

PLANNING, ZBA & TOWN MEETING

MONDAY, MAY 16, 2022

MEMBERS PRESENT: PLANNING: KATHY COLE, BRIAN THORN, THOMAS MCGOVERN, CHRISTOPHER STERNER

ZBA: JEFF MULLIGAN, JEFF PASSARELL, BOB WESTFALL, DIANE ATTEA, CINDY KELLEN

ABSENT: KATHY MANNIX (PLANNING BOARD), CLARA MULLIGAN (PLANNING BOARD)

OTHERS: BRIAN GLISE (CEO, AVON), LANCE BRABANT (MRB ENGINEER), JAMES CAMPBELL (TOWN ATTORNEY)

VISITORS: DICK MARTIN, GREG MCMAHON, JANET WARD, JOYCE BLOWERS, TREVOR FREDERICK, DARLA FREDERICK, GARY J. WHEAT, KEVIN GILLAM, KEVIN OVERTON, SANDY HOWLETT

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB; SECONDED BY CHRISTOPHER STERNER.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
VACANT -
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - ABSENT
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 9-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM THE APRIL 18, 2022, MEETING SUBMITTED WAS MADE BY CINDY; SECONDED BY DIANE.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

KATHLEEN COLE -ABSTAIN
THOMAS MCGOVERN - AYE
VACANT -
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - ABSENT
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 8-0.

KATHERINE MARTIN/2077 LAKEVILLE ROAD/TAX PARCEL#45.-1-8.11
SITE PLAN FOR ADDITIONAL OF SIX STORAGE UNITS

Mr. Greg McMahon, McMahon LaRue Associates, and Mr. Dick Martin are present to discuss this application.

After the comments made by the Planning and ZBA Board members in April, the variance application was withdrawn and the zoning setbacks will be accommodated for this application. The building on the South side of the existing commercial building has been eliminated, a rail fence separating the pond has been added, along with a few landscaping changes on the plans.

Mr. McMahon showed a photo of a sample of what the storage buildings would look like to all Board members. The buildings will be a modular steel building and they have a long lead time for purchasing.

Mr. McMahon received and will address all comments that MRB Group submitted, most of them have to do with stormwater. Since the buildings have been moved back the pond will be tweaked a little and then comments will be sent to MRB Group.

Lance Brabant stated most were related to stormwater and being compliant. Looking at the site plan changes, Lance asked if there is an existing hydrant on the parcel and there is but Mr. McMahon is unsure of the location, he will get that information to Lance quickly.

Brian Glise asked if there will be an office in the existing building for the storage units and Mr. Martin stated there will not be.

Tom McGovern asked if the large and small doors shown in the picture at the corners is connected and they are not, they are not operational doors, they are for the symmetrical look of the building.

Mr. Martin stated since the buildings are steel, they will not fade over time.

Lance asked about the lighting that is being proposed for the building and Mr. McMahon stated they are dark sky compliant lights that cast down in front of the units.

Lance asked for clarification of the landscaping changes, and they changed the proposed landscaping on the South side of the building to the North side due to comments made at last month's meeting and added some near the pond.

Kathy Cole asked the Board members if they were ready to move forward with this application and they were.

Kathy Cole asked Lance to read and review the resolutions provided tonight, for this application.

Lance read the following resolutions.

TOWN OF AVON PLANNING BOARD RESOLUTION
MCMAHON LARUE ASSOCIATES, P.C. - REPRESENTING KATHERINE MARTIN
MARTIN SELF STORAGE - 2077 LAKEVILLE ROAD (NY ROUTE 15)
TAX MAP ID: 45.00-01-08.11
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) DISTRICT
PRELIMINARY/FINAL SITE PLAN REVIEW

