

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of April 18, 2018

MEMBERS PRESENT:

Robert Dingman, Chairman  
Justin Fehl  
Randy Getty  
Karen LaRose  
Tim LaSarso  
Todd Murphy

MEMBERS ABSENT:

Cheryl Hogan – Alternate (Excused)  
David Gauci (Excused)  
Randy Weaver (Excused)

PLANNING AND ZONING ADMINISTRATOR

Ross Cortese

TOWN ATTORNEY

Jeff Meyer, ESQ.

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

Roll call of all Members and Officials.

Chairman Dingman entertained a Motion to Approve the Minutes of March 21, 2018.

**ON A MOTION BY MR. FEHL**, seconded by Mr. Getty, the minutes of the March 21, 2018 meeting were approved.

AYES: 6

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

**1. Vito Caselnova IV, True North Auto & Boat Services**, contract vendee of Tax Map # 154.8-1-26 commonly known as 3606-3614 Burgoyne Avenue, Hudson Falls, located in Zoning District COM-1A, Commercial District, is seeking Site Plan approval to operate True North Auto & Boat Services, at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 2 of

Chairman Dingman introduced Vito Caselnova IV, True North Auto & Boat Services to address the Board.

Mr. Caselnova stated he will be doing business as True Auto & Boat Services, which will include sales and light repair work. He will be using the corner lot and the shop and an office space at 3614 Burgoyne Avenue.

Chairman Dingman asked Mr. Caselnova if he was aware of the issues with this property. Chairman Dingman stated you are not allowed to do any fluid changes on this property. If something does go wrong on the property Mr. Caselnova will be responsible for this with NYS Department of Environmental Conservation.

Mr. Caselnova responded he is aware of this.

Chairman Dingman stated this is an approved use and Washington County Planning Agency found this project to be a matter of local concern.

Mr. Cortese questioned Mr. Caselnova if he had applied for his Dealer Registration License permit.

Mr. Caselnova stated yes that he has applied for a repair shop and sales.

Chairman Dingman stated the Dealer Registration License application was included in with Mr. Caselnova application to come before the Board.

Mr. LaSarlo questioned what kind of repairs will be done at this location.

Mr. Caselnova replied light repair work, examples: suspension work, brake jobs, exhaust jobs. The light repair work is not the main drive of his business. This will help aid the sales. His plan is to work mostly on his own vehicles and boats and some work for the public. Oil changes and repairs that are not allowed will be out sourced.

Chairman Dingman questioned if there would be any water use to wash vehicles and boats.

Mr. Caselnova stated he will if this is an allowed use.

Attorney Meyer stated there is necessarily a restriction of water, but once you use a certain number of gallons of water it will trigger Stormwater Permit from DEC. DEC is very hesitant to issue Stormwater Permits on this property.

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MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 3 of

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

There being no comments from the public, Chairman Dingman closed the public hearing.

**ON A MOTION BY MR. LASARSO**, and seconded by Mrs. LaRose the Kingsbury Planning Board declares lead agency status and having reviewed the short form SEQRA submission and having taken a hard look at the potential environmental impacts finds that there are no potential negative environmental impacts anticipated from this project and the Board issued a negative declaration on the project.

The Board then reviewed the proposed Resolution.

**Resolution No. 1 of April 18, 2018**

**SITE PLAN REVIEW**—Vito Caselnova, IV, True North Auto & Boat Sales, contract vendee of Tax Map # 154.8-1-26, commonly known as 3606-3614 Burgoyne Avenue, is seeking site plan approval to operate an automobile and boat sales and services at this location. This action is pursuant to Section 280-23G of the Code of the Town of Kingsbury.

**ON A MOTION BY RANDY GETTY**, seconded by Justin Fehl based on all of the evidence and materials submitted by the Applicant and the representations made at the meeting, and the Washington County Planning Board deeming the matter a matter of local concern, the Application is hereby approved subject to the following conditions:

1. Applicant shall maintain sight distances on the corner of Burgoyne and County Route 41, by not parking any vehicles on such corner that will obstruct the views on said highways.
2. All vehicles must be parked on impervious surfaces.
3. Applicant shall be responsible for all necessary State, Federal and Local permits as applicable and shall forward to the Town copies of the same.
4. All information and representations contained in the materials submitted by the Applicant and discussed at the meeting are incorporated herein as conditions.

