

TOWN OF NEW BALTIMORE PLANNING BOARD
Regular Monthly Meeting
April 13, 2023 – Page 1

The Regular Meeting was called to order by the Chair, Robert Van Etten, at 7:15 p.m. followed by the Pledge of Allegiance. Other Board Members present were Ann Marie Vadney; Bob Court; Lee Salisbury; Frank Orlando and Ken Finke. Michele Stefanik was absent due to vacation.

OLD BUSINESS

Lands of William and Shari Wentz – Minor Subdivision Application

Public Hearing on this application was held earlier in the evening. With no further discussion needed on the application, resolution was presented as follows:

WHEREAS, William Wentz and Shari Wentz, wishing to complete a two-lot minor subdivision of property owned at 1473 County Route 51, had their authorized representative, Paul Guertze, present Minor Subdivision Application at the March 9, 2023, meeting; and

WHEREAS, required Public Hearing, having been duly noticed, was held on the application on April 13, 2023, with members of the Public offering comment; and

WHEREAS, the Short Environmental Assessment Form was reviewed at the March 9, 2023, meeting with negative declaration given; now therefore be it

RESOLVED, that the Wentz minor subdivision be approved with no conditions.

Moved by: Vadney

Seconded by: Finke

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

The Chair stamped and signed the maps and mylar. Paper copy of map retained for file. Green form was provided for the map filing in County Clerk's Office.

Darryl Ford – Special Use Permit Application

The Public Hearing on this application had been held before the start of this meeting. No further discussion was needed. Resolution presented as follows:

WHEREAS, pursuant to Chapter 111, Sub-Section 111-4, B(1) of the Code of the Town of New Baltimore, Darryl Ford, wishing to have installed a residential 26.070 kW roof-mount solar array consisting of 66 solar panels on residence located at 61 Tower Road, New Baltimore, had authorized agent from Infinity Solar Systems submit his Special Use Permit Application at the March 9, 2023, Planning Board Meeting; and

WHEREAS, Short Environmental Assessment Form was reviewed with negative declaration issued; and

WHEREAS, due to the roof coverage involved to accommodate this size array and after discussion, it was the determination of the Board that a Public Hearing be scheduled for April 13 on the application; and

WHEREAS, Public Hearing, having been duly noticed, was held on April 13 with members of the public offering no comment; it was

RESOLVED, that the Ford Special Use Permit Application be approved with no conditions.

Moved by Vadney
Seconded by Court

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

Robert C. Taranto Trust – Major Subdivision Application – Final Plat Maps

Present was Allan Lord, authorized representative from New York Land and Lakes. Final Plat maps for the Misty Pines Farm Subdivision were laid out. Signature blocks had been added to these maps. \$160 fee was paid.

It was noted that Central Hudson is putting in a new line in the area of this subdivision, putting in new poles to be 200 feet apart, with heavier grade wiring. The old poles dating back many, many years will all be removed.

Deed restrictions, being the same as for the prior Major done by New York Land and Lakes on neighboring property, have been added to these final maps.

With no further discussion on subdivision needed beyond what had been held at March Meeting, the Planning Board Chair stamped and signed the maps for filing. Paper copy of map retained for file. Green form was provided for the map filing in County Clerk's Office.

NEW BUSINESS

Eric Hoglund – Special Use Permit Application

Present on behalf of Mr. Hoglund was Jim Gardner from Kasselmann Solar. He advised the Board that they are proposing a 9.48 kW ground mount solar for Mr. Hoglund's property at 72 Kliese Lane.

Mr. Orlando commented you get more production from a ground mount. Mr. Gardner responded not exactly. The orientation and slope greatly impact that more so. The one advantage a ground mount has is that it is running cooler

The warmer it gets [Several words not understood.] it will actually reduce the production slightly. Usually, a ground mount is used for:

1. The customer's preference
2. Whether we are able to install it.

The solar company prefers to make roofs. Mr. Van Etten commented with the ground mounts, you don't have to worry about roof problems. Mr. Gardner pointed out we don't have to attend as many Planning Board Meetings and Public Hearings which are more of an issue. Further noted you have more flexibility with ground mounts. Mr. Gardner responded yes and no. If you have a large enough parcel, you can kind of move it around, setbacks are usually pretty reasonable.

It was noted that there are no neighbors close to the site. A visibility issue does not exist, only two other residences on the Lane and the one to the north is a relative. In response to the question regarding the existing towers on the ridge, it was noted they are north of this property. Kliese Lane is a dead-end road.