SEQR RESOLUTION - UNLISTED ACTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), received an application for Site Plan Approval to construct five (5) self-storage buildings, with four (4) buildings at 30'x132' (3,960 Sq. Ft), one (1) building at 20'x132' (2,640 Sq. Ft.), and including the construction of gravel roadways and stormwater mitigation improvements on a 3.16 acre parcel located at 2077 Lakeville Road, in the Town of Avon, Livingston County, New York as described in the Site Plans dated January 2022, last revised April 20, 2022 (the current application) and all other relevant information submitted and discussed at the May 16, 2022 Joint Planning Board and ZBA Meeting; and

WHEREAS, the Planning Board has reviewed the Short Environmental Assessment Form (EAF) Part 1, prepared by the applicant on the above referenced subdivision application (hereinafter referred to as Action); and

WHEREAS, the Planning Board determines that said Action is classified as an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in the Short EAF Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short EAF; and

NOW, THEREFORE BE IT RESOLVED the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed Action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed Action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed Action;
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;

- (vi) there will not be any hazard created to human health;
- (vii) there will not be a change in the use of active agricultural lands that receive an agricultural use tax exemption or that will ultimately result in the loss of ten acres of such productive farmland;
- (viii) there will not be a larger number of persons attracted to the site for more than a few days when compared to the number of persons who would come to the site absent the Action;
- (ix) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (x) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xi) there are not two or more related Actions which would have a significant impact on the environment.

BE IT FURTHER RESOLVED, based upon the information and analysis above and the supporting documentation referenced above, the proposed Action WILL NOT result in any significant adverse environmental impacts.

BE IT FINALLY RESOLVED that the Planning Board does hereby make a Determination of Non-Significance on the proposed development, and the Planning Board Chairman is hereby directed to sign the Short Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the Planning Board's determination.

The above resolution was offered by Thomas McGovern and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, May 16, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *AYE*
Vacant -
Kathy Mannix - *Absent*
Christopher Sterner - *AYE*
Clara Mulligan - *Absent*
Brian Thorn - *AYE*
Thomas McGovern - *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 16, 2022 meeting.

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

Brian Thorn asked about the condition regarding signage not being in the resolution and Lance will add that to the site plan resolution, however Mr. Martin doesn't plan to add any signage at this time.

Lance also asked if there is a dumpster on site and there is not. He asked if there was any outdoor storage and there will not be. Lance stated per code, outside storage is not allowed.

TOWN OF AVON PLANNING BOARD RESOLUTION

MCMAHON LARUE ASSOCIATES, P.C. - REPRESENTING KATHERINE MARTIN
MARTIN SELF STORAGE - 2077 LAKEVILLE ROAD (NY ROUTE 15)
TAX MAP ID: 45.00-01-08.11
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) DISTRICT
PRELIMINARY/FINAL SITE PLAN REVIEW

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), received an application for Site Plan Approval to construct five (5) self-storage buildings, with four (4) buildings at 30'x132' (3,960 Sq. Ft), one (1) building at 20'x132' (2,640 Sq. Ft.), and including the construction of gravel roadways and stormwater mitigation improvements on a 3.16 acre parcel located at 2077 Lakeville Road, in the Town of Avon, Livingston County, New York as described in the Site Plans dated January 2022, last revised April 20, 2022 (the current application) and all other relevant information submitted and discussed at the May 16, 2022 Joint Planning Board and ZBA Meeting; and

WHEREAS, the Planning Board has classified the above referenced Action to be an Unlisted 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 May 16, 2022; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby Approves without Conditions; Approves with the following Conditions; or Denies the application for the following reasons:

1. The Site Plan Approval with conditions as specified is valid for a period of 180 days from today and shall expire unless an extension is requested by the Applicant and approved by the Planning Board at a later date with a separate resolution.
2. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
3. All comments regarding the Town Engineer's review and Town
4. DPW Superintendent's review of the site plans are to be addressed to their satisfaction prior to signatures being affixed to the Site Plans.
5. The applicant is to complete the Town of Avon Stormwater Maintenance Agreement and the maintenance agreement is to be approved and filed with the Town prior to issuance of the Certificate of Occupancy.
6. A Surety Estimate covering erosion and sediment control measures, grading and stabilization of the site, stormwater mitigation measures, and landscaping, is to be submitted for review and approval. The surety is to be posted with the Town prior to issuance of a permit.
7. No signage associated with this project has been approved. Separate approval by the Planning Board is required for all signage.

