

**TOWN OF NEW BALTIMORE PLANNING BOARD**  
**Regular Monthly Meeting**  
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The meeting was called to order at 7:10 p.m. by Chair Rob Van Etten followed by the Pledge of Allegiance. Other Board Members in attendance were Ann Marie Vadney; Bob Court; Lee Salisbury; Frank Orlando and Michelle Stefanik. Ken Finke was absent.

**Lands of Marjorie McCoy – Minor Subdivision Application**

Ms. McCoy remained present. Public Hearing on her application was held just before the start of this meeting. With no further questions, resolution was presented as follows:

**WHEREAS**, Marjorie McCoy, is the owner of a parcel of land at 1106 Medway-Earlton Road, Earlton, bearing Tax Map #39.00-1-39; and

**WHEREAS**, said 1.92 acre parcel, was divided from parent parcel in 1985 by filing of deed in Greene County Clerk's Office without having gone through required minor subdivision process before Planning Board nor a map filed in the County Clerk's Office; and

**WHEREAS**, said parcel of less than the required legal two-acres, was subsequently purchased by Ms. McCoy in 1989 and received permanent Area Variance approval from the Zoning Board of Appeals in May of 1994 giving it legal standing size-wise; and

**WHEREAS**, Ms. McCoy, wishing to bring her parcel into conformance, presented Minor Subdivision Application at the October 13, 2022, Planning Board Meeting and

**WHEREAS**, required Public Hearing, having been duly noticed, was held on December 8, 2022, with members of the Public offering no comment; and

**WHEREAS**, the Short Environmental Assessment Form was reviewed at the October 13, 2022, meeting with negative declaration given, now therefore be it

**RESOLVED**, that the McCoy minor subdivision bringing her parcel into conformance be approved with no conditions.

It was moved by Vadney and seconded by Stefanik to approve the McCoy resolution as presented.

Ayes: Van Etten; Vadney; Court; Salisbury; Orlando; Stefanik

Nays: None

Abstained: None

Absent: Finke

Mr. Van Etten stamped and signed the maps and mylar. One paper copy of map retained for file. Green form was provided to have stamped at County Clerk's office at time of map filing verifying maps were filed. Form then to be returned to Planning Board for file as evidence that the maps were filed within 60 days of approval.

**Teichos Energy - Hannacroix Solar Project – Site Plan Renew**

Present were Steve Voorhees from Teichos Energy and Jacqui Murray from the Murray Law Firm, attorney for this project. Mr. Van Etten advised when the renewal request was discussed at the November Meeting, some members had questions. Mr. Van Etten asked that they elaborate on what is going on, where things are at, maybe some possible ownership changes.

Ms. Murray advised that Teichos is the owner of the project. The main reason for request for extension is that we have been waiting for the northern harrier to potentially be lifted as a threatened and endangered species. As the Board may recall Michelle Mormile from Crawford also noted that that was something that the DEC was reviewing actively because apparently the harriers are doing quite well now. The habitat is not as threatened and endangered as it was when they put them in protection for it. So we were waiting for that because that particular de-listing would eliminate the need for us to apply for an Incidental Take Permit from DEC which requires us to come up with some mitigation measure which is both very expensive and time consuming.

Ms. Stefanik commented you mentioned acquiring another piece of land that would be set aside that was a

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similar territory. Ms. Murray continued that that was correct. So basically the mitigation if we are going to disturb the northern harrier habitat on this property, we have to go find another property where the habitat could be preserved for the duration of at least the project or into perpetuity. To meet that requirement, we had to do a Conservation Benefit Analysis, have that prepared to submit with our Incidental Take Permit Application to DEC; and then it takes DEC about six to nine months to assess that and to grant the application. At the time I had submitted our extension request to the Board, we had yet to complete the Incidental Take Permit Application and all the related materials. We have since done so and it was submitted to DEC on November 29. They accepted the Incidental Take Permit Application jointly with our Water Quality Certification Application and assigned it a project number so that review is now commencing with DEC but we will not have that review completed or the Permit issued anytime before tomorrow which is when our Site Plan approval technically expires. That is really what is driving this request and our holding off on our filing the Building Permit Application because we need the Incidental Take Permit as a condition to move forward. That was actually a condition that was set forth in this Board's SEQR neg. dec. That is really what is driving the request. Concurrently, while that application is pending with DEC, we can work on the other components, get further into preparing the Building Permit Application but the Incidental Take Permit is really what was driving this.

