

MEMBERS PRESENT: ZBA: JEFF MULLIGAN, CINDY KELLEN, BOB WESTFALL, JEFF PASSARELL, DIANE ATTEA (VIA PHONE)

PLANNING: KATHY COLE, KATHY MANNIX, BRIAN THORN (VIA PHONE), TOM MCGOVERN, RANDY KOZLOWSKI, CLARA MULLIGAN (VIA PHONE)

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

VISITORS: JOYCE BLOWERS, RONALD BLOWERS, JOHN HETTRICK, KATHY HETTRICK, PETER BURKE, BRIAN HARPER, MATT MCCABE, LAURA MCCABE, ART HERNANDEZ, SUSAN BLEASE, JIM BLEASE, KEVIN PATRICK, LINDA PALERMO, JANET WARD, BRENT WASHBURN, YVONNE WASHBURN, CARRIE GRUSCHOW, STEVE HERNANDEZ, PETER PIAMPIANO, KATHY BARSZ, CHARLIE LEONARD, JUSTIN BOWSER, PATTY MCNEIL, DALE MCNEIL, ELLEN TURNER, AMY L. DAYTON-LEONARD, JANET WARP

CLERK: KIM MCDOWELL

Before the meeting began, Lance addressed those present via phone call in - to remain muted on the line until the public hearing begins and he asks for any comments from you.

Lance also asked any of the Board members that were on via phone call in to identify themselves: Brian Thorn, Diane Attea, Clara Mulligan.

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

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
VACANCY

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

CARRIED 11-0.

PLANNING & ZBA BOARD MOTION TO APPROVE THE MINUTES FROM THE JOINT MEETING ON JULY 7, 2020 AS SUBMITTED WAS MADE BY JEFF; SECONDED BY KATHY MANNIX.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
VACANCY

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

CARRIED 11-0.

WASHBURN, BRENT/2270 LAKEVILLE ROAD/TAX PARCEL#45.-1-14.22 -
AREA VARIANCE - PUBLIC HEARING

Mr. Washburn was present to discuss his application for an area variance for his shed to store wood. It is more like a lean-to structure with a roof over it.

MOTION TO OPEN THE PUBLIC HEARING 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.

Jeff Mulligan asked if any one present had any comments and there were none.

MOTION TO CLOSE THE PUBLIC HEARING 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.

Jeff read the SEQR Resolution - Type II Action to all present.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
BRENT WASHBURN - AREA VARIANCE APPLICATION
2270 LAKEVILLE ROAD - AG - ZONING DISTRICT
TM# 45.-1-14.22 - AREA VARIANCE (SIDE SETBACK)

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering an Area Variance approval to construct a shed with a side setback of 15 feet from the property line where 30 feet is required for a total area variance of 15 feet, located 2270 Lakeville Road within the AG zoning district; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Cindy Kellen and seconded by Bob Westfall at a meeting of the Board of Appeals held on Monday, August 17, 2020. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - Aye
Jeff Passarell - Aye
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 Board of Appeals for the August 17, 2020 meeting.

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

TOWN OF AVON

OPERA BLOCK BUILDING
23 GENESEE STREET
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BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Project Name/Number: Brent Washburn

Hearing Date: August 17, 2020

Action: Area Variance (Side Setback) Subject Property Address: 2270 Lakeville Road

Tax Account #: 45.-1-14.22

Zoning District: AG District

Agenda Item: Area Variance application to construct a shed (wood shed) with a side setback of 15ft from property line where 30ft is required for a 15ft variance.

Board Members	Present	Motion		Recusal
		Aye	Nay	
1. Jeffery Mulligan, Chairman	X	X		
2. Jeff Passarell	X	X		
3. Cindy Kellen	X	X		
4. Bob Westfall	X	X		
5. Diane Attea	X	X		
Alternate: _____				

Action:

- Approved with conditions

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval and issuance of a building permit or the variance will be deemed null and void.
2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

Motion made by: Cindy Kellen

Seconded by: Bob Westfall

DG NY SOLAR CS, LLC c/o RICHLAND RESOURCES, LLC/AVON-EAST AVON RD/TAX PARCEL#34.-1-15.21 - SOLAR FARM - PUBLIC HEARING CONT

Kathy Cole stated that the public hearing for this application is still open. Kathy stated for those with comments, please stand, state your name and address, and limit your comments to three minutes to give everyone a chance to speak. We will have the people in the room go first followed by those on the phone and in the hallway.

