

**Planning Board Minutes
March 15, 2018**

Planning Board Members Present: Fred Fink, Julie Pellett, Daniel Compton, Matt Rogers, Fran Overmoyer

Others Present: Jim Kier (Code Enforcement Officer) Kimberly Rayburn (Secretary) Richard Lyons, Melisa Clark (Abundant Solar) Bob Steehler (Labella Associates), Glenn Thornton (Thornton Engineering), Brad Smith, Alan Clark, John Bennett

Fink opened the meeting at 7:30 pm.

I. TS1-18 Sketch Plan review 1 Lot Subdivision lands located at 6631 Cherry Street. Owner John (Richard) Lyons tax map # 54.00-1-10.111. Parent parcel of 12.3 ± acres removing 10.565 (centerline of rd) acres from parent parcel leaving 2.222 (centerline of rd) with single family home and barn

The Board reviewed the maps, the farm note is missing and needs to be on the final maps, they discussed the metal clad barn that is pre-existing non-conforming to the side lot line of the parent parcel.

Planning Board Decision:

Compton made a motion and Rogers seconded the motion to approve TS1-18 Sketch Plan review 1 Lot Subdivision lands located at 6631 Cherry Street. Owner John (Richard) Lyons tax map # 54.00-1-10.111. Parent parcel of 12.3 ± acres removing 10.565 (centerline of rd) acres from parent parcel leaving 2.222 (centerline of rd) with single family home and barn

Whereas:

- 1. The Board receives new maps for the Final showing the farm note**

Record of Vote:

Fink Aye Pellett Aye Compton Aye Rogers Aye Overmoyer Aye
All Board members present voted Aye, Vote was carried unanimously.

II. TSP3-18 Special Use Permit Family/in-law apartment Owner, Deborah (Charlebois) DeCook Lands located at 3330 Bailey Rd Tax map # 94.00-1-61.120 addition of approx 700 sq ft to single family home.

Deborah was not present at the meeting. Fink notified the Board that they needed to decide if a public hearing would be beneficial to the public. Fink stated that the application seems relatively straight forward and documentation has been included. Fink asked if the Board had any questions on the application. The Board reviewed the setbacks and the proposal will still meet all the required setbacks, Overmoyer asked where the septic was as it is not located on the map and he wanted to make sure that they were not building over the tank or the leach field. Kier will make sure that does not happen when he gives out the building permit if approved. All Board members stated that a public hearing was not necessary do to the size and location of the property. Overmoyer stated that if approved a whereas would be that this is subject to the map showing the location of the septic system. Overmoyer stated that in the event that there is a conflict with the location of the addition due to the septic system they would have to come back with a different site plan.

Fink asked if there were any comments from the Ontario County Planning Board, Rayburn stated that she asked for them but did not receive any.

Fink discussed SEQR, Compton made a motion and Pellett seconded the motion to declare SEQR an unlisted action with negative declaration. All Board members voted aye.

Planning Board Decision:

Overmoyer made a motion and Pellett seconded the motion to approve TSP3-18 Special Use Permit Family/in-law apartment Owner, Deborah (Charlebois) DeCook Lands located at 3330 Bailey Rd Tax map # 94.00-1-61.120 addition of approx 700 sq ft to single family home.

Whereas:

- 1. Verification of the location of the septic system by the Code Enforcement Officer**
- 2. If there is a conflict with the existing septic system and sanitary drainage that they will have to re-plan the site map and bring it back to the Board**

Record of Vote:

Fink Aye Pellett Aye Compton Aye Rogers Aye Overmoyer Aye
All Board members present voted Aye, Vote was carried unanimously.

III. TSP5-17 Special Use Permit Large Scale Solar Project, Lands located at 1940 Bennett Rd, tax map # 52.00-3-11.111 Owner Rory Bennett, Agent Labella, Also, a 1 lot subdivision to remove 18.731 + acres from the parent parcel for the 3 + project leaving 3.095 + of parent parcel in the front with existing SF home.

