

PLANNING & ZBA MEETING

TUESDAY, MAY 7, 2019

MEMBERS PRESENT: ZBA: JEFF MULLIGAN, CINDY KELLEN, BOB WESTFALL, DIANE ATTEA

PLANNING: KATHY COLE, TOM MCGOVERN, RANDY KOZLOWSKI, CLARA MULLIGAN, MICHAEL MILES, KATHY MANNIX

ABSENT: SAM PRICE (ZBA)

OTHERS: CEO BRIAN GLISE, MRB ENGINEER LANCE BRABANT

VISITORS: JANET MANKO, JUDY FALZOI, JOE HENS, CHUCK MORGAN, KEVIN O'DONOGHUE, RONALD THEW

CLERK: KIM MCDOWELL

ZBA & PLANNING BOARD MOTION TO OPEN THE MEETING WAS MADE BY KATHY COLE, SECONDED BY BOB.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 10-0.

PLANNING BOARD MOTION TO APPROVE THE MINUTES FROM THE JOINT TOWN BOARD MEETING ON APRIL 11, 2019 WAS MADE BY KATHY, SECONDED BY MIKE.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - AYE

CARRIED 6-0.

ZBA BOARD MOTION TO APPROVE THE MINUTES FROM THE MEETING ON APRIL 22, 2019 WAS MADE BY BOB, SECONDED BY CINDY.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 4-0.

HELIOS ENERGY NEW YORK LLC C/O RICHLAND RESOURCES LLC/500
ROCHESTER STREET/TAX PARCEL#24.-2-3.1-SITE PLAN REVIEW FOR SOLAR
ARRAY FARM

Kathy asked Joe to give an overview of what is new and what has been updated since the last meeting. Joe stated that they are addressing the comment letter from MRB and working with them to get all requirements in place for approval, there are only a few minor outstanding items left.

Joe explained that they are preparing a SWIPP Plan since there is over an acre of disturbance with using the enclosed area by the fence as land that will be disturbed as well. They are proposing a reduction in runoff from a change in ground cover for the non-impervious area and for the pervious area there will be 2 small rain gardens to catch run off.

They have revised the decommissioning plan to remove the salvage value and made some edits based on discussions with MRB Group. Mike asked if there is a decommissioning schedule that was supposed to be added since he hasn't seen anything yet. It is being worked on right now with MRB Group according to Joe. They have also submitted a site specific Operations and Maintenance manual to MRB Group.

Joe brought renderings which Brian displayed on the monitors for everyone to look at. The renderings don't look anything like Avon or the area the solar array will be on. Kathy Cole stated these renderings still don't address the questions Cindy had about D'Angelo Parkway views from the houses. Lance stated the Avon Local Law does give the Planning and/or ZBA Board's authority to provide for any enhancement screening or buffering to the residents. The Boards can make any requirements they deem necessary. Joe stated they can do additional screening and extend it on the fence.

The fence is 7 feet tall and is just around the array. Mike stated they could put vegetation out there. Joe stated there is probably 80 feet from fence to property lines on D'Angelo Parkway. Cindy stated she drove around D'Angelo Parkway and she can see clearly where the panels will be from the road. Cindy feels they need some kind of protection. Jeff asked what can you put there that won't interfere with the solar panels. They can't put too many trees near the array due to shading but they can put trees closer to the property line of the residents.

Cindy asked what they were going to do with the barns on the property and Joe stated they are being removed.

Lance stated that MRB is working with Ingalls on the comment letters that have been going back and forth. Ingalls stated that they have agreed to all MRB requirements in their letter dated May 6, 2019. The decommissioning plan will include any changes that are made tonight and also a part of the Operations and Maintenance plan. The decommissioning plan has to match our Local Law otherwise we can't approve it. Kathy Mannix asked if this company gets bought out what happens to the Special Use Permit. Lance answered anyone who owns this array will have to follow the approvals granted or it is null/void.

Cindy asked where the transmission lines or pole will be, she hasn't see any on the plans. Joe stated that they will connect to the poles that are already running down the road.

Mike Miles asked if we would be able to view the plans for landscaping before approval is granted. Lance said the board may approve this with conditions on landscaping or the board may not approve it until they see the revised plans. Mike stated he is not comfortable approving this without seeing the actual landscape plans and the renderings for D'Angelo Parkway. Mike also stated that he would like to see the revised project application with the most recent addressed engineering comments.

Randy confirmed with Lance that they could approve this with conditions of the landscaping plans that they spell out for them to follow tonight and Lance stated that that is correct.

Joe stated they are not planting saplings and they will put the tress exactly where the board wants them as long as they don't interfere with the panels.

Tom states that since they are willing to do what we specify that we could approve tonight. Joe stated that they can stagger them down the entire length of D'Angelo Parkway side. The trees will be planted at 8 feet so they would go as close to The property line as permitted. There was discussion on what type of trees, where they should be placed, how will they be maintained as well as what happens if they die by both Boards for inclusion in the conditions of the Special Use Permit and Site Plan for approvals tonight.