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 4 of

2. **PRELIMINARY - CUMBERLAND FARMS INC.** owner of 1075 State Route 196, Hudson Falls, NY, Town of Kingsbury and Tax Parcel ID's 154.11-6-7 & 8, is seeking Site Plan Review for a redevelopment of Cumberland Farms Convenience Store at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman introduced Stefanie DiLallo Bitter, Esq., Bartlett, Pontiff, Stewart & Rhodes, P.C., who will be representing Cumberland Farms. Attorney Bitter introduced Alanna Moran, VSH and Amanda Sweetman, Bohler Engineering.

Ms. Bittner stated they are here to night for preliminary hearing, and are proposing to replace the existing Cumberland Farms at 1075 State Route 196 with a new facility. Included with the demolition of the existing store they are purchasing the adjacent lot which will make the lot 10.3 +/- acres. The new store will be 5275 square feet and a five (5) pump fuel island. The parcel is large in size. The front portion of the parcel is zoned commercial and in this zone, both the convenient store and fueling stations are a permitted use.

Ms. Moran, VSH Transportation Engineer has done a traffic assessment and found that the access points would be two off from Burgoyne Avenue and one from State Route 196. They have been reviewing this project informally with NYS DOT on a monthly basis. This store will be of the new and improved look. The new look has not been constructed in the immediate area as of yet. There is a similar one at 107 Main Street, South Glens Falls. It is a smaller store than what is being proposed here but it will give you an idea of what this store will look like.

Ms. Bittner stated they have not looked into subdividing the lot as of yet due to discussions with the Village of Hudson Falls for water and sewer. They are testing to make sure wells and septic's could be supported if needed.

Ms. Bittner stated they wanted to start the conversation with the Board to see if there were any comments or suggestions before continue with full plans.

Chairman Dingman had questions regarding ways the traffic patterns could be changed. He understands this is a NYS DOT issue.

Mr. Fehl stated when pulling out of the store on to Burgoyne Avenue, with the current landscaping, there is a very large bush planted there and you cannot see the traffic light at the intersection of State Route 196 and Burgoyne Avenue.

Ms. Moran stated they will look into this.

<http://www.kingsburyny.gov>

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 5 of

Mike Graham, Highway Superintendent, stated for the record if the entrance is going to be on Martindale Avenue rather than Burgoyne Avenue, the Town does not plow typically in the middle of the night like the State does. Martindale Avenue does not have a lot of traffic at night. This would mean Martindale Avenue would not be plowed all night like the State Roads are. Mr. Graham also stated there are some trees close to the road now and asked for the sight distanced to be looked at before determining where the entrance would be. This will be decided by NYS DOT.

3. **AVIATOR WAY SOLAR, LLC**, contract vendee of Tax Map # 127.-1-27 and 127.-1-26.3 commonly known as 40 Aviator Way, Queensbury, NY, located in Zoning District, Residential Agricultural RA-1A District is seeking Site Plan approval to develop a 2 MW 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.

Chairman Dingman introduced John Ragen, Cypress Creek Renewables, Zoning & Outreach Manager-Development, Thomas Puchner, and Phillips Lytle Attorneys at Law, Charles Utschig, Langan Engineering.

Chairman Dingman stated on because of the communication issues and trying to mitigate some of the issues, there were two different meetings. Ross Cortese, Tom Jarrett and Mr. Dingman met once to make sure what and where the engineering status was and what the questions were. On Friday, April 13, 2018 there was a meeting including Tom Puchner, attorney for Cypress Creek Renewables, Crystal Eggers, Langan Engineering, Jeff Meyer, Attorney for the Town of Kingsbury, Ross Cortese, Planning and Zoning Administrator and Chairman Dingman. They went through everything so that a draft resolution could be reviewed at the meeting tonight. Each member was given a copy of the Draft Resolution/Conditions.