Rayburn informed the Board that what they had received last week from her was the applicant's revisions and statements to Thornton Engineering's first (1st) review of their plans, these revisions and comments were also sent to Thornton and his second (2nd) set of comments after his review are also included in the documents provided to the Board this evening. Glenn Thornton is present to answer any questions the Board or the applicant still may have.

Fink advised the Board and the public in attendance that the public hearing is still open. Bob Steehler from LaBella is present as is Melissa Clark from Abundant. Fink asked Steehler to give the Board an overview on the changes made to the project since the last meeting. Steehler stated that the fence area has been changed from one (1) large fence around the entire site and now there are two (2) smaller fenced areas around the two (2) sections of arrays, and they removed the barbed wire. The fencing was changed to leave the existing wildlife corridor in place. Steehler stated that they received Thornton's second (2nd) set of comments today that they will address but they seem easy enough to accommodate. Fink asked Thornton if that sounded correct to him and he stated that some of his comments were duplicated as he wanted to make sure the Planning Board considered them from the first set of comments. Thornton stated that he was concerned about a storm water pollution prevent plan (SWPPP) but after speaking with Labella they stated they intend to prepare a full SWPPP report prior to receiving final approval. Fink stated that we are moving through the process slowly and carefully as some of the obstacles are land use and land protection such as the storm water run-off, and the decommissioning plan also trying to intersect the application with our solar policies. Overmoyer stated that he does not see a new screening maintenance plan, which was discussed. The concern was if one of the trees dies that it will be replaced with a tree of similar height. Compton stated that even if one tree dies it doesn't mean that it needs to be replaced it just means that if there is a gap in the screening it would need to be replaced as the trees mature the branches may fill in the gap without the need for a new tree. The Code officer would have to do a periodic inspection, or upon a complaint from the neighbors to determine if there was an issue with the screening after a period of time. The plan would have the verbiage in it that the screening will stay in place going forward for the life of the project. The number of trees has decreased due to the new fencing plan. Compton stated that the DEC responded to idea of having one (1) or two (2) fences due to the wildlife corridor and they didn't make it seem like it was a big deal, Fink stated that they did say that the Board may want to consider the fact that if they close off the corridor having one fence around the entire project then there may be unwanted wildlife closer to the back yards of the neighbors and he is mindful that there are several types of wildlife other than deer using the corridor such as coyotes and he thinks that leaving the existing corridor in place with an eight (8) foot fence is a better idea than re-routing them which is not an ideal situation for the neighbors. The plan calls for a six (6) foot fence so it needs to be updated. Compton asked if the property is going to be posted or will they leave it open for hunting. Clark stated that some of the neighbors had an interest in continuing to hunt the back upper triangle portion of the property that will not have arrays, and that Abundant does have a desire to keep the neighbors happy as they work through the project in a thoughtful way.

Overmoyer asked if Abundant was ok with the estimate that Thornton suggested for the decommissioning plan, Steehler stated that they will have to look at that again, what they have been using for decommissioning is consistent with NYSERDA requirements They have thirty-six projects in Central New York and also in Monroe County. Overmoyer asked if there was some way to do a bond that would get interest over time to increase in value as time goes on. Steehler stated they would have to talk off line to work through it. He stated that the project wouldn't be feasible if they had to provide a bond.

