

TOWN OF NEW BALTIMORE PLANNING BOARD
Regular Monthly Meeting
October 10, 2024

Chairman Rob VanEtten called the meeting to order at 7:00 PM and the Pledge of Allegiance was said. Other Board Members attending were Robert Court, Charles Irving, Frank Orlando, Lee Salisbury, Michelle Stefanik, Ann Marie Vadney; and 4 members of the public who signed the Sign-In Sheet.

The meeting began with an update from Alex Martin from Kasselmann Solar, LLC on the Ground Mount Solar project on the Mancini property, formerly owned by Ralph Rominger, and a letter of authorization was received.

Chairman VanEtten described the Building Department concerns in the past which have since been resolved, there was an ownership change, and the paperwork was resubmitted with the current owners, and the Planning Board could not accept the project as it was over 25kW. This project is 29.63kW, 4.3kW over the current Code.

Alex Martin explained that the first time the project was submitted to the Planning Board was about a year ago, the paperwork was under the prior Code, the Code was revised a few days before he was to appear. They had submitted for site plan review under the prior Code which at that point in time would have been applicable. When the Code changed, a variance was needed, and the project was referred to the Zoning Board of Appeals.

Michelle Stefanik noted that the Public Hearing was held at the ZBA level and would come back to the Planning Board for final resolution.

It was moved by Ann Marie Vadney and seconded by Michelle Stefanik to deny the Special Use Permit Application for the Mancini Ground Mount Solar Array installation and to refer to the Zoning Board

Ayes: 7 Nays: 0 Abstained: 0 Absent: 0

Chairman VanEtten explained that Kasselmann Solar would have to go before the Zoning Board of Appeals where the Public Hearing would occur and questioned how visible it would be from different neighbors. Frank Orlando stated that he drives by often and it is far back from the road and can't be seen.

Alex Martin described there would be a small view shed when passing perpendicular to the driveway but no view to any residences and going west there will be a little view shed on the road but is obscured for the most part as it is nestled in trees above the driveway.

Chairman VanEtten received a check from Kasselmann Solar for the site plan review and variance fee. The next ZBA meeting is November 6, believes they don't have anything on agenda at this point, and will be in touch for next meeting to move forward.

Representatives from Cheema Petro, LLC were present, and Chairman VanEtten explained that the engineers have used the escrow account, and they were notified several weeks ago that they have to submit another \$5,000. Until that is received, the Engineers can't complete the review. When received, Creighton Manning will be able to complete their review, and the project can move forward.

Chairman VanEtten met with the Engineer from New Baltimore Solar. They reviewed the final draft of the site plan, showed the equipment being moved around, and signed the final draft. This project is now complete.

Chairman VanEtten spoke with our Attorney last week and Jackie Murray, Attorney for Hannacroix Solar, insists that our Attorney thought there was a way this project could move forward. He believes there was a miscommunication, but the Planning Board Attorney was on vacation. Chairman VanEtten spoke with Jackie Murray who is seeking a one-year extension for the project. Planning Board members have interpreted the Town Code as saying that an extension cannot be granted.

Chairman VanEtten advised about repeated different viewpoints and that it would expire at the end of the year. A message from Shuman Moore, President of Teichos Energy, was played and he believed there was communication between their Attorney and the Planning Board Attorney, and the Planning Board Attorney agreed that there wasn't any issue with moving forward and extending the site use permit. He had hoped to have that approved at the Planning Board meeting but learned they are not on the agenda, critical for DEC to see that the project has everything in place relative to site use, they continue to deal with their offsite mitigation lands for the northern harrier bird, and having the site use permit extended is going to be critical to trying to keep moving forward.

Chairman VanEtten spoke with Shuman Moore and explained that there is a standstill until the Attorneys can agree and in talking to the Planning Board Attorney, he felt she didn't agree with their interpretation.

Board Members were discussing interpretation from the prior Planning Board Attorney justifying the message from Teichos. Ann Marie Vadney believed the last formal email she had advised that it was not compliant with our Code but that she would see if there were any cases to support that. Bob Court advised there were options, they could buy a permit for another year to start the project which would give them a couple years, or they will resubmit.

Chairman VanEtten advised Shuman Moore that the variances are in place, they are not going to change, they would have to resubmit a new application based on the new solar law. Three years passed since the approval and before that due to covid and the harrier designation has been an issue with the project. He further advised them that this was the position of the Board unless the Planning Board Attorney and their Attorney advised something different. The Chairman read an email from former Planning Board Attorney George McHugh that their Attorney is basing her interpretation that 'unless otherwise specified or extended by the Planning Board, site plan approval shall expire after one year of the approval filing date if the applicant has not attained a building permit and started actual construction' ... 'or if the Building Permit has not been obtained or actual construction has been started, the applicant must resubmit either preliminary or final site plan for the Planning Board to review and approve as directed by the Board. Any development use of this parcel lot and any building after determination of such approval hereon shall be a violation hereof.' 'The Planning Board may at the applicant's written request at least 30 days prior to the expiration of the initial one year approval grant the application extension of the approval for up to one additional year.' The Planning Board has already approved and Chairman VanEtten questioned the interpretation and that while everything else is approved, the harrier situation is holding them up. Concerns were raised about the setting of a precedent.

