

MINUTES OF THE PLANNING BOARD MARCH 9, 2022 – TOWN OF KINGSBURY

MEMBERS PRESENT:

Robert Dingman, Chairman
David Gauci
Tim LaSarso
Les Macura
Todd Murphy– Alternate

MEMBERS ABSENT:

Randy Getty (Excused)
Karen LaRose (Excused)
Randy Weaver (Excused)

PLANNING & ZONING ADMINISTRATOR

Todd Humiston

TOWN ATTORNEY

Jeff Meyer, ESQ., Town Attorney

The meeting was called to order by Chairman Dingman at 7:00 P.M.

Roll call of all Members and Officials.

Chairman Dingman of entertained a Motion to Approve the Minutes of February 16, 2022.

ON A MOTION BY LES MACURA, seconded by Dave Gauci the minutes of the February 16, 2022, meeting were approved.

PRESENT:

Robert Dingman, Chairman
David Gauci
Tim LaSarso
Les Macura
Todd Murphy– Alternate

AYES: 5

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

AES CLEAN ENERGY, contract vendee of Tax Map # 137.-1-7 commonly known as 638 Vaughn Road, (Strong Farm) Town of Kingsbury, located in RA-1A Residential Agriculture is seeking Revised Site Plan approval for the 5 MW AC photovoltaic solar energy facility at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

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Chairman Dingman stated Attorney Meyer would like to make a statement to clarify the purpose of this meeting. It is a little different than a usual meeting because this proposal is involved in litigation.

Attorney Meyer stated for the sake of clarity, this is a public hearing with the Public is absolutely being provided with the opportunity to speak and comment. The difference is the hearing and comments, and the proposal relate to negotiating a litigated settlement. To the extent that this does not look and feel like a normal Planning Board Site Plan Application, which is why. The Board is going to be absolutely listening to comments, ask questions of the applicant, trying to resolve questions/comments to the best of their ability. Everything is in the context of settling the existing litigation of the setting the ongoing with AES and their parties and the Town of Kingsbury's Planning Board and related parties.

Chairman Dingman introduced Jessica Zupancic, who will be representing AES Clean Energy.

Ms. Zupancic thanked the Board for having them here and coordinating this meeting. She would like to start off giving an overview of how they got here tonight.

Ms. Zupancic stated over the last couple of months they have been having individual conversations, one on one, with the neighbors and the buyers of the project. There was an informal meeting with the neighbors and the buyers in August of 2021, giving the opportunity to see a couple of alternate layouts and help decided the best layout for this project.

Ms. Zupancic gave a description of the original projects. The original plans called the solar panels to be located on Geer Road Lot 3 on the east side of Geer Road. What they are proposing tonight is to completely remove the entire array on the east side of Geer Road and move it to the corner of Underwood Road and Vaughn Road. This parcel is referred to as the "Strong Farm" parcel. This array is essentially the same size as what was proposed originally for Geer Road 3. The access will be proposed off from Vaughn Road, there is an existing driveway there right now off from Vaughn Road. We are not proposing to use the driveway location at all, so it would stay the same and again it would be the same gravel that was previously approved at the last two projects.

The proposed fence is a seven foot industry standard chain link fence. During the August 2021 meeting there was concern for the wildlife in this area. They are proposing to raise the fence six inches above the ground. They do need the fence for safety reasons. This will allow the small critters to be able to live in this area.

The solar panels will be a tracker system, will tilt slightly thought out the day the same as was proposed in the previous project. The original proposed panels were going to be 15 feet in height. In this proposal the panels will be about 12 feet in height. However, in areas they may be 14 feet in height due to the lay of the land. They have reduced the size of the panels by a foot from the original proposal.

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The last thing, and probably the biggest point of concern, is the visual impact. A lot of the neighbors do not want to be looking at this project. We are not only providing the landscaping along Underwood Road we are also proposing additional landscaping along Array 1 which is also visible from Underwood Road. On the west side of Vaughn Road there is a lot of good vegetation which will help with screening this project. To mitigate they are proposing a four foot berm. They will be adding land scaping on top of the berm as well as in front to the berm. The landscaping will have leaves year-round so that the neighbors are not looking at the arrays they will be horseshoeing the land scaping around the corner of Underwood Road and Geer Road as well.