Fink wanted to go through Thornton's second set of comments, 1. Subdivision plan, Town requires a 275 ft of road frontage: this lot would be considered a flag lot and have a 60 ft wide frontage and then open up to having 275 ft once inside the interior of the lot, no variance is required. 2. Army Corp of Engineers site visit to determine the need for a 404 report and permit: The ACOE will do a site visit in the spring and we will get their determination, not required before approval, but required before a building permit is issued. 3. Fire Chief review of site plan: Fire Chief Derrick Legters reviewed the plans and is fine with them. 4. Traffic signs should be provided during construction: Abundant agreed 5. Modified landscaping plan: the transplanted deciduous trees may not survive transplanting, therefore the screening should consist of all conifers to increase the aesthetics, if they want to use deciduous trees they can be planted outside the screening to break up the site. 6. SWPPP: A full SWPPP will be provided before approval is given. 7. Temporary silt fence details: there will be a silt sock or fence in certain areas where earthwork will require it. It will be included in the SWPPP report. Weekly SWPPP inspections will be done during construction as well. 8. Height of the trees: are indicated in the detail, they will be ten (10) foot typical. 9. The Full SEQR section D2ei is illegible, computer glitch that is covering some of the numbers, they are as follows: Fink hand wrote in the numbers, 6205 sq ft 0.14 acres impervious 21.3 acres parcel size. 10. Decommissioning plan: The Town Attorney has sent comments on his review; the plan will still need some revisions. Compton stated that this is a private ownership and if Abundant goes insolvent then the property would go up for auction to some other buyer, that buyer would be liable to do the decommissioning and somehow the money that the Town has received from Abundant would get to the new owner to help pay for that decommissioning if they don't want to keep the arrays. He feels that going from two hundred thousand 200,000 to four hundred thousand 400,000 bond or escrow doesn't seem practical and feasible. The only way the town would become responsible for the decommissioning is if the Town took the property for taxes and it became a Town property. Clark stated that the logic is if the panels can still produce power then there is still value in the array, another solar company would step in and get the useful life out of the arrays. The likelihood of the Town having to decommission the property is not very high. Fink stated that a bond would be in place to make sure that there are financial resources available to turn the property back to its original state. Compton stated that Overmoyer stated that in the Towns Solar law it is written that:

A bond may be required by the Town of East Bloomfield based on the cost estimate established in the decommissioning plan or otherwise established by the Town of East Bloomfield.

It also states that:

A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Cost estimations shall take into account inflation. Removal of Large -Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. If the Large – Scale Solar Energy System is not decommissioned After being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the Property to cover these costs to the municipality.

Rayburn stated that in discussions with one of the Town Attorney's Dan Bryson, he stated that there was going to be a model decommissioning plan with multiple municipalities done in the near future and we may want to look at that model when it is completed. Compton asked if there were any solar farms that have been decommissioned around the area, Clark stated that not in the United States only in Europe and that there is a discrepancy between NYSERDA and what we are seeing in Europe. In Europe they are required to pay a portion of a cent for each panel that they are actually installing, at the end they have created so at the end there is this huge fund that is always there to help recycle any arrays that have reached their life cycle. She also stated that a bond contributes no value to the material so in the US they are trying to come up with a value of the material and use a cost estimate of recycling to come up with a decommissioning cost. Abundant is in the Central New York Planning Board solarized portfolio, which is made up of thirty-six (36) sites with twenty-four (24) participating organizations they have come up with a model for decommissioning and it is a lot lower than Thornton's original suggestion, she also feels that the four hundred thousand 400,000 price range is not feasible. Clark has forwarded the model to Bob at Labella and they will share that with us. Fink stated that the difference we have is prevailing wage and recycled value vs NYSERDA #, we will continue to work towards the solution for the decommission verbiage and amount. Fink asked where the \$ amount will come from for the decommissioning, The Engineering firm would provide the cost estimate which would be reviewed by the Town Planning Board and you will agree on a price and get the Town Attorneys approval. In his review he was trying to have the Towns best interest in mind, he doesn't feel that the Town should take any risk. He did state that the Engineers cost estimate was reasonable, however in twenty-five years we don't know how much it will cost to decommission.

11. Provide an instrument survey of the as-built construction including all underground features prior to the issuance of a certificate of occupancy, this plan will be of considerable value should the Town be responsible for decommissioning the facility in the future. Abundant has agreed to supply the Town with the as-built

Fink reviewed the list of outstanding items and concerns.