Kathy also stated that the public hearing has been open since December and the Boards have heard a lot of concerns from the public. We are listening and have taken all your concerns we have heard into account for this application. We are trying to do as best as we can within the Code.

Jeff Mulligan stated that this is a comment period only, no question and answer tonight.

Brian Harper and Jane Ordal are present to give an update on this application. The solar farm is a 5MW project off of Routes 5 & 20 south of the property; just under 25 acres. Trees will be planted along the northern boundary of the parcel and will be a native species that will thrive in the area. On the eastern part of the property there will be one row of trees 6 feet apart from each other. They also submitted a SWPPP plan which was in accordance to NYS DEC specifications per the Town Engineer. Brian also stated that everything will be contained within the fenced area in regards to thermo heat which is a 7 feet tall fence.

Tom McGovern asked if there were supposed to be 2 rows of staggered trees. Brian Harper stated that the 2 rows will be on the northern side for shading; one row on the western side.

Jeff Mulligan asked how tall the trees will get and Brian stated they will be 10 feet at planning and they should get up to 15 feet.

Cindy Kellen asked why there is more protection on the north side than the west side. Brian stated there is 10 feet between each tree and they are staggered and western side is 6 feet between each tree.

Jeff Passarell asked if they will be planted on any berm and Brian Harper stated there are no berms in the plan at this time. Brian Harper also stated that they have not had any other project with berms.

Kathy Mannix is also concerned about the berm affecting drainage issues one way or the other and Lance stated for the record there is no berm for this application.

Jim Campbell asked if it was possible for additional trees to be added to buffer along the west side and Brian Harper stated yes.

Lance Brabant stated the landscaping is the prevue of the Planning Board during the site plan approval process.

Kathy Cole opened the meeting to the public and reinstated that they must state their name and address and limit comments to three minutes.

Ron Blowers, 5378 Lake Road, he will keep it to new stuff. He is interested in the outcome of this project because there is a new project behind his house that will be coming to the Town soon. His stated that the solar farms are being put on less prosperous soils but the field behind him has had high value crops for the past few years. He feels the regulations done by the County for solar panels is out of date. There are also regulations on lead paint and he read an article that the panels having some lead in them.

Ellen Turner, 86 East Main Street, she saw the ad in the Penny Saver and doesn't really know too much about it but feels they are ugly and they are all over the place. She has read that the panels are very dangerous for the environment and are very costly to maintain. She also feels that we don't need them.

Patricia McNeil, 352 Lake Road, she is against these panels and she doesn't want to see them in their backyards. She feels they are exposing our land with the lead being in the panels. She doesn't want our children or the next generation to have to clean up this mess and we are a farming community.

Linda Palermo, 1865 Pole Bridge Road, she has been to a couple of meetings and there were questions about the drainage. She is wondering if anyone has contacted the company in Allegany County that deals with drainage on farm land.

Peter Piampiano, 1929 Pole Bridge Road, he has lived in Avon all his life and has watched this community grow without any solar panels. Howlett is the only one to benefit from this solar farm; he can find other land to put the panels on. He asked the Board, which none of them live on Pole Bridge Road, how they would like it in their backyard. Howlett says it is too wet to farm but his crops on the property have been fantastic this year. Please think of the residents on Pole Bridge Road. He said there could be lawsuits for this whole thing so everyone needs to think about that.

Kathy Barsz, 440 Wadsworth Avenue, in Europe they are putting solar panels on the road which is already impervious to water. She feels they need to try them on at least one of the roads to see if they work.

Laura McCabe, 1875 Pole Bridge Road, the panels will be directly behind her house. At the last meeting there was supposed to be an alternative design on the placement of the panels and she is assuming since that didn't happen that this is the final design. The closest resident to the panel is 300 feet - is that 300 feet from the back of my house to where the panels will be placed. Brian Harper stated it is 300 feet from the property line to the first panel. She is disappointed that the Board is even considering taking profitable, usable farm land and turning it

into a field of solar panels.

Steve Hernandez, 1827 Pole Bridge Road, he feels that we are putting a permanent structure behind all of our houses for the next 30 years and they will be worthless. He feels solar panels should be on the roofs of our houses and that we are making a big mistake by approving this.

Peter Piampiano, 1929 Pole Bridge Road, he feels that the Boards can't approve this after hearing all the complaints from the residents.

Ellen Turner, 86 East Main Street, she read an article from Duke Energy and they said that the panels release electric oxide when they are not in use and it is very poisonous gas and that could be serious.