The above resolution was offered by Thomas McGovern and seconded by Brian Thorn at a meeting of the Planning Board held on Monday, May 16, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *AYE*
Vacant -
Kathy Mannix - *Absent*
Christopher Sterner - *AYE*
Clara Mulligan - *Absent*
Brian Thorn - *AYE*
Thomas McGovern - *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 16, 2022 meeting.

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

DARLA FREDERICK, ACTING AGENT FOR GENESEE VALLEY KART CLUB/2123 LAKEVILLE ROAD/TAX PARCEL #45.-1-13 - SPECIAL USE PERMIT MODIFICATON TO ALLOW ONE TIME EVENT FOR NIGHT RACING

Ms. Darla Frederick was present for this public hearing.

Jeff stated that the public hearing needs to be opened.

ZBA MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY DIANE; SECONDED BY BOB.

JEFF MULLIGAN - *AYE*
CINDY KELLEN- *AYE*
BOB WESTFALL- *AYE*
DIANE ATTEA - *AYE*
JEFF PASSARELL - *AYE*

CARRIED 5-0.

Jeff Mulligan asked if there were any comments from those present and there were none.

Jeff Mulligan stated it is a one-time night race that is being requested and Ms. Frederick stated it is on August 27th with a rain date of September 10th.

Jeff Mulligan stated he is concerned if this is allowed that it could lead to many other night races and wanted the applicant to realize this approval if granted tonight is for one night only and Ms. Frederick is fully aware.

Cindy Kellen is concerned with the noise for the surrounding neighbors until 10:30-11:00PM. Ms. Frederick stated they are not overly loud with the way the newer go karts are made.

Ms. Frederick stated it would open at 1:00PM for practice and then the feature races will begin at 9:00PM and would be done by 10:30-11:00PM.

Brian Glise asked that if the park closes at 11:00PM and people are there at that time, what actions would be taken if a complaint were to happen. Brian is asking the Board to set a time restriction that everyone needs to be off the premise by. Ms. Frederick has tight control of the facilities and will tell them exactly what time they need to be gone by. If there are any overnight campers, they are very respectful and quiet.

Bob Westfall asked how many people she is expecting, and Ms. Frederick stated maybe 150. Bob also asked if there are sufficient bathroom facilities for everyone and there are.

Kathy Cole asked what the parking capacity is, and they have had 100 people on site before with no issues with parking or traffic.

Jeff Mulligan asked if there were any other comments and there was none.

ZBA MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY JEFF PASSARELL; SECONDED BY DIANE.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

Lance Brabant stated there is no resolution in front of the Board members since this is a new request. Lance stated it will spell out everything discussed tonight and the letter of intent submitted by applicant. The Special Use Permit will be valid for the date specified and the rain date as well, the time restrictions, and overnight guests.

Bob Westfall asked if the participants must sign a waiver or code of conduct and they do. Ms. Frederick does have control over how people behave while on the premise and they are fully aware of what is expected of them.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
DARLA FREDERICK - GENESEE VALLEY KART CLUB
2123 LAKEVILLE ROAD - TM # 45.-1-13
TEMPORARY SUP APPLICATION

SPECIAL USE PERMIT APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering an Temporary (one time only) Special Use Permit application to allow the Genesee Valley Kart Club to hold one (1) Saturday Night Race Event at their existing site located at 2123 Lakeville Road, as detailed on the Concept Plans and Letter of Intent as discussed with the Zoning Board at their meeting on May 16, 2022 (the current application); and

WHEREAS, the Zoning Board has classified the above referenced Action to be a Type II Action under the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

NOW, THEREFORE, BE IT RESOLVED, the Zoning Board hereby Approves without Conditions; X Approves with the following Conditions; or Denies the application for the following reasons:

1. The temporary special use permit shall remain in effect for the current owner of the premises for the date of Saturday, August 27, 2022 (with a rain date of Saturday, September 10, 2022) for the hours of 1:00 P.M. to 11:00 P.M. (race times) and from 11:00 P.M. to Midnight to shut down and close the site. All patrons and vehicles with exception to those staying overnight in the RVs are to leave the site by Midnight.
2. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with requirements and Town Code requirements and conditions of this approval.