- Possible wetland concerns that will be determined by the Army Corp of Engineers
- SWPPP report / and SPEDES Permit from the DEC
- Final Decommissioning plan
- Updated O&M maintenance plan for: trees, hours of operation and days of operation for mowing and maintenance will be done during regular business days and hours. No chemicals used for weed control or washing of the panels

Fink stated that the limited development overlay permit (LDO) is completed and signed off by Kier, the Board then discussed the review of SEQR. The Board has seen and reviewed part I filled out by the applicant, the Board will now review part II of the SEQR to identify any potential project impacts. The Board finished the review of part II and it was determined by the answers to the questions to have no or small impact may occur.

Fink stated that since the location of the proposed is in the Ag district the SEQR needs to be a Type I action

Planning Board Decision:

Compton made a motion and Overmoyer seconded the motion to declare SEQR a Type I action with a negative declaration for the review of TSP5-17 Special Use Permit Large Scale Solar Project, Lands located at 1940 Bennett Rd, tax map # 52.00-3-11.111 Owner Rory Bennett, Agent Labella All Board members present voted aye, Vote carried unanimously.

Whereas:

1. The Boards review of SEQR found there to be no, or small impact may occur

Record of Vote:

**Fink Aye Pellett Aye Compton Aye Rogers Aye Overmoyer Aye
All Board members present voted Aye, Vote carried unanimously.**

Fink asked if the public had any further questions or concerns, Brad smith asked why he was not notified as he has property across the street. Compton stated that the property has an under-review sign on the property and Clark stated that they dropped a packet off to the surrounding homes when there was no one home. He also stated that the property was once part of the fur farm when they leveled the sheds they bulldozed them and a map was given to Mike Woodruff so the Town should have maps from all the debris that was cleaned up and buried on the property, Steehler stated that they had to complete a phase I environmental study so they are aware of the site limitations on the property. The access Road will be the only excavating being done on the property. Alan Clark has some concerns about drainage, Steehler stated that the SWPPP will handle those concerns.

Compton made a motion and Overmoyer second the motion to close the public hearing, all Board members present voted aye, motion carried unanimously.

IV. TSP1-18 Special Use Permit Large Scale Solar Project Delaware River Solar- Agent, Owner of Property John Bennett property located on Rt 64 N of tax map # 67.00-1-1.100

At the last meeting the Board reviewed the comments from Thornton Engineering, there is missing documentation and some topics covered were as follows:

- CESIR report from the utility~ is missing, the Town regulations state it must be submitted with the application.
- Storm water calculations ~ need to be provided, and proof that a SPDES, or SWPPP report are or are not required.
- Decommissioning plan ~ some changes to the plan need to be made before approval and review by the Town Attorney
- Existing driveway ~ will need a NYS DOT permit for improvements
- Landscaping/screening ~ a better plan needs to be submitted including fence detail

DRS supplied us with updated documents, Thornton reviewed those as well and gave a brief overview and a discussion was held.

1. What looks like a little ditch has been categorized as a Class A stream by the DEC, there are 2 artisan wells that create this stream and any disturbance to the stream banks would require a permit from the DEC. Proposed changes to the culvert are not anticipated, which would disturb the stream bank. Thornton stated that he thought he read somewhere in the documents that directed the contractor during construction to evaluate the pipe, which doesn't seem appropriate and could delay the project for months so he feels that it would be appropriate to contact the DEC about it now and if you have to increase the size of the culvert it should be designed and included as part of the project. Thornton did mention it to their Engineer during a phone conversation.

Overmoyer asked if they were talking about where the farm road crosses the stream, Bennett stated that they put a culvert in to cross a spring that is behind the house but the stream is beside it, not under it. Thornton stated that should be fine then and he does not feel that the class A stream banks would get disturbed. Compton stated that the culvert under 64 and the one we are discussing are upstream from the Class A stream source. Bennett stated that this property was pasture at one time and he was told by the USDA it was an intermitted stream and they would not give him any money to keep the cows out of it and now they say it's a class A stream. Those wells were dug when they were trying to get water for the Fairport reservoir.