Charlie Leonard, 1945 Pole Bridge Road, he was at a meeting last week for battery storage moratorium was extended. How can this be approved if there is a moratorium. Jim Campbell stated there is no battery storage in this application. Howlett has to prove 4 criteria to given a Special Use Permit and if he doesn't meet those criteria than you can't issue this permit.

Peter Burke, 17 Valley Lane, has some concerns and is opposed to this project and the impact the project has on the community. They are seeking a special use permit and he referenced Town Code section 130-35 with the criteria that needs to be met to grant this special use permit. Mr. Burke read code 130-35A, 130-35B Section 1, and 130-35C to all present. He feels the solar farm is not in harmony with the uses for this area and it is not the proper location either. He feels approval of this project would be a very bad precedent for the Town.

Justin Bowser, 5224 Avon-East Avon Road, I live next to the entry way were the road is going to be. His biggest concern is the road is right alongside his property and he has small children. He was told it was 30 feet from his property and also that it was 80 feet from his property. Brian Harper looked on the site plan for the exact measurement and it is 74.8 feet and 82.6 feet. Brian also stated that once the construction is completed it will only be used by maintenance vehicles a couple of times a year. Justin asked if there was going to be a fence around the road and Mr. Harper stated there will not.

Steve Phillips, 5121 Twin Falls Lane, he asked if the location for the road is the same that the Town was talking about putting in a drainage easement to help with drainage. Lance Brabant stated the applicant is proposing to put in a drainage swale to convey that runoff to the road to 5 & 20. Mr. Phillips asked if they have done a drainage study and a long form SEQR. Lance stated that there was a drainage study done previously and the long form SEQR is going through the process currently.

Kathy Barsz, 440 Wadsworth Avenue, she feels the energy company wouldn't be coming here and proposing this unless they are making money. She feels the applicants are asking a lot of the people of Avon and they are not benefiting from it at all. The money doesn't stay in Avon.

Ron Blowers, 5378 Lake Road, there is a very large solar farm going in near Minnehan's and the truck traffic going by his house has increased. He feels there will be a lot more traffic

using that road than the applicant is stating.

Judy Falzoi, 1739 Athena Drive, and she sent letters for public comments and haven't received answers.

Christine White, 1945 Pole Bridge Road, at the last meeting there was a lot of debate regarding impact on the Town and she wants the Boards to take that into consideration when making a decision regarding this application. She feels this will set a precedent for other unsightly developments in our Town and that will be hard to live down.

Judy Falzoi, 1739 Athena Drive, she asked if Howlett has met the criteria for a special use permit. She wants to know how much greater is the voltage that comes into our home compared to on this site. Also, at the school solar farm there are danger signs posted on the transmission poles and she hasn't seen that anywhere else, why are they there? She suggested that the applicant offer a monetary value to each home owner if their property values actually decrease.

Matt McCabe, 1875 Pole Bridge Road, he is confused that the site plan states 300 feet from the property line for the panels but the setbacks in the solar law state 300 feet from any structure, which is correct. Lance Brabant stated the application before us is 300 feet from the property line to the solar panels. He asked where the other proposal was that was discussed at the last meeting because this site plan doesn't look any different. He doesn't agree that holly trees are the trees that should be planted and he is against this.

Joyce Blowers, 5378 Lake Road, she is totally against it for a number of reasons. The criteria set forth for approval of a special use permit haven't not been met with this application and none of them apply. This will be a terrible thing for the Town of Avon since so many residents are against it. People in Avon don't want to see solar panels in our rural community.

Steve Phillips, 5121 Twin Falls Lane, in the master plan for the Town of Avon how does this play for the area of future development. No one will want to build anything next to a solar farm.

Joyce Blowers, 5378 Lake Road, she feels that American Holly will not grow in our area; you need acidic soil for them to thrive. Kathy Cole stated that it has been determined already not to use that tree; some other variety that is native to our area will be planted.

Linda Palermo, 1865 Pole Bridge Road, she said that when her granddaughter found out about the solar farm she wanted to know if they were going to go on her playground. My granddaughter doesn't want it either.

Kathy Cole stated since there are no other comments; at this point the public hearing should be closed.

PLANNING & ZBA BOARD MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY RANDY, SECONDED BY JEFF PASSARELL.

KATHLEEN COLE -AYE

TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
VACANCY

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

CARRIED 11-0.

Lance stated he has some documents for the Board's consideration tonight. Lance did receive revised plans from the applicant and he reviewed them and responded with a comment letter back to the applicant. The applicant has addressed a majority of our comments as it relates to the special use permit and site plan applications, SWPPP, and decommissioning plan. There are some questions remaining on the Operation and Maintenance Plan.