Just to give you an idea of what we are pursuing and also the viability of getting the permit granted from DEC, they routinely work with Greene Land Trust and the Greene Land Trust has land available that they will monitor and steward for the duration of the mitigation period that is required by DEC. That is the plan right now to work with Greene Land Trust and secure a conservation benefit through them.

Mr. Van Etten commented so you don't have to go out and purchase it. Ms. Murray responded no, but purchasing is an option; but the Greene Land Trust, I believe, has been considered a better option because instead of the project developers having to actually acquire and own a piece of land and manage it and also have the liability associated with it, tax liability. Question was raised but all that is a moot point if they take this off the endangered species list, right? But you had to put in the application so if it happens; all that time, it really doesn't matter. It is gone anyway. Further question voiced was if they never remove it, you are prepared to still go that route with the Greene Land Trust? Ms. Murray responded right. We stopped waiting for the DEC to de-list it and filed the application that we needed assuming that it will never be delisted. If it is de-listed, that will be great. Question then raised how long will it be if de-listed? Ms. Murray responded it was supposed to be early 2022. We have waited and waited and they have not done anything yet to address it. I am sure they are reviewing it. I am not trying to knock the DEC but because they have not come to a final determination. We finally pulled the trigger and filed the application that we need with DEC to get the Permit to address the Northern Harrier as a threatened and endangered species.

Mr. Van Etten questioned so they determined that was a real habitat issue on that particular parcel? Ms. Murray responded almost any parcel that has wetlands or water resources has a habitat for Northern Harriers. She further commented that they had a project in Cocksackie, same thing, they had to have an Incidental Take Permit granted by DEC based on using the Greene Land Trust for mitigation purposes. So the good news is we have filed, we just filed November 20. We did have to wait for our Conservation Benefit Plan to be developed by [Several words not understood].

Mr. Van Etten commented I think you indicated that there might be some ownership changes on the project. Ms. Murray responded no, no. There were two other reasons that we put forth in our letter back to the Board as well. One related to just the general need for the extension. The most specific need for the extension is the ITP issue with DEC but also incidentally, there are still supply chain issues out there. Solar panels are very difficult to procure. The one-year extension will allow us time to procure. Then the other is we are still pursuing financing. Financing could potentially affect ownership. It could not but we are pursuing financing. The financing involves the development of a partnership that would affect any ownership. We have the obligation. Michelle, you and I worked through a notice very carefully that would obligate us to disclose any change of ownership to the Board.

Mr. Van Etten commented I think there were a few other questions that came up at the last meeting, perhaps

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some were Ken's. [Mr. Finke not present.] Mr. Salisbury questioned if there had been any changes made since the plans were submitted? Ms. Murray responded no, no; but we do still have the obligation to submit construction drawings that go to the Code Enforcement Officer in the normal course that will have all the details of the installation but there are no changes to the Site Plan.

Ms. Vadney commented I know that Teichos is a pretty big organization and that she was just curious as to how many projects or sites that you have actually developed and are they all in New York State, are they in other States? Mr. Voorhees responded first, we have been in the energy business, renewable energy business for 22 years. We worked a long time in the West doing large wind projects in Wyoming, Idaho, Oregon, Nevada. We have been doing solar for 12 years; and previous, we had actually been doing it with our previous company. We currently have our area of focus for development. This is our last project in New York. We have projects, I just came from Maine today, we have a number of projects up in northern Maine on timberlands up there. Pennsylvania, a number of projects there and now we are starting to work in West Virginia and eastern Ohio.