The above resolution was offered by Bob Westfall and seconded by Cindy Kellen at a meeting of the Zoning Board of Appeals held on Monday, May 16, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan - AYE
Cindy Kellen - AYE
Bob Westfall - AYE
Diane Attea - AYE
Jeff Passarell - 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 of Appeals for the May 16, 2022 meeting.

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

KEVIN GILLAM/4820 DARBY ROAD/TAX PARCEL#34.-1-11.112/VARIANCE FOR ACCESSORY STRUCTURE IN FRONT OF PRIMARY STRUCTURE

Mr. Gillam was present to discuss his application for having an accessory structure in front of the primary structure. The house is 600 feet off the road and he would like to have a small pole barn in front of the house that will set 500 feet off the road, since the left side is the septic system and the right side the grade is very low and would need a lot of fill to even it out. The pole barn will be tucked into the trees, and you wouldn't be able to see it from the road or neighbors.

Jeff Passarell asked how far away it would be from the other neighbors and it will be approximately 450 feet.

Bob Westfall stated you can't even see the house from the road.

Jeff Mulligan pulled up google maps and Mr. Gillam showed him exactly where it would be on the parcel.

Jeff Mulligan stated we need to schedule a public hearing and suggested Mr. Gillam talk to the neighbor's regarding the variance.

The public hearing will be on June 20, 2022, and Kim will get in Contact with Mr. Gillam for the sign.

SANDY HOWLETT/CENTURY BARN/1177 W. HENRIETTA ROAD/TAX PARCEL
#25.-1-18.1 - RENEW SPECIAL USE PERMIT FOR EVENT BARN

Mrs. Sandy Howlett was present to discuss this Special Use Permit renewal application.

Avon Century Barn has been running as a wedding and community service event venue since 2013 and they haven't had any incidents. We have people come from all over to hold events in the barn and that has generated business to our Avon community, Cake Place and Avon Floral World to name a few.

Mrs. Howlett is looking to get the current special use permit extended.

Jeff Mulligan asked what the process was to get this approved and Lance stated if the Board feels there are no issues, then a motion to approve the extension of the current special use permit with the conditions that were previously approved should be the next step.

Jeff Passarell asked if discussion on restrooms and ADA compliance is pertinent with this request. Mrs. Howlett stated there is a mobile restroom trailer on site and if someone can't use the steps to get to that bathroom, they use the Howlett's bathroom in their home.

Tom McGovern stated he has had no issue with noise or parking for him living in the vicinity.

Bob Westfall was on the Board when it was originally granted and there has been no issues or problems that he is aware of.

Jeff Mulligan asked for a motion to extend the special use permit with the same conditions previously approved.

ZBA MOTION TO APPROVE THE RENEWAL OF THE SPECIAL USE PERMIT FOR A PERIOD OF FIVE YEARS WITH ALL OF THE PREVIOUS CONDITIONS SET FORTH AT THE TIME OF ORIGINAL PERMIT WAS MADE BY CINDY; SECONDED BY BOB.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

DG NY SOLAR CS IV, LLC, ACTING AGENT FOR GARY & EILEEN WHEAT/5406
LAKE ROAD/TAX PARCEL #44.-1-26.1 - SOLAR FARM - SITE PLAN & SPECIAL
USE PERMIT APPLICATION

Janet Ward and Kevin Overton are present for this application.

Ms. Ward stated that she sent Kim the visual renderings as requested at last meeting, and she responded to MRB's comments as well.