Question was raised as to the need for the Special Use Permit and noted it is because of the square footage size of the ground mount in this instance, 503.52 square feet, which is well over the allowed 200 square feet per current Solar Legislation in effect.

It was moved by Vadney and seconded by Salisbury to accept the Special Use Permit application for the Hoglund ground mount solar project.

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

Short Form EAF was reviewed. Part 1, Page 1, Question #3, acreage was double checked and had to be changed from the 2.9 acres shown to the actual of 4.27. Question #5 on Page 1, Land uses, additional use of Rural (non-agricultural) was checked. Moving to Part 2:

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, 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 Finke that a Negative Declaration for purpose of SEQR be declared for the Hoglund ground mount solar project.

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

Public Hearing was scheduled for 7 p.m., May 11, 2023. The Clerk will forward the list of surrounding property owners to be notified to Mr. Gardner.

New Baltimore Solar Project - Engineer

In response to the RFP's, the Planning Board sent out for engineering services for review of the New Baltimore Solar Project Site Plan Application and related documents presented, responses were received from Creighton Manning Engineering and Crawford and Associates Engineering, LLC. Following Board discussion, it was:

Moved by Vadney and seconded by Orlando to make recommendation to the Town Board that the quote received from Crawford and Associates Engineering, LLC for the New Baltimore Solar Project be accepted.

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

The Town Board will be advised of the Planning Board's selection and then the Town Board will, at its next meeting, do the required resolution giving the Supervisor authorization to enter into the contract with Crawford for this project.

C.T. Male representative present on behalf of LoneStar inquired regarding the timeline for when the Engineer could put the project on their schedule and begin the review, if there was mention of this timeline in their contract and whether New Baltimore Solar should plan to be on the May Planning Board Agenda. He was advised that it was not felt anyone was in a position to answer his questions until there was the opportunity to speak with a Crawford representative. It was not believed a timeline was mentioned in the proposed contract.

The C.T Male representative was asked to come forward. Martin Schmidt, introduced himself and advised the Board he was not present the night Lone Star first brought this project before the Planning Board. He had asked the questions regarding project application status as he was just becoming involved in the project. Last evening was the first that he had been present and asked if the Board had any questions, they would like to address with him. Mr. Finke advised that the Board had a list of questions that they would address with the Engineer right up front.

Mr. Finke advised Mr. Schmidt that he actually lives right across the street from this proposed project. It was brought up at the first presentation, the first meeting here, seeing if the pole set could be pushed back more out of the view. Mr. Schmidt responded that he knew that they were pushed back but did not know if they could be pushed back too much farther because there is a wetland there and we have to have access for Central Hudson. That kind of limits it. There is only so much distance that you can have. In response to question if he had been at site, he advised that he had walked the property twice.

Between the point of interconnection on the main line and the first pole series, there is a maximum distance on that that they want it to go. So much of the pole location, actually all of the pole location, is dictated by Central Hudson. They actually will have us stake it out and then they will come out and decide if they like it or not and they always end up shifting it a little bit. They are going to be the deciding factor on exactly where those poles went. Mr. Finke responded that he thought that was going to be up for discussion. Prior, in the last one that just got done, they put about a six-pole set in to get power to it so it ran parallel with the railroad tracks, opposite of what was shown on the plans, so I think that is up for discussion.

Mr. Finke continued that his biggest concern there is water runoff, stormwater. As you see, the whole thing drains down into the wetland. There is only a 30x30 culvert there for that whole property. We had that, I would say a 50, almost a 100-year flood because my property, 75% of it is in the 100-year flood plain, the house is not and that whole property filled up with water during that. What happened, we had a lot of ice melt, a lot of storm melt and a valve stuck between the Basic [Reservoir] and the Alcove [Reservoir] and it

drained a lot of the Basic into the Alcove and the water just flooded Coeymans Hollow and a bunch of other places. It flooded for about ten days, all the way down.

So that being said, I am concerned about, I think there is roughly 21 square acres of panels you are putting in there, what that is going to do because now we are not going to have the absorption.

Mr. Schmidt responded that he understood the concern and actually he deals with this question all the time. Mr. Finke continued so that is my biggest concern because it does drain, and it all drains down through my property. Mr. Schmidt responded that he actually did take a look at that. Chris mentioned that you were concerned about that. It was one of the reasons he wanted me to come to talk about the technical details of things like stormwater. So I did go on my second visit and look at that:

...Where that water course comes through. Then you have the culvert under the road. Then, you have a little bit of a water course on your property. Then another culvert and you have a stream there.