Site Plan has to be approved before Special Use Permit can be approved. Lance stated that they have to comply with the Local Law or we can't make any approvals tonight. Lance asked the Board's if there were any other items they want to discuss before making approvals. Neither Board had any further questions or comments.

Lance read the following:

TOWN OF AVON PLANNING BOARD RESOLUTION
HELIOS ENERGY NEW YORK LLC - SOLAR ARRAY
SPECIAL USE PERMIT & SITE PLAN APPROVAL
500 ROCHESTER STREET

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) is considering an application for a Site Plan approval for the installation of a 4,000 KWAC Type 2 Solar Energy System and associated fencing, access road and electrical equipment, as described in the Site Plans titled "Helios Energy New York Avon Solar Farm" prepared by Ingalls & Associates, LLP dated July 20, 2018, last April 25, 2019 and all other relevant information submitted as of May 7, 2019 (the current application); and

WHEREAS, this application was required to be forwarded to Livingston County Planning Board for review and provided a response of "No Action"; and

WHEREAS, the Planning Board has classified the above referenced Action to be a Type I Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Planning Board on March 5, 2019; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested Site Plan with the following conditions:

1. The Applicant shall obtain a Building Permit within six (6) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
2. No signage associated with this project has been approved. Separate approval by the Planning Board is required for all signage.
3. The Town Engineer review letter dated May 1, 2019 is to be addressed prior to the site plans being signed by the Planning Board Chair.
4. Site Plan approval is conditioned on the CCR Operations & Maintenance Plan for the Helios Avon Solar Farm as discussed with the Planning Board and revised per the Town Engineers letter dated May 1, 2019.
5. Site Plan approval is conditioned on the Decommissioning Plan for the Helios Avon Solar Farm last revised April 10, 2019 as discussed with the Planning Board and to be revised further per the Town Engineers letter dated May 1, 2019.
6. Site Plan approval is conditioned on the Stormwater Pollution Prevention Plan (SWPPP) for Helios Energy New York LLC Avon Solar Farm last revised April 25, 2019 and to be revised further per the Town Engineers letter dated May 1, 2019. No permits shall be issued until the NYSDEC Acknowledgement letter has been received by the Town Building & Zoning Department.
7. Prior to obtaining a building permit, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Avon at its discretion) for the removal of the Type 2 Solar Energy System, with Avon as the designated assignee/beneficiary, in an amount to be approved by the Town Engineer based on their review of the Decommissioning Cost Estimate submitted by Ingalls & Associates, LLP.
8. The Decommissioning bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
9. Each year after the Helios Avon Solar Farm has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Avon Building & Zoning Department & Town Clerk with written confirmation that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.
10. After completion, the Applicant shall provide to the Town of Avon Building & Zoning Department a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
11. Prior to issuance of a permit the applicant shall enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a).
12. A Special Use Permit granted by the ZBA is required prior to signatures being affixed to the site plans.
13. The site plans are to be revised to provide two (2) rows of evergreens (type to TBD) a minimum of 8' tall and staggered 20' off center along the southern property line of the subject parcel the full length of the perimeter fencing of the solar array.

14. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
15. The owner/operator is responsible for maintaining and replacement of all trees and landscaping as depicted on the approved site plans for the life of the project. All identified trees and landscaping in need of replacement are to be replaced by the following growing season.

The above Resolution was offered by Kathleen Cole and seconded by Thomas McGovern at a regular scheduled Planning Board meeting held on May 7, 2019. Following discussion, a voice vote was recorded:

Kathleen Cole - Aye
Randy Kozlowski - Aye
Kathy Mannix - Aye
Thomas McGovern - Aye
Michael Miles - Nay
Clara Mulligan - Aye

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the May 7, 2019 meeting.

Kim McDowell, L. S.
Kim McDowell, Clerk of the Board

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
HELIOS ENERGY NEW YORK LLC - SOLAR ARRAY
SPECIAL USE PERMIT & SITE PLAN APPROVAL
500 ROCHESTER STREET

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals (hereinafter referred to as Zoning Board) is considering an application for a Special Use Permit approval for the installation of a 4,000 KWAC Type 2 Solar Energy System and associated fencing, access road and electrical equipment, as described in the Site Plans titled "Helios Energy New York Avon Solar Farm" prepared by Ingalls & Associates, LLP dated July 20, 2018, last April 25, 2019 and all other relevant information submitted as of May 7, 2019 (the current application); and

WHEREAS, this application was required to be forwarded to Livingston County Planning Board for review and provided a response of "No Action"; and

WHEREAS, the Town of Avon Planning Board has classified the above referenced Action to be a Type I Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Town of Avon Planning Board on March 5, 2019; and