Commercial Cannabis

Bob Court mentioned that Channel 13 had a story on a pot farm in Moreau which was established without Town approval, there is an odor, and the neighbors were complaining. He suggested that

the Board should look at the issues they are having and if the odor is that strong that people are complaining they can't sit outside at night, Board members should do their homework, find the report, and see the problems they are having.

Chairman VanEtten explained that it was Cary's property off 9W and there was a sketch of it but didn't have an actual site plan. It was discussed with the Town Attorney who was going to look through the Town Code to see if there was any way that would be allowed. The owner will have to come before them to deny it and then send it to the ZBA. The Board also questioned if it could be termed agricultural and the Chairman wondered how other Towns are handling this.

Pine Haven Major Subdivision Project

Chairman VanEtten asked Alan Lord to submit a copy of the whole project which includes the New Baltimore and Cocksackie sections and confirmed that an escrow account has been established with Cocksackie for Delaware Engineering to review the project. He questioned if it was in a reservoir watershed and advised that the Planning Board is not ready to accept their application.

Ann Marie Vadney was looking into the engineering, plans and felt that the Board wanted a traffic study. She also asked if Cocksackie requested any additional requirements.

Alan Lord confirmed that it was in the watershed district and that he had talked with Delaware Engineering about stormwater requirements due to being in the watershed overlay district. Cocksackie has regulations and zoning regulations on watershed overlay districts along with a list of requirements for anyone in the watershed district.

Chairman VanEtten confirmed that it is technically their watershed even though it is in the Town of New Baltimore and another point to bring up to the Attorney.

Councilmember Downes asked if Boehlke and Mirror Lake run right into the Cocksackie watershed that is in the Town, how will those ten houses affect the flow of that water into the watershed?

Alan Lord said there is a state wetland that has already been delineated, it goes under the road to Mirror Lake and nothing would change there without a permit from DEC.

The size of the smallest lot was discussed by the Board, 2.7 was the smallest lot and the minimum lot size is 2 acres. Chairman VanEtten wondered about the traffic and if that would be a major concern if a Public Hearing is held. He spoke with Cocksackie, and they are using Delaware Engineering and there is a possibility to share engineering as the project moves forward.

Alan Lord was asked to explain the map. The property was purchased as one parcel, a bank had foreclosed, and it was one sale that came with all the parcels. There was also additional land in the Town of Cocksackie, pointed out where the town line was, and that it was all purchased as one parcel. The project is spread out on different roads, he believed the traffic counts would be negligible.

Ann Marie Vadney asked how many houses have been built on their two other subdivisions and Alan Lord responded there had been one house built on their original project, someone took down one of the old houses on one of the other lots, so it is a net and there isn't an increase. There were 15 or 16 in the first and 13 in the second.

Bob Court pointed out that they have to deal with New Baltimore, Cocksackie has to deal with Cocksackie and wasn't sure how to mix with them due to a gap between the two properties as there's

many residents in between Cocksackie and New Baltimore. This is an allowed use, the protective covenants are good, not seen on our maps. This may be going against the Comprehensive Plan in that the developer is willing to put in deed restrictions of one house per parcel, no subdivisions which isn't relative to the small parcels because they can't be subdivided. He thought if two of the smaller parcels could be combined instead of a 2.7, now a 6.8 parcel, his opinion is he doesn't see traffic as an issue.

Chairman VanEtten asked if the developer would entertain reconfiguring some of the lots due to their small size. Alan Lord advised that they desired to make some lots more affordable as the larger they are the more expensive they get.

The Board discussed septic runoff and Alan Lord advised that in a zoning watershed overlay district, septic systems need to have a contract with and be inspected once every 5 years. The Board felt that if this is in their watershed, it might be a condition of their approval. The Board also discussed the 100' buffer zone and Alan Lord agreed that when a lot is purchased, they want to be aware of the buffer and don't want them coming back saying they didn't know.

Chairman VanEtten will see what Cocksackie's thoughts are on their watershed. He has been talking to the Planning Board Chair and Alan Lord confirmed they have given them the sketch plan.

The location of septic systems was discussed by the Board. A perc test was done on each lot and the purchaser could choose the location of the septic system. Chairman VanEtten noted that they all have to be engineered, and the plan goes to the County Health Department.

Alan Lord asked about the next steps and if anything else needed to be submitted. Chairman VanEtten wanted to see what Cocksackie's thoughts were as they were in the preliminary stages. Andy Lord explained that they weren't planning to submit to Cocksackie until their December meeting, they wanted to submit two weeks prior, and their deadline is mid-November.

A question arose about training and a reminder about three learn lunches coming up. The Town Clerk provided the annual training files which the Board felt was difficult to understand. Training will be updated upon receipt of completion certificates.

It was moved by Ann Marie Vadney and seconded by Michelle Stefanik to adjourn the meeting at 8:17 PM.

Ayes: 7 Nays: 0 Abstained: 0 Absent: 0