The way that stormwater works.

All these panels out here, it is almost like you are going to create a parking lot, right? But in theory you are really not doing that. The DEC, the way that works with stormwater is they consider solar panels to be unconnected or disconnected roof run-off which you can treat as pervious as long as you meet certain requirements. Their requirements are:

...Slope. Where your drip edge is; whether or not you alter the hydrology which means increase the run-off.

So, we have to go through and do a full stormwater model of that which we don't on this. There is fixed criteria. What I have to do is a formality.

Question was raised, you don't have to do a stormwater run-off plan on this? Mr. Schmidt responded we do have to do a stormwater plan. There are different variations of stormwater plans. What triggers the stormwater plan is there is more than one acre of disturbance for a commercial project. That puts you into having to do a stormwater plan for the State. There is what is known as a basic stormwater plan and a full stormwater plan. A basic stormwater plan is just erosion and sediment controls which are during construction, silt fence, compost filter sock, all that type of stuff. A full stormwater plan requires post construction stormwater treatment control.

When you create impervious surfaces...if you have a construction project, you go build a Walmart and you create a bunch of impervious surfaces, you have to treat all those impervious surfaces. If you have a solar project and you create impervious surfaces, you have to treat those impervious surfaces. In this instance and in most, 90% of solar systems, don't create impervious surfaces because the road is a porous access road, and the panels fall under a category that doesn't require it.

The question asked so is there an extra access road between every single panel? Mr. Schmidt responded no, it will be a grass field, which will grow up. I mean they have to cut it before it gets light. Panels will sit about three feet high. They go and cut it maybe four times a year, but we are going to plant it with wildflower mix and what not so it stays thick and lush and that slows the water down.

Mr. Van Etten questioned "do you stump that, or you just work with it? Mr. Schmidt explained it will be stumped inside the fence line. Outside of the fence line, it does not get stumped. It was noted on that other project, it looks like they drove the posts right through the stumps.

Mr. Finke continued the other thing, was on another project, so that is why we brought it up yesterday about the stumping, whether that was mechanical excavation or not. According to the letter here that we just got on another project from the Army Corps, stumping is considered mechanical excavation. Mr. Schmidt responded but the question wasn't we are talking about the EAF, right? I don't remember the exact wording and I thought that was in there under. [They didn't have copy of Long Form EAF in front of them.] That was the question on mining, the impoundment of water and stuff.

Mr. Finke referred to the letter just received on a different project, and it said:

The grubbing of tree stumps is considered a mechanized land clearing. Therefore, please revise the proposed drawings to clearly and accurately identify and quantify this impact within the wetland area. In addition, provide a detailed justification for the need to grub the tree stumps and not just leave in place.

On another project. It says the grubbing of tree stumps is considered mechanical engineering; therefore, clear and adequately identify and qualify the impact on the wetlands. Mr. Schmidt pointed out but that is different. So what we were talking about on the Long Form, it was under a specific section on mining. Mr. Van Etten pointed out they were lumped together.

Mr. Finke continued there was no major excavation on this other than a road to go in. Mr. Schmidt continued it said proposed grading, land clearing and a couple of other ones under that specific question. What is going on in there, the Army Corps when you have a wetland and this is probably why they didn't stump it and I was going to ask that. When you have a wetland, you are allowed to clear the wetland. You can cut the trees almost flush to grade, drop them, pull them out and cut them up and you are not creating disturbance. If you pull those stumps out in a wetland, that is a disturbance. If you disturb more than a tenth of an acre of wetland, then you are into a category that requires mitigation. You can't get coverage under a general permit. Mr. Van Etten responded this definitely was not wetlands, mostly rock cliff, ledge.

On this, we do have some areas where we will be clearing inside the wetlands but we will not be stumping. Question was raised is it better to stump or leave it? Mr. Schmidt responded inside the wetlands, leave the stumps? Mr. Orlando continued no, in the project you are working on if it is not in as much wetland, right? Mr. Schmidt responded no, we do have to cross the wetlands. We have a little wetland area. Mr. Orlando continued we are talking about where they put the panels is not wetlands, right? Mr. Schmidt responded there is one area but it is an open field. It is wetlands, you are going to stump there. You would not want to stump them too if you are going to go in there and mow it once or twice a year.

What I am asking is in your professional opinion, why did they not stump it at that last project if you are stumping it. Mr. Schmidt explained if you are outside of the wetland. If outside of the wetlands, you should stump it, absolutely. This way you can go in and mow it.