The Board then reviewed the proposed Resolution/Conditions.

**PLANNING BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Adopted April 18, 2018

Introduced by **RANDY GETTY**  
Who moved its adoption

Seconded by **TODD MURPHY**

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 6 of

**RESOLUTION APPROVING SITE PLAN APPLICATION  
OF  
CYPRESS CREEK RENEWABLES**

**WHEREAS**, pursuant to Article VIII of the Zoning Local Law of the Town of Kingsbury contained in Chapter 280 of the Code of the Town of Kingsbury (hereafter the “Zoning Local Law”), the Town of Kingsbury Planning Board (hereafter the “Planning Board”) is authorized and empowered to review and approve, approve with modifications or disapprove site plans prepared in accordance with said Article VIII of the Zoning Local Law; and

**WHEREAS**, Aviator Way Solar, LLC (hereafter the “Applicant”), by application dated March 13, 2017 has applied for site plan review by the Planning Board for the construction of a two (2) megawatt utility-scale solar array encompassing approximately 20 acres and associated utilities to be located at 40 Aviator Way, Town of Kingsbury, tax map no.: 127.-1-27 and 127.-1-26.3 (hereafter the “Proposal”); and

**WHEREAS**, the Applicant has submitted to the Planning Board the following: site plans, layout landscaping, slope analysis, roadway profile, grading drainage plans, erosion and sediment control plans, utility plans, decommissioning plans, emergency response plans, numerous engineering comments and reports, and revised plans, as most recently revised on April 18, 2018, addressing comments of the Planning Board has considered the comments of the applicant and its agents (all of the above hereafter referred to as the “application”); and

**WHEREAS**, the Proposal as reflected in the Application is located in the RA-1A zoning district, as defined in the Zoning Local Law, and pursuant to Section 280-19.1 et. seq., site plan approval is required for this development; and

**WHEREAS**, the Planning Board accepted the Application and the Washington County Planning Board has reviewed the Application and deemed it a matter of local concern, a copy of which shall be included in the record herewith; and

**WHEREAS**, the Application, having previously been determined by the Planning Board to be a Type I action under the State Environmental Quality Review Act, and the Planning Board having reviewed the Full Environmental Assessment Form submitted for this Application and taken a hard look at the potential environmental impacts of the project and issued a negative declaration prior to taking up the review of the matter under Article VIII of the Zoning Local Law; and

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 7 of

**WHEREAS**, the Planning Board is prepared to review the application and make a final determination thereon in accordance with Article VIII of the Zoning Local Law.

**NOW THEREFORE BE IT RESOLVED:**

Section 1. The Planning Board hereby adopts the following findings in accordance with §280-34(C) of the Zoning Local Law:

a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

The site is compatible to the proposed development. The proposed array is located to avoid potential impacts.

b. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

Vehicular access to the site is adequate. The applicant has revised their plans to include improved access over a crushed stone road along with long term maintenance to ensure proper access.

c. Location, arrangement, appearance and sufficiency of off-street parking and loading.

The off-street parking is adequate for the minimal use associated with the solar array.

d. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian access.

Pedestrian access is not part of the proposal.

e. Adequacy of stormwater and drainage facilities.

The stormwater and drainage facilities have been properly engineered and amended as necessary. The Planning Board adopts the comments and amendments as discussed in the Technical Review Memorandum prepared by H. Thomas Jarrett, P.E. and finds them to be acceptable.

f. Adequacy of water supply and sewage disposal facilities.

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 8 of

There is no water supply or sewage disposal facilities are proposed with the project.

g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including maximum retention of existing vegetation.

The applicant has designed the site to limit the visibility of solar array from adjoining properties through the retention of existing vegetation and topography. The Planning Board finds this adequate to shield the site from view.

h. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

The access road was designed to accommodate emergency vehicles and as such, the Planning Board finds this as adequate as designed. No provisions for fire hydrants were deemed necessary.

i. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

The Planning Board, having taken a hard look at the potential impacts of the roadway and solar array on the wetland, pond and areas susceptible to flooding, find that these impacts have been sufficiently mitigated. In doing so, the Planning Board adopts the Technical Review Memorandum prepared by H. Thomas Jarrett, P.E. relative to the same.