Ms. Zupancic stated these are the main points of this proposal.

Dave Gauci stated he understands how this works but his question what direction is the tracking system going to be angled at? To the south, will it affect people at various times of the day, etc.?

An unidentified individual stated yes it will track east to west as the sun moves throughout the day. In the winter they will face more to the south. All of the while the panels will be trying to collect more solar. There is not much reflection coming off in terms of glare or anything like that.

Chairman Dingman stated Ms. Zupancic indicated she had spoken with the neighbors. Chairman Dingman questioned what the reaction was from the neighbors so far and what is the reaction to the new section.

Ms. Zupancic stated she knocked on doors twice on Vaughn Road. One person came to the August 2021 meeting and ask not to put screening along the north side of the Strong Farm array. He would like to continue to see into the Strong Farm. This is the only feedback they received. All of the neighbors within five hundred feet were notified via mail

Chairman Dingman opened the Public Hearing.

Joseph Potvin, 591 Vaughn Road stated he lives across the road from this property and did not receive any notification of this project until 3 nights ago. What was the purpose in moving it from one site to another site? People on the other side did not want it on that side so you are moving over to this side. Do you think we want it on this side?

Ms. Zupancic stated the array on Geer Road 3 site was exceedingly difficult to screen behind the Arrays. The Strong Farm location has a lot of vegetation to screen the arrays.

Mr. Potvin stated there are a lot of deer at this location.

Ms. Zupancic stated they are aware of this. They will be installing a fence for the safety of the deer. We do not want them inside the fence.

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Lynn Potvin, 591 Vaughn Road questioned if anyone would want this in their front yard? We were never notified of this proposal.

Chairman Dingman stated we are working and trying to mitigate the circumstances. I am sorry you were not contacted, and I do not know why. We will try to find out why and what can be done with the issues you have. I understand the issue with the deer.

Ms. Zupancic stated the closest array is about 460 feet from Vaughn Road. We tried to place arrays as far away as possible from any resident.

Ms. Potvin questioned just because it is a Solar Farm, its ok to be in an agriculture district.

Chairman Dingman stated that is not what solar farm means. The problem we run into is a solar farm is a permitted in in the residential/agricultural zoning. The Planning Board has no choice if they comply with the requirements. What we are trying to do is make sure we can mitigate as much as possible as far as the neighbors are concerned.

Chairman Dingman questioned if the neighbors were notified about the other arrays.

Gary Gray, 633 Vaughn Road, stated he never received any notification as well. His wife is does not work and is home all day and no body ever came to our house.

An unidentified individual stated he has no idea how this happened. Last summer he and Pete Simoneau, Assistant Vice President of Peckham's spent an entire afternoon knocking on every door on Vaughn Road. Admittedly it was during the day and a lot of people were working or not home. They did talk with some of the neighbors, I cannot give you names. We left business cards and flyers on everyone's door and only had one call as a result of this.

Mr. Humiston questioned the neighbors if they had received a letter from the Town.

Ms. Potvin stated yes, she did, one week before the meeting. A week ago, UPS pulled up to their house with a yellow envelope from someone. It was not the Town. So, something this big and if you say you knocked on doors and you did not get to talk to people, you keep knocking until someday you do get to talk to the person.

Mary Gray stated she lives at 633 Vaughn Road which is very close to the road and directly across from the Strong Farm. When Peckham's blast every day her house shakes. He concern is when you put up all of the panels that are going to be directly in front of her house, whenever they are blasting, they shut down the road. They have people physically stop cars on both sides of her house both sections directly across from Me. Strong's driveway. Why in God's name would they want solar panels there if they can potentially get hit by rocks from the blasting? Ms. Gray stated the Board is welcomed to come to her house anytime there is blasting going on.

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Chairman Dingman stated he had a meeting one time with a representative from Peckham's. This subject was brought up. The representative stated he is not getting into a contest whether something happened or did not. The other thing he said he has not had rocks, so that is something that will be addressed.

Ms. Gray questioned why they would shut down the road.

Chairman Dingman stated this is a question he will ask about.

