, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—5 Nays—0

Nicholas Cortese: Ok, so we'll get with Diane and have her start sending out letters to all potential lead agencies. You guys have that covered in your long EAF?

Websley Darbouze: Yeah, I believe we do.

Alex Urda: For the question on the road frontage, it looks like you went from a cul-de-sac on Grandview, it's the last set of drawings.

Websley Darbouze: I just saw that today, we're working with the surveyor to fix that.

Alex Urda: If the surveyor needs info on the right-of-way, it should be filed county wise, but we could also check the drawer.

Websley Darbouze: The next set of plans we'll update that.

Alex Urda: Make sure you get us the FAA and SHPO also, get those to Diane.

Nicholas Cortese: Do you guys have anything further at this point? We'll be in touch with you guys and let you know what happens with the moratorium situation.

Websley Darbouze: I guess the one question I would have is are we still expected to answer and provide a response pending the moratorium?

Nicholas Cortese: That's up to you guys.

Alex Urda: None of us know how that's going to move.

Brian Donnelly: Hopefully after March 8th, we'll know exactly where we stand.

Alex Urda: Our next meeting is?

Kari Strabo: March 13th.

Brian Donnelly: Next on the agenda is the advisory opinion for Abbey Family Trust No. 4, 26 Buckley Rd, application for an area variance to build a single family home with less than required road frontage from 240' to 25.66' in an Agricultural Zone.

Nicholas Cortese: I just have to state for the record as we've been maintaining all along that Coughlin and Gerhart has a conflict with respect to this matter and we've recused ourselves from representation of any party in this matter and it's well established at this point so if you don't need me for anything else I'll head out but if you need me to stay for after I could go out of the room and come back in.

Brian Donnelly: I think we're all set, we shouldn't need anything else.

Nicholas Cortese: Ok, good to see everybody. See you next month.

Brian Donnelly: We'll start with Mr. Urda.

Alex Urda: The referenced application from the ZBA for an area variance to build a single family home with less than required road frontage from 240' to 25.66' in an Agricultural Zone.

Discussion:

The original application package included:

- | | | |
|--|-----------------|-----------------|
| • Application to Zoning Board with permissions | Dated: 08/29/22 | Rcvd.: 08/29/22 |
| • Applicant letter signed by owner | 08/29/22 | --- |
| • Site Sketch with house shown and parcel to be conveyed | | |
| • Short EAF | 07/01/20 | |

The application was amended February 3, 2023 to include:

- | | | |
|--|----------|---|
| • 8-29-22 Area Variance Application to Zoning Board
(amended to read "...from 240' to 25.66'") | 08/29/22 | 02/03/23 |
| • Layout Plan C101 (overall sketch of house, road, access) | 01/23/23 | 02/03/23 (Stamped by Professional Engineer) |
| • Sketch for Abbey Family Trust Number 4 Portion of 431 Brotzman Road VAR-1 (sketch of area of access to 24 and 26 Buckley Road parcels) Stamped by Professional Land Surveyor and matches correction deed below | | 02/03/23 |
| • Correction Deed between Abbey Family Trust Number 4 and Justin & Richelle Abbey Re: 50ft prior frontage. | 01/18/23 | 02/03/23 |

1. The amended documents provided by the applicant restore the 50 foot access previously required of the prior application from Justin Abbey at 26 Buckley Road "2016-V16." This prior application subdivided out a portion of 26 Buckley Road (TM#094.02-1-1.1) to develop what is now a 10 acre parcel, 24 Buckley Road (TM#095.05-1-36) for Justin Abbey's residence. This application included an area variance for only 50 foot of road frontage which was the road access point to the overall area.
2. Broome County 239 Review. The overall parcel is within 500 feet of an NYS Agricultural District. However, the project work itself is greater than 2000 feet from the district. In this instance I do not see where an 'area variance' requires an 'Agricultural Data Statement.' 239 review indicated no impacts.

We have no objections to the variance request.

Brian Donnelly: Gavin from the Ordinance Office, do you have any comments at this time?

Gavin Stiles: None from Ordinance, we're good.

Brian Donnelly: I see the applicants are here. Do we have any discussion from the Board, any questions or suggestions?

Gerald Smith: I will say I was made aware that the tax map number was incorrect, that it was recently changed a couple months ago.

Brian Donnelly: On the drawings?

Gerald Smith: If you go on the GIS maps for the County, they've got a different number assigned.

Justin Abbey: They've also got a neighbor saying it's our property too on GIS right now. It's GIS.

Alex Urda: I got asked about it the other day. Gavin and I talked. What's showing up on GIS is a little bit outdated. It looks like the deed that the applicants have already filed is sitting with someone at Broome County GIS and they put the little correction 50-foot piece on as the entire however many acres that big chunk is.

Gavin Stiles: I talked to Mike Decker at Real Property and he just said they haven't caught up with it yet. The legal stuff's in line, GIS is lagging.

Alex Urda: The deed showing for 431 Brotzman, which is the bigger piece, it shows as Justin. In the actual deed that's in there is what we got as a correction deed, I think it's under a tenth of an acre.

Gavin Stiles: So maybe in the legal notice we'll have to dial that in for the ZBA.

Gerald Smith: And a small portion of the parcel looks like it comes down and borders on John Smith Road, is that correct? But the access would be off Buckley Rd, not John Smith?

Justin Abbey: Correct.

Jay Abbey: Well, that's not correct. There's no property that goes to John Smith Rd.

Thomas Eldridge: It comes down next to a parcel on John Smith.

Gerald Smith: It doesn't terminate at John Smith?

Brian Donnelly: It doesn't have road frontage on John Smith Rd. There's no actual road frontage.

Gerald Smith: Just land.

Brian Donnelly: In that case does anyone want to make an advisory to the ZBA?

Thomas Eldridge: I'll make a favorable advisory to the ZBA.

Jamie Szenher: I will second.

Kari Strabo: Gerald Smith, Board Member Voted: Aye
Maura Cooley, Board Member Voted: Aye
Jamie Szenher, Board Member Voted: Aye
Thomas Eldridge, Vice Chairperson Voted: Aye
Brian Donnelly, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—5 Nays—0

Brian Donnelly: So, we're sending it on to the ZBA with a favorable advisory. Good luck with them.

Jay Abbey: Sounds good, thank you.

Brian Donnelly: Other business this evening, other than welcoming our new members, I was told that we need to do a nomination. Originally I was told to do a nomination for both Board Chair and Vice Chair, however the Town Board at the last meeting went through a Resolution to make me the actual Chairman, I was acting Chairman for a number of months here so they have done that part of it so they've chosen me to be the Chair.

Jamie Szenher: So we don't have to nominate both of you.

Brian Donnelly: However, we need to nominate a person to be the Vice Chair.

Jamie Szenher: I'm going to nominate Tom Eldridge.

Maura Cooley: I'll second it.

Brian Donnelly: Tom is accepting?

Thomas Eldridge: Sure, yes.

Jamie Szenher: Do we need a vote?

Brian Donnelly: Do we have any other nominations? Do we need to have a vote then?

Kari Strabo: Vote?

Jamie Szenher: Yeah.

Kari Strabo: Gerald Smith, Board Member Voted: Aye
Maura Cooley, Board Member Voted: Aye
Jamie Szenher, Board Member Voted: Aye
Thomas Eldridge, Vice Chairperson Voted: Aye
Brian Donnelly, Chairperson Voted: Aye

The motion was thereupon declared adopted by a roll call of:

Ayes—5 Nays—0

Brian Donnelly: So we will contact the Town Board and let them know that Thomas is stepping in.

Jamie Szenher: I'll make a motion to adjourn.

Thomas Eldridge: Second.

Brian Donnelly: We're adjourned. (7:42 PM)

Respectfully Submitted,



Kari Strabo, Sr. Clerk