Lance commented on the following:

Operation & Maintenance Plan: This governs the site, if this is approved it states what will have to be done on a daily basis for the term of the lease. One of the items we have open is to make sure all reports generated for this site get submitted to the Town. If there is a change that occurs that could potential alter the special use permit, the Town will have a record of it.
Decommissioning Plan: They have itemized the schedule that basically walks everybody through a step by step procedure in terms of what is going to happen if/when the project site where to be decommissioned. MRB Group is asking the applicant to put a timeline to those steps. They also stated the plans need to include installation and removal of erosion measures. It should include a legal agreement stating that the landowner, applicant, and any other LLC that could be involved are obligated to adhere to this plan and it will run the length of the special use permit. Lance asked the decommissioning estimate be revised to include SWPPP and erosion control. The Decommissioning Bond has to be in place for the full length of the project, 30 years plus 2 years.

Site Plans: All of MRB Groups comments have been addressed and we put a note in there that the NYS DOT hasn't sent any comments as of yet and if they send anything over during the construction process we would need to address those comments and possibly revise what is needed at that point.

Drainage: MRB Group made sure the project adheres to the NYS DEC regulations, the highest authority in this area, and it runs the duration of the project. This application is proposing to mitigate storm water runoff in accordance to DEC. They are not proposing to impact the drainage in a negative way; it will be less than in both volume and time what it was previously during a normal rain storm.

MRB Group also asked for a storm water maintenance agreement to be provided to make sure the maintenance is for the coverage and terms of the project.

Lance asked if any Board members had any questions for him regarding the application.

Tom McGovern has additional concerns regarding some of the chemicals that are used in manufacturing the panels. If something were to become damaged, he wanted to know if there was a parts list for the components being used for this application. Lance stated we did receive that information and they do meet the requirements associated with the specs that were provided. Lance also stated in the Operation & Maintenance Plan and Decommissioning Plan there is procedures for this, should it occur and NYS DEC also regulates it.

Bob Westfall asked if we addressed the drainage problem and who is responsible to dig the drainage ditch. Lance stated that this application proposes to put a drainage swale between the roadway and the existing residents on that side of the property. Everything from the panels will go through the swale and down towards Route 5&20. Everything around the panels will be stabilized with vegetative seed and that will help.

Jim Campbell stated the obligation for any development whether it is solar, residential, subdivision, or commercial structures need to make sure post development isn't any worse than predevelopment for drainage.

Jeff Mulligan stated the drainage is for the Town and Village to get this fixed. Mr. Howlett is having the panels in this area because there is no way to get rid of the water and it is too wet to farm. He also said this problem was created 50-60 years ago when the houses were built and should have been addressed and fixed then.

Tom McGovern stated there will be minimal improvement and it isn't going to make it worse with the panels. Jim Campbell stated the applicant is calling for a slight improvement but it doesn't fix the bigger picture.

Randy stated that you get one good year like this year and you get a perception that the land is valuable or productive farm land.

Lance stated unless there are any more questions pertaining to the application, the next step is for the Planning Board to go through the Environmental review. It will be SEQOR Full EAF Part 2 and Part 3; then making a determination on the potential impact this application has based on the information you received from the coordinated review, public, and from MRB Group.

Tom McGovern stated the discussion on the alternate plan would be more visibility for the residents. Lance also stated the vegetative area between the residents and the solar panels becomes farmable; which may or may not have a negative impact on run off in that area.

Randy asked if we go through the process of approving SEQOR does that mean this project is approved.

Jim Campbell stated that SEQOR is the first step in the process of considering site plan and special use permit approval. It is a pre-requisite, you go through the SEQOR review process, the applicant submitted a long EAF which is mostly project

information. The active part of that review is Part 2, which is a series of questions that will be asked of you as a Board to answer. Essentially there are two ways to answer it, either no or small impact or yes. If you say yes, there is a series of individual questions per each subject. Ultimately if you answer yes to any of the question in Part 3 you have to determine whether or not the potential for a negative consequence environmentally is significant. If it is significant and you can't mitigate it than the SEQR process continues by requiring the applicant to participate in a further process called Draft Environmental Impact Statement. If you find there is no or small impact than you issue a negative declaration impact and that concludes SEQR and you can go on to deliberate with regards to the Planning Board's site plan review and ZBA's special use permit.

Lance stated if there are additional things you feel need to be added to the plan, you can still go through SEQR and make a determination and make those changes after. Tom McGovern feels the visual impact to the residents needs to be seriously addressed in his opinion.

Lance stated they have drafted