Ms. Ward stated she hasn't received a copy of the road use agreement and Mr. Campbell stated he is not done with it yet.

Ms. Ward also asked about the draft special use permit resolution that she received, condition number 13 discusses violations of the permit, and she is wondering what the timeframe for the remedy would be before the permit is revoked.

Ms. Ward is also looking to have the NYSERDA form signed when this application has been approved and this is needed as part of the incentive application.

Lance Brabant stated regarding condition #13, if there is an issue on site that identifies through the Town as a violation, there will be a notification from the Town, and it will give you a timeframe to remedy.

Jim Campbell stated it would be handled like a zoning violation, there would be a notice of violation, demand to cure, and a timeframe put on it and if you didn't comply than they would have a hearing on the violation.

Lance Brabant stated MRB comments have been addressed that were technical related, the stormwater comments will be worked on continuously and rectified before plan signatures are required. Any related to Operations & Maintenance Plan and Decommissioning Plan will follow the protocol set by MRB Group.

Lance Brabant said when someone goes on site, they should notify the Town that they were there, what they did, so the Town of Avon can make sure things done are what was previously approved.

Lance Brabant questioned the decommissioning bond estimate request that is required by the Town. Currently the Town's code states to provide an upfront cost the first year and then it is renewed annually with the value of inflation. The applicant is proposing to give you the life of the project costs upfront plus what they assume to be the inflation rate of 2% every year as an alternative to the code. In either scenario the bond will be there.

There was much discussion on the pros/cons of these two options for the decommissioning bond. Jim Campbell is going to investigate which is the most beneficial and procedurally how to handle the other option.

Jeff Mulligan stated he feels the other two solar applications that the Town has previously approved have done an annually renewal and we should have everything uniform. Other Board members agreed.

Tom McGovern suggested since the neighbors have concerns regarding the time it takes for the landscaping to get done, that temporary trees are put in until the permanent trees are to the height that will be beneficial for buffering. There was some discussion on what trees and what heights would make this happen and if that is even a feasible option.

Christopher Sterner suggested using the Wheat's existing driveway for the access driveway to the solar field which would help with the buffering and help take away the blind driveway on that curve to the solar field. Chris showed everyone a picture of what he is suggesting. Ms. Ward stated the driveway must be within 10 feet of the poles/interconnection. Lance asked if this suggestion would be something that could be done or investigated by the applicant and Ms. Ward will investigate.

Jeff Mulligan stated the public hearing is still open and he asked if there were any comments from those who are present.

Mrs. Joyce Blowers, 5378 Lake Road, Avon, NY, she appreciated Tom's comments since pine trees typically don't grow very fast. She had a few recommendations of other faster growing trees for the applicant. Her concern from their house is that they will be looking at the back of the panels which are 15 feet high, the fence is 7 feet high, and they will still see the panels. She also has a concern about the curve in the road and the placement of the new driveway since you can't always see oncoming traffic. Regarding the bond discussion tonight, she was wondering what happens if this is sold to someone else, the Town will get notified. Mrs. Blowers again stated she is not in favor of this application being approved.

Mr. Gary Wheat, 5406 Lake Road, Avon, NY, he wanted to remind everyone that there was a proponent of this application from my other neighbor a few months ago. He stated that the option for changing the driveway may not work because the further you go east, you lose more site line. He also felt during the bonding discussion, the Town has the option for more money on day one and now if it is renewed each year, you have less money to start off. Mr. Wheat wants to protect the farmland and create clean renewable energy which he feels is important thing to farm as well.

Mrs. Blowers, 5378 Lake Road, Avon, NY, would like trees she mentioned put in the back of their property for a buffer as well.

Mr. Gary Wheat, 5406 Lake Road, Avon, NY we went south of their property line above what is in the code, and he has no problem with them having trees in the back of their property.