Fink stated that below the stream, the road that is going to be the road into the project site jogs to the right and is essentially where the stream is and the road will avoid the stream bank, Overmoyer stated that on the map the twelve inch well casing is downstream from where the road crosses.

2. Ground disturbance. DRS Engineer states that it will disturb less than one (1) acre of land, Thornton pointed out that if there are any changes to the plan it may kick them over the limit and require a SWPPP. Fink was wondering how they came up with this as the other project is over the one (1) acre limit including the tree plantings, the access road, the array post, and underground conduits. Fink stated that the protection of our natural resources is obviously important, Thornton stated that a SWPPP is the only way to assure that storm water discharge is being controlled properly. Fink stated if they have to do any alterations to the road that will push them over the limit. Overmoyer stated that there should be a complete breakdown of calculations for disturbance. The Board may request a SWPPP report regardless if required and is inclined to do so.

3. Screening There will be three (3) trees along the front to break up the equipment and fourteen (14) along the south west end of the fenced line. The height of the trees should be indicated. Compton stated that it is grown over back there and you won't be able to see it anyway. A maintenance plan needs to be included and updated.

- Contours should be added for the property and neighboring properties so they can see how the land lays.
- Rogers commented that there may need to be some additional screening to protect the adjacent landowners on the east and south side for future housing there are two (2) lots there that may become building lots over the next thirty years.

4. Lights Thornton stated that they are proposing one (1) light, Compton stated that there should be no nighttime lighting.

5. Access road There will be a twelve-foot-wide road, the Fire Chief did not have an issue with this.

6. Driveway permit from the DOT, DRS will provide the town with the documentation for the file.

7. All pertinent details should be on the drawings

8. Decommissioning Plan Thornton stated that he is not an expert in this area, the proposed plan will need to be sent to the Town Attorney as did Abundant's, and will have to be worked out. Hopefully the model plan that Bryson discussed and the information received from Abundant from the Central New York Planning Board solarized portfolio will help in the decision of how to proceed. Their proposal is to give the town an initial sixty thousand two hundred dollars (60,200) and let it grow with interest until decommissioning is required. A detailed plan outlining decommissioning steps should be provided.

9. Instrument as-built survey required after installation.

DRS sent comments back today from Thornton's review, they have been in contact with the DOT on the driveway permit, they received the DEC letter and will have more comments in their next review.

The Board looked at the Ontario County Planning Boards comments, a discussion was held on prime farmland being taken out of the ag district, Bennett stated that there are ten (10) acres behind the house, and they cropped it for over fifty years, the triangle piece has been mostly used as pasture for cows and horses. He let the neighbor have horses in it for approx. 6-8 yrs because he didn't use the land. It has recently been planted with corn and now it is hay. It is an odd shaped piece and it's hard to get to. It is good land but not as good as the other land he has and is using. A brief discussion was held on the farmland. Kier stated that unless another group pays a significant amount of money to upgrade the substation there can only be maybe one (1) more proposed project in the Town, so he doesn't feel that the Town we will be losing a large portion of prime farmland. Rogers stated that Bennett has been paying taxes on his land for over fifty years and he should be able to do what he wants to with his land.

- The Board would like DRS to provide written comments back on the OCPB comments and concerns. Ans well as Thornton's review.

Compton stated that he would be interested in what the physical changes to the pole on the west side of Rt 64 if any.

V. Minutes from February 1, 2018

Compton made a motion and Rogers seconded the motion to approve the minutes of Feb 1, 2018

All Board members present voted Aye, Vote was carried unanimously.

Minutes of Feb 15, 2018

Compton made a motion and Rogers seconded the motion to approve the minutes of Feb 15, 2018

All Board members present voted Aye, Vote was carried unanimously.

VII. Meeting Adjourned

Compton made a motion and Pellett seconded the motion to close the meeting @ 10:25 pm.

All Board members present voted Aye, Vote was carried unanimously.

Respectfully submitted,

Kimberly Rayburn
Planning & Zoning Board Secretary