Section 2. Based on the review of all of the Application materials, and based on the findings contained above, the Planning Board hereby adopts the following findings in accordance with §280-35 of the Zoning Local Law:

a. Does the use comply with all other requirements of the Zoning Local Law, including the dimensional regulations of the zoning district in which it is proposed to be located?

Yes, the use is in accordance with the Zoning Law. The regulation of solar energy collectors was done so to encourage development of solar arrays in areas outside of the commercial zone, that is naturally screened, without utilizing productive agricultural lands. The proposal accomplishes these goals.



MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 9 of

b. Will the use be in harmony with the general purpose and intent of the Zoning Local Law, specifically taking into account the location, character and size of the proposed use and the description and purpose of the district in which such use is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed use, and the nature and rate of any increase in the burden of supporting public services and facilities which will follow the approval of the proposed use?

Yes, the use is in compliance with the Zoning Law. For the reasons stated previously, the solar array is uniquely suited to the property and it will not create a burden on public services.

c. Will the establishment, maintenance or operation of the proposed use create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of the persons residing or working in the neighborhood of such proposed use or be unduly detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town?

The proposed use will not create a public hazard. Upon completion of construction, the proposal is a passive use in a rural area of the Town, which will not be detrimental to the neighborhood or Town.

d. Will the project have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the town or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project?

The project will not have an undue impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Town. The proposal utilizes a long private road, topography and existing vegetation to shield the site from view. There are no public supporting services associated with the project so there will be no additional impacts.

Planning Board shall take into account the following factors contained in §280-36 of the Zoning Local Law?

- a. Water. None.
- b. Land. None.
- c. Air. None.
- d. Noise. None.

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 10 of

- e. Critical resource areas. None.
- f. Wildlife. None.
- g. Aesthetics. None.
- h. Historic site conditions. None.
- i. Site development considerations. None.
- j. Governmental service and control factors. None.

Section 3. County Planning Board:

The County Planning Board reviewed the proposal and deemed it a matter of local concern.

Section 4. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application is hereby approved with the following conditions:

- a. The Warren County Department of Public Works, in conjunction with the Floyd Bennett Airport, shall sign off on the glare analysis provided by the applicant prior to any ground disturbance on site.
- b. In the event there is a reasonably proven disturbance in the electromagnetic distribution system within one year of the project completion, the Applicant shall mitigate said impact.
- c. All Department of Environmental Conservation and US Army Corp of Engineer permits and wetland crossing approvals must be provided to the Town prior to any ground disturbance on site.
- d. Ground vegetation must be kept and maintained throughout the project site, with special attention being paid to under and around the solar array.
- e. The access road shall be constructed and maintained in accordance Technical Review Memorandum of H. Thomas Jarrett, PE, and the Langan Engineering Plans as last revised on April 18, 2018. Maintenance shall include keeping Aviator Way and the access road free of snow and ice, along with seasonally appropriate maintenance.
- f. Ingress and egress along Aviator Way shall not be obstructed in any way, which would limit or prohibit access of adjoining property owners.

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Planning Board Meeting  
April 18, 2018  
Page 11 of

g. The Applicant shall verify subsurface conditions to confirm it is in accordance with the design specifications with complete report being provided to the Town.

h. The Applicant shall submit a performance bond to cover the cost of decommissioning, removal of all equipment, and site restoration. The precise terms and amount of the performance bond shall be approved by the Attorney for the Town prior to any ground disturbance on site.

i. All junk vehicles shall be removed from the premises.

j. The Applicant shall pay all application and engineering fees associated with this project within fourteen (14) days of invoice.

Section 5. This resolution shall take effect immediately.

Chairman Dingman closed the Public Hearing.

**ON A MOTION BY MR. FEHL**, seconded by Mrs. LaRose all in favor, the meeting was adjourned at 9:00 P.M.

Michelle Radliff  
Secretary