James Campbell stated that the Planning Board doesn't have the appropriate number of people present tonight for any action to be taken. Also, the County Planning Board made a recommendation of non-approval under its review and General municipal law section 239M, requires a super majority of the total number of board members, so we need to have all members present. Because one member of the Planning Board has recused from the proceedings involving this application, and because of the super-majority vote needed as a result of the GML 239M determination, any approval by the Planning Board will require an affirmative vote from all participating Planning Board members. Jim also feels that both resolutions should be done on the same night.

James Campbell asked if the Board members wanted to schedule a special meeting since the applicant is concerned with losing some incentives that need to apply for on June 1, 2022.

James Campbell also stated that if you would like to you close the public hearing tonight you can do so and Jeff Mulligan agreed.

ZBA MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CINDY; SECONDED BY JEFF PASSARELL.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

CARRIED 5-0.

Jim Campbell read the law regarding super majority plus one vote as requested by Brian Thorn. Since there is a vacancy and one member who has recused herself, the majority plus one is five members, and it must be unanimous.

Jeff Mulligan asked if they don't all vote in favor will that drown the project and James Campbell stated the action would fail.

Bob Westfall asked if both Boards must vote at the same time and James Campbell stated you don't have to vote at the same time, but he suggested that both Boards take up the requested action at the same time.

There was discussion if a special meeting should take place and being able to publish the meeting properly, and other Board members who are traveling to make sure they will be present as well. Ms. Ward stated she would like to have had the approval before the first of June but if that doesn't work than we will just keep the June 20, 2022 meeting.

Lance Brabant questioned the Board on the landscaping and driveway comments if they would like the applicant to look into that prior to the next meeting and yes, they would.

TOWN OF AVON PLANNING BOARD RESOLUTION
DG LAKE ROAD SOLAR, LLC (NEXTERA ENERGY RESOURCES) REPRESENTING
GARY & EILEEN WHEAT
LARGE SCALE SOLAR - LAKE ROAD SOLAR PROJECT
5410 LAKE ROAD
TAX MAP ID: 44.-1-26.1
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

CONTINUATION RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), and the Town of Avon Zoning Board of Appeals (hereinafter referred to as Zoning Board) received applications for Site Plan and Special Use Permit to allow for the development of the DG Lake Road Solar, LLC proposed Lake Road 5 MW Solar Project (Project), to construct and operate a 5 megawatt (MW) alternating current (AC) (7 MW direct current [DC]) solar photovoltaic facility within an approximately 36-acre property parcel (parcel ID 44.-1-26.1) located south of Lake Road, north of Henty Road, and east of Pole Bridge Road, in the Town of Avon, Livingston County, New York as described in the Site Plans dated September 13, 2021, last revised April 6, 2022 (the current application) and all other relevant information submitted and discussed at the May 16, 2022 Joint Planning Board and ZBA Meeting; and

WHEREAS, the applications were forwarded to Livingston County Planning Board for review and was discussed at the February 10, 2022 meeting where a recommendation of "Disapproval" of the proposed action was provided; and

WHEREAS, the several members of the Planning Board were not present for tonight's meeting and no action could be taken on the site plans; and

WHEREAS, the public hearing was continued to tonight's meeting and the Zoning Board did receive public testimony on the applications and then closed the public hearing on the Special Use Permit Application; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board and Zoning Board does hereby move to continue the applications to their June 20, 2022 Joint Board Meeting.

The above resolution was offered by Brian Thorn and seconded by Thomas McGovern at a meeting of the Planning Board held on Monday, May 16, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *Abstained*
Vacant -
Kathy Mannix - *Absent*
Christopher Sterner - *AYE*
Clara Mulligan - *Absent*
Brian Thorn - *AYE*
Thomas McGovern - *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 16, 2022 meeting.

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

ZBA & PLANNING MOTION TO CLOSE THE MEETING WAS MADE BY DIANE;
SECONDED BY BOB.

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA - AYE
JEFF PASSARELL - AYE

KATHLEEN COLE -ABSENT
THOMAS MCGOVERN - AYE
VACANT -
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.

MEETING CLOSED.