Ms. Vadney continued I know we have been talking about ownership and if any changes; and on all of your projects is there an average number of years that your company retains the project before they have ownership changes or are there no ownership changes? Mr. Voorhees responded it just all depends. The projects are financed; some projects are much larger than this. So when you go, just like a house, you are going to get a mortgage and finance that. You have to go out to the market and find where you are going to get the best mortgage rate. So essentially, we are doing the same thing on these projects or a pool of projects, financing. In some cases, you might sell the project, you may bring in partners or we hang on to them; and in some cases, hang on them for many years. And they put together a portfolio. So it all just depends. You look at the market you are in, what is the optimalization of it. It is a business and it is like any business, you make the best decisions you can.

Ms. Vadney commented so this one is being financed through multi? Mr. Voorhees explained if it is financed, you have to go to banks, institutional category, and the important thing is for financing something like this, the State of New York is the off taker, so the credit worthiness of the State and then the financing, the bank or debt, will also come, has to be an established bank so you are going to get, it has to be a secure financial institution. The State of New York doesn't want someone financing projects unless it is well funded. Ms. Vadney questioned so you are also getting funding from New York State, are you not, like NYSERDA funds? Mr. Voorhees responded no, we applied, we just applied for their take, the off [word not understood.] take agreement. We actually are paying money in to NYSERDA, not the other way around. Ms. Murray added this was the award of an RFP from NYSERDA.

Mr. Vadney continued it was an award from an RFP. Ms. Murray responded right. NYSERDA issued an RFP and Teichos was a successful bidder. The RFP was so that Teichos could sell renewable energy credits from the project back to the State of New York for I think a 20-year term. The project is very secure in that regard, that it has a contract behind the purchase of credits from the electricity produced from the project.

Really, the next step is we have to get the Incidental Take Permit squared away. Work on construction drawings, get those in to the Code Enforcement Officer for review. Ms. Vadney inquired so the financing has already been approved? Mr. Voorhees responded that they were in the process. Ms. Stefanik pointed out you are probably looking at spring at this point. Mr. Voorhees added that we would like to get going as soon as possible; and then pointed out, maybe even later than spring, since dealing with DEC on that. It could be up to six or nine months before that permit is issued.

Ms. Vadney commented I am asking these question(s) but this has nothing to do with the ownership referenced in your November 17 letter to the Town of New Baltimore Planning Board. It says *Ownership – Due to the passage of the Inflation Reduction Act and changes within the New York MW Block structure, Teichos is exploring development partnerships and financial structures for the project.* So that is just your financial backing that you are referencing? Okay. But you do say here *should any significant portion of Hannacroix Solar LLP change ownership, we have to be contacted.* Ms. Stefanik pointed out they have to

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according to our agreement. Ms. Vadney continued I am just curious because of these changes in the Inflation Reduction Act. What was the change that made the financing they are doing different? Mr. Voohrees responded there is what is called a tax equity component and they increased the tax equity. So this was all part of the approval.

Mr. Van Etten commented, Jacqui, you sent us an e-mail, regarding, something about the Special Use Permit question. Ms. Murray responded yes, in the Neg. Dec., the SEQR neg dec, which is Part 3 of the Environmental Assessment Form, the conditions that were listed on Page 1 of the SEQR Neg. Dec. say that has on the front page, a couple of conditions that were to mitigate, one of which is securing the Incidental Take Permit in the event that the Northern Harrier isn't delisted as a threatened and endangered species. And the last sentence of each of the conditions says that it would be a condition of the "special use permit" which I think was probably a relic from the cut and paste of language.