When you are talking about the wetland, you guys say you are not using any pesticides if you leave the stumps, are they going to use the stump killer on them? Mr. Schmidt responded, no. Stumps outside the fence line, the stumps all stay and that really is a cost thing. There is no need to pull them out. They will occasionally, maybe every five years or so, go through and cut down anything that is growing up that might cause some shading but that will be it. There is no need to deal with those stumps; it doesn't make sense financially.

Mr. Schmidt further advised that he was out a couple of weeks ago with Chris and they took line of sight pictures from those houses like at the property line because the foliage is off. Question was raised about Ronnie Burns house and whether any pictures had been taken from the other side of the creek, where the

nice log cabin is just north of the site. He is going to see that from his backyard. Mr. Schmidt responded we walked up that hill and took picture of the two houses. It was explained to him that this house is on the other side of the bridge where the access road is. It was noted that they had not from there and further noted if you drive in to Mr. Burns' place, you can look right across the creek. Of all the houses there, he is going to have the most view of anyone. He will be here. He knows the landowners because he is the one that re-modified the road, put the road in, cleared it out for the landowners for the quarry in the back.

Mr. Schmidt responded that he would have to look at that. It was noted that there are some trees between the road and that. In the summertime he probably won't see it. Mr. Schmidt responded that they are not opposed to providing screening if that helps. Question was then raised as to what they normally put for screening. Generally, what they do is an evergreen mix, evergreen/spruce mix. Something that will stay green all year long, probably five to eight feet tall, we do space every ten feet so it will be staggered. It obviously takes a couple of years to grow but you can make a 20-year-old tree in there.

Mr. Orlando questioned if there could be screening that can be done to mitigate the view from Mr. Finke's place. Mr. Finke responded you are not going to see the panels. Mr. Orlando explained I meant for the poles. Mr. Finke responded I don't know what you are going to do with those. The only thing you can do is a setback and I don't know what they are going to do there because they are in the wetlands and the road there is really not that wide.

Mr. Schmidt responded we are going to peel off of that. Mr. Finke advised that there is a trail that runs up through there for the ATV's and whatever runs up through there which I am sure you have seen. Mr. Schmidt advised that they were not going to use that. Mr. Finke then questioned you are going to be to the south of that, I would assume because everything else is in the wetlands. That whole roadbed was raised a good five or six feet there. Mr. Schmidt responded we had that delineated and there are definitely wetlands in there or we are outside of that. We are going to be pretty close to where the existing road already comes in. Mr. Schmidt had the plans in truck; he didn't think the Board and he would get into this discussion tonight. He offered to get them. It was not felt they were needed. Mr. Schmidt continued there technically is going to be three entrances. We are using the existing road that is there. After you pull into that, there will be one sub-out entrance that is going to be 20-foot wide with a turn around and the poles. We have to have that for Central Hudson. We are then going to go underground up to—we are going to use that old UTV trail to get up into the site with underground wire. Question was raised as to how deep the wire was going in? Mr. Schmidt responded that will probably be four feet, but I will have to double check. There is a specific requirement which he did not know off the top of his head. It is on our plans, on one of the detail sheets. I think it is four, could be three. I will have to double check it. That is a requirement from National Electric. So then, once you go up that road probably about two-thirds of the way up the parcel.

Mr. Finke commented that will be the main road that goes up to the panels in. Mr. Schmidt responded yes, that will be the main road that comes in. Then there will be just one other sub in for construction at the very end of the property, into one of the other arrays.

Mr. Finke commented, "I think you are going to find that wet area is going to affect 20 feet in or whatever that turn around is going to do. I think you are going to be in the wetland at that point. Mr. Schmidt responded we had it delineated by a professional delineator. Again, these access roads, the way that they work. Mr. Finke commented that we are probably going to ask for that too. Mr. Schmidt responded that it is on the plans.

Question was raised what hours these people are going to be working during construction. It was noted that the average contractor works, seven to four, seven to six. Then questioned how many days of the week and noted usually Monday through Friday. It was noted this project should not be too intrusive. Everything

is going to be way out in the back. There is to be no blasting. It will be limited disturbance during construction as all those—it is a single access tractor system so there will be posts driven into the ground roughly 15 feet, 15 to 20 feet apart. They will just be driven into the ground and then all the racks will be [Several words not understood.]