WHEREAS, on February 5, 2019, in compliance with NYS Town Law, the Zoning Board held a public hearing on the current application and completed a formal review of the application; and

WHEREAS, on May 7, 2019, in compliance with the Town of Avon Town

Code, and Local Law No. 3 of the Year 2018 the Planning Board completed a formal review on the current application and granted site plan approval; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approves the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval, Town Code §130-11 and §130-35, and Local Law No. 3 of 2018.
2. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to insure that the Special Use Permit is being operated in accordance with the conditions specified by the Zoning Board.
3. In the event of any complaints about the Special Use Permit being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board.
4. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with Town Code requirements and conditions of this approval.
5. No signage associated with the Special Use Permit has been approved. Separate approval by the Planning Board is required for all signage.
6. All conditions as required by the Planning Board as part of Site Plan approval are required to be addressed prior to the issuance of permits.
7. Prior to obtaining a building permit, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Avon at its discretion) for the removal of the Type 2 Solar Energy System, with Avon as the designated assignee/beneficiary, in an amount to be approved by the Town Engineer based on their review of the Decommissioning Cost Estimate submitted by Ingalls & Associates, LLP.
8. The Decommissioning bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
9. Each year after the Helios Avon Solar Farm has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Avon Building & Zoning Department & Town Clerk with written confirmation that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.
10. After completion, the Applicant shall provide to the Town of Avon Building & Zoning Department a post-construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
11. Prior to issuance of a permit the applicant shall enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a).
12. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or

without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.

13. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Avon Zoning Board of Appeals holds a hearing on same as provided for herein.
14. The site plans are to be revised to provide two (2) rows of evergreens (type to TBD) a minimum of 8' tall and staggered 20' off center along the southern property line of the subject parcel the full length of the perimeter fencing of the solar array.
15. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
16. The owner/operator is responsible for maintaining and replacement of all trees and landscaping as depicted on the approved site plans for the life of the project. All identified trees and landscaping in need of replacement are to be replaced by the following growing season.

The above Resolution was offered by Diane Attea and seconded by Bob Westfall at a regular scheduled Planning Board meeting held on May 7, 2019. Following discussion, a voice vote was recorded:

Jeff Mulligan - Aye
Samuel Price - Absent
Cindy Kellen - Aye
Bob Westfall - Aye
Diane Attea - Aye

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Zoning Board for the May 7, 2019 meeting.

Kim McDowell, L. S.
Kim McDowell, Clerk of the Board

At this point no other ZBA Board items need to be discussed.

ZBA BOARD MOTION TO CLOSE THE MEETING WAS MADE BY CINDY, SECONDED BY BOB.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
SAM PRICE - ABSENT

CARRIED 4-0.

ZBA MEETING CLOSED, PLANNING BOARD MEETING STILL OPEN.

THEW, RONALD & FELICIA/6411 ACORN TRAIL/TAX PARCEL#36.-1-31.1
-SUBDIVISION APPLICATION

Mr. O'Donoghue stated Mr. Thew would like to subdivide his current parcel into 2 lots. Currently his parcel is on a private road which has a shared right away with 2 other properties, and has only 66 feet of frontage.

Mr. Thew stated the new owners could also buy into the other private road, Huckleberry Hill, if they wanted. Kathy asked how steep the grade is on Acorn Trail so that fire trucks can get up it if needed.

Lance stated that by creating this lot, the new lot doesn't meet the Town of Avon requirements for the frontage for each parcel and possibly the emergency vehicle accessibility code requirements. The Planning Board decided that since the road frontage doesn't meet the requirement, a variance will be needed by the ZBA board.

Mr. Thew will need to come in and fill out a ZBA application and will be put on the June ZBA meeting agenda. Kim will also send Kevin O'Donoghue the list of dates that pertain to this application.

Brian will get in touch with the East Avon Fire Department to get a letter of recommendation to the Board members regarding the accessibility to the new parcel.

This subdivision will also need to go before the Livingston County Planning Board which Kim will send over for their June meeting.

CRYE, LARRY & MARILYN/2471 LAKEVILLE ROAD/TAX PARCEL#45.-1-84
-SUBDIVISION APPLICATION

Mr. O'Donoghue spoke on behalf of Mr. & Mrs. Crye on their requested subdivision. They will split the current parcel into 2 lots, one will be 26 acres which will include the house and barn and the remaining lands will be sold to Stokoe Farms.

The Planning Board had no objections. There will be a public hearing on this application at the meeting in June. Since there was no needed revision's to the map that was given, the Town will only need a mylar.

Lance handed out to the Board members a presentation he did in April at a conference regarding Open Meetings Law for them to look through if they choose.

PLANNING BOARD MOTION TO CLOSE THE MEETING WAS MADE BY TOM, SECONDED BY MIKE.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
MICHAEL MILES - AYE

CARRIED 6-0.
MEETING CLOSED.