An unidentified individual stated he works for Peckham, and they are under Federal Regulations and have to follow the rules.

Ms. Zupancic stated all of their projects are Geotechnical Investigation. They will be able to evaluate the area, the panels are built to withstand the blasting. There will be a remote system installed to monitor the site.

Chairman Dingman stated he received a letter from Renald Devine, 321 Geer Road stating he had concerns with toxic chemicals in the solar panels.

Ms. Zupancic stated she will have copy of the third party report for the Board matter.

Chairman Dingman stated that is one of the questions they will looking at and the flying rocks. Peckham's has indicated that rocks are not flying.

Joe Derway, 116 Underwood Road stated the fly rock zone extends past his house to the end of Underwood Road. When they shut the road down for blasting his house is inside the blasting zone. He has the only house on Underwood Road.

An unidentified individual stated when the Strongs used to own the farm and Peckham's would blast their fields would have stones. Why isn't Peckham's giving neighbors a warning of the blasting?

Chairman Dingman stated this is a different issue but still needs to be addressed with Peckham's.

Attorney Claudia Braymer, Braymer Law, stated she is representing the residence of Geer Road. She does not have any questions but for the record, her clients do live on Geer Road and some of them will be seeing this project from their back yard, some of them will be seeing it from across the street. They do not have any comments or questions on the Strong Farm, we would like to see the size of the overall project decreased. We would like to the public hearing left open while the other concerns are addressed. Thank you.

Ms. Gray questioned where the driveway is going to be located and concerns for the deer.

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Ms. Zupancic explained where the driveway will be located. During the construction there will be typical construction traffic for six to eight months.

Chairman Dingman stated that is an entrance that is there, and they are not proposing something new. This is something we can look at.

Chairman Dingman questions the neighbors if there were a good spot to put the driveway on Vaughn Road.

Ms. Zupancic stated she can look into other spot for the driveway on Vaughn Road and Underwood Road.

Chairman Dingman stated if there are wetland on Underwood Road, they would not be able to drive on them.

An unidentified individual stated he and Joe will have the impact the most of Vaughn Road, they are proposing a four foot berm and they are on a downward slope. He does not feel the four foot berm will do much for them. Can you push the berm a little more off Vaughn Road?

Ms. Zupancic questioned if he was talking about Underwood Road. They will work with the landscape architecture on this to see if it can be moved back. They did suggest a higher berm, but the architect said number one a six foot berm will look unnatural and out of place on the side of the road. Number two when planting the landscape, they want it to live the full life of the project, you will have a terrible time to get the plants to live essentially on the berm. The roots dry out from not getting enough water. This is why he recommend a maximum height of four foot berm.

Joe Derway stated a four foot berm is so low. He will be seeing the solar panels every time he looks out his front window. This berm will do nothing for him or the people coming around the corner.

Mike Cleveland, 189 Geer Road and Greg Couture, 282 Geer Road both spoke against this project.

Chairman Dingman stated for a matter of record he has received a letter from Renald Devine, 321 Geer Road. (attached) He could not be at this meeting but has concerns with the chemicals in the solar panels.

Chairman Dingman stated the Board received a copy of Tom Jarrett's, Jarrett Engineers, PLLC letter regarding the Decommissioning Plan.

Mr. Humiston stated Mr. Jarret had four comments. In comments 1 and 2 Mr. Jarrett is looking for more information on the wetlands and the stormwater management design. Comment 3

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Mr. Jarrett had concerns with the photo simulations for the landscaping proposed. Mr. Humiston stated this is more of this Board's decision. Comment 4. Mr. Jarrett was questioning the decommissioning estimate. Attorney Meyer stated this Board has never taken in to account the salvage value so that language can be removed from the quote. The unit costs are in line with what was approved in the previous approved proposal. Attorney Meyer stated this is ultimately up to the Board, but it is the way the law is written in accordance with the question.

Discussion ensued among the Board with questions addressed by the Applicant.

The public hearing will remain opened.

ON A MOTION BY TIM LASARSO, seconded by Todd Murphy all in favor, the meeting was adjourned at 8:12 p.m.

Michelle Radliff
Secretary