Ms. Vadney questioned what had happened with our proposed checklist that was going to give us baseline data? It was noted that was a suggestion that did not move forward. Ms. Vadney pointed out that there is no sense in talking about contamination of the site after they leave if we don't have baseline data to start with. In looking long term, if we have a soil analysis now and for example, 20 years from now, I am not going to be here, you are not going to be here. It is not known who is going to be here, so we are trying to protect if the company walks away, there is a lot of articles out there about solar panels and what is in them, not in them, leakage. If they start breaking down after 20, 25 years. So that is how that whole thing came up. Mr. Schmidt responded that he understood. As far as what is in them, it is glass [Several words not understood.] I know that there are a lot of articles out there. I can send you some interesting information; I would be happy to. As far as soil testing, what for? I am just trying to gauge the extent of that, that you guys are thinking about.

It is a big expense, or it can potentially be a very large expense for this client. I have actually never had a Board ask that before for a solar project. Mr. Court pointed out that it should not be a major expense if you are just doing one per array. Mr. Schmidt responded if you are talking about three, three tests, no it is not. If you are talking about scattering them all over the place. It was pointed out no, that is not what we are looking for, just center of the arrays. Center of the arrays, you would want a soil test, okay.

Mr. Orlando questioned what are we testing for? Mr. Van Etten explained basically, we are looking for a base line. If it turns out that 15, 20 years from now, there is a problem with leakage and ground contamination. Without a base line, you don't know. Mr. Schmidt indicated that he understood, did not think it was a horrible idea, was running through his head how does this work.

Mr. Finke explained it just goes in a folder. Goes in the archives.

You guys are bonding the project and then there is a decommission fee, plan and all that goes in effect as you go along. If for some reason they go that site 20 years from now and the site is semi-contaminated, the first foot and a half of the soil needs to be reclamation so. Ms. Vadney pointed out that we need to specify what we want tested. Mr. Schmidt responded that is the question, what chemicals will we be using.

Mr. Court commented so the Town Board, one of the members on there that was writing the new solar regulations, that will be coming out, was very concerned about thin film panels. He said they are heavily

[Word not understood.] toxic or whatever and they are actually trying to discourage them from using them in a project. Mr. Schmidt questioned which one and was advised they are called thin film panels. Mr. Schmidt advised these are usually thicker. I believe those are some of the chemicals that we would be interested in testing, but I think we would have to provide; we would either have to identify and discuss that. What we would be testing for.

It was noted that it was believed it was in the list of conditions for the project just approved and they agreed to it. We are working with the same engineer. He will be overseeing it if it goes forward so he might have a list. Mr. Schmidt questioned so you had that as a condition of approval for that other project?

We will ask the engineer if he can provide us with a list that would adequately address the chemicals we are talking about. Mr. Schmidt advised that we have a large environmental department. I am sure he can give me a good jump off point on that. They could handle the test even and send it out to the company that

does the testing. Ms. Vadney continued, “we will find out from our engineer what they use and go from there. Mr. Van Etten commented he was not sure what happened with the Hannacroix project; he knew that it was brought up. He did not know where it went. Mr. Schmidt pointed out that he was not yet agreeing to do this. He had to talk to the others. Ms. Vadney responded that we are not asking you to agree. This is one of the requirements.

Mr. Fink commented this is what the Board here is actually concerned about, the esthetics for the neighbors so we are not against the project but the esthetics for the neighbors, the runoff and the impact on the run off and where the project is going to be in 20 years from now when we are not going to be here then. So that is environmental-wise. Those are the biggest items that we see as a Board. It was noted cadmium is one that is heard of a lot. Lead, arsenic, aluminum and it just goes on and on. Ms. Vadney pointed out we have the information, but I would just like to give that to our engineers.

Mr. Van Etten advised he would speak with the Supervisor, reach out to Crawford and get things rolling along. Mr. Schmidt advised if anything changes and we need to come to the next meeting, Mr. Van Etten advised that it depends on the Crawford’s timeline.

Noted

Correspondence

Letter we received about the Hannacroix Solar.

A building permit should not be issued until this is reviewed by Andy and corrected and we are informed all is in order before a Building Permit is issued. Ms. Vadney pointed out this is what is wrong with this process, there is no process. We sit here and try to do the best that we can but once it is out of our hands. Mr. Finke pointed out that we are not the Code Enforcement Officer. We are not the Building Department. So, all we can do is do what we do, notify Allan, this needs to go in the file, this needs to go to Andy.

Question with regard to the FYI on the Transfer Report cover sheet. Have to ask Dawn.

Adjournment

At 8:40 it was moved by Vadney and seconded by Finke to adjourn the meeting.

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

mbl