So we wanted to clarify, which is abundantly obvious to me in looking at your Code and I am sure it is obvious to you, that there is no Special Use Permit required for this project because all that the Code says is that Site Plan approval is required. So if the Board would be willing to put that into the minutes of this meeting to just confirm that only Site Plan approval was required for this project; that the Special Use Permit referenced was just a typographical error, that would be great. Ms. Murray continued that she reached out to George because she didn't want to bother the Board.

Mr. Van Etten pointed out that our application does is used for both Site Plan and Special Use Permit. Sometimes that does confuse a little bit. The Clerk pointed out that in this instance just Site Plan was marked. Ms. Murray advised correct and the Code just says Site Plan. Mr. Van Etten responded we have it on the record now and I think that it is cleared up now. He understood that they wanted to make that clear and it is probably a good thing that you did. Ms. Murray continued because otherwise, somebody when I am long gone in the Bahamas or somewhere, will question why does the neg. dec say Special Use Permit when all you need is a Site Plan. We just wanted that clarification. If it can come from the Board tonight by way of minutes, great; or it can be put in a letter, that is great. Otherwise, I was just going to ask George to provide it.

Mr. Court questioned in requesting your extension, are we going to see you again next year for another extension? Ms. Murray responded that she hoped not. It was pointed out that two things could happen you get your permit approved or they declare it is not endangered. I am going to put it on the record that there is a good possibility that they will be back next year to ask for an extension only because once you get approved, do you think you are going to be ready to apply, the second that happens? Have all your financing and everything ready? Or are you going to hold off on the financing because you might get approved, a conditional letter of approval, but everything might change in six or eight months? Ms. Murray responded in this crazy world we live in, I wish I had a crystal ball.

Mr. Van Etten commented that he appreciated their attending tonight. As far as I am concerned, you have answered a lot of questions. As long as there aren't any changes, which there aren't. Ms. Murray responded that there are no changes.

Town resident, Ellie Alfeld, asked for clarification where is this project? Is it the one I look out my window at? She was advised no, it was not. This will go off 144, south of New Baltimore Thruway rest area on former Paul Schiller property. The large vacant land where there is a billboard.

Ms. Alfeld further pointed out, whatever the name of the one across the tracks from me, they have been at that for almost two years. They are still working on it. How do you possibly get anywhere when it takes you forever and a day to get it working. Your investment can't possibly pay a lot of it back. It was pointed out the Board does not know what is going on over there. Ms. Alfeld continued it is unreal. I have watched truck lights on that embankment of granite at nine o'clock at night. I don't know who is there; I don't know what is going on. Ms. Vadney questioned why are they going in and out? That is the question. Didn't they file that they were completed? Mr. Van Etten commented that he thought they were up and on line. The

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Clerk questioned are they going to that, or are they going to the tower? There is work being done on the tower. Ms. Alfeld responded this is where they have panels. That is all I can tell you. It was again pointed out that Hannacroix Solar has not even broke ground. The Northern Harrier is holding them up.

**John Fisher - Special Use Permit for Roof Top Solar**

Application for a 16.56 kW roof mounted solar system for John Fisher, 991 Deans Mill Road, Ravena, had been submitted to CEO Jourdin and denied because it was in excess of 12kW necessitating a Special Use Permit. Copy of CEO Jourdin's denial letter, the Special Use Permit Application, Part 1 of Short EAF, necessary letter(s) of authorization for Empire Solar Solutions to represent, project site plan and notes and \$100 filing fee had been presented prior to meeting. Present on behalf of Empire Solar Solutions was Patrick Kennedy, an Operational Specialist with Empire Solar Solutions, who had stepped in at the last minute due to illness of person scheduled to be present.

Referring to Site Plan, Mr. Court advised that the Town's Solar Code references panels have to be three feet away from any chimney, which is not what is shown in the plans. The Code Enforcement Officer should have flagged that. Mr. Kennedy responded that it was his understanding as long as there was a three-foot pathway on at least one side of the roof, then it is all right. Mr. Court continued you have to be able to walk around it. Mr. Kennedy questioned around the whole roof, it was his understanding there had to be a clear pathway up the one roof onto the other side.

Chapter 111-4 C. Permitting (1) (d) of Town Code was cited as follows:

*Rooftop units must be three feet from any chimney and shall not be permitted on any roof overhangs.*

You have to be able to get around the whole chimney for repair or in the event of a chimney fire. Mr. Kennedy pointed out the panels that could be moved which would not be an issue at all. This was the first he had heard about the chimney access.

No battery storage is involved. The actual service panel will be in their garage. The equipment Empire Solar will be installing is usually placed right next to the meter. In this instance, the meter is not attached to the house but rather on a pole. Empire Solar's equipment will be applied right on the other side of the garage.

Part 2 of the Short EAF was gone through as follows:

1. Will the proposed action create a material conflict with an adopted land use plan or zoning Regulations? - **NO**
2. Will the proposed action result in a change in the use or intensity of use of land? - **NO**
3. Will the proposed action impair the character or quality of the existing community? - **NO**
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? - **NO**
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? - **NO**
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? - **NO**
7. Will the proposed action impact existing:
  - a. public/private water supplies? - **NO**
  - b. public/private wastewater treatment utilities? - **NO**
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? - **NO**
9. Will the proposed action result in an adverse change to natural resources (e.g. wetlands,

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waterbodies, groundwater, air quality, flora and fauna)? - **NO**

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? - **NO**

11. Will the proposed action create a hazard to environmental resources or human health? - **NO**

It was moved by Vadney and seconded by Orlando to accept a negative declaration for this Environmental Assessment Form for the Fisher residence solar panel installation.

Ayes: Van Etten; Vadney; Court; Salisbury; Orlando; Stefanik  
Nays: 0                      Abstained: 0                      Absent: Finke

It was moved by Vadney and seconded by Stefanik to accept the Special Use Permit Application for the residential roof-top solar project for the John Fisher residence at 991 Deans Mill Road.

Ayes: Van Etten; Vadney; Court; Salisbury; Orlando; Stefanik  
Nays: 0                      Abstained: 0                      Absent: Finke

It was moved by Court and seconded by Stefanik to waive the Public Hearing on the Fisher application.

Ayes: Van Etten; Vadney; Court; Salisbury; Orlando; Stefanik  
Nays: 0                      Abstained: 0                      Absent: Finke

Mr. Van Etten explained that a change in the Town’s solar legislation is pending. With its enactment, a Special Use Permit would not be needed for this size residential roof top solar. In view of this, the Board is waiving the need for a Public Hearing.

It was clarified for the record that the Building Permit Application and plans had not yet gone through a thorough review since it was necessary to receive Special Use Permit consideration first. Question raised if plan revision would be a condition of any Special Use Permit approval. Mr. Van Etten pointed out the Planning Board is just doing the Special Use Permit. The Code Enforcement Officer has to see that it meets Code. That is his job.

Verbal approval was given so the project can move forward. CEO Jourdin will be advised accordingly. Mr. Kennedy will see that revised plans reflecting three-foot clearance on all sides of the chimney are submitted. Resolution will be presented at January meeting for formal approval. Copy of approved resolution will be sent to Empire Solar Solutions.

Town resident comment...

Ms. Alfeld expressed her concern regarding Board Members having to submit a letter to re-apply for their seat on Board when their term was coming to an end. She expressed the importance of having the same people serve for more than one term. Long time serving Board Members bring a wealth of knowledge of what has transpired in the past to the Board. It was then noted that by law, the Board seats have to be advertised and letters submitted. It does not necessarily mean that a person who is serving the Town well in the Board seat will not be re-appointed. However, it gives the Town Board the opportunity to replace a Board Member who is not serving the Town due to poor attendance, etc.

Adjournment

At 8:20 p.m., it was moved by Vadney and seconded by Stefanik to adjourn the meeting.

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

Respectfully Submitted,  
Marjorie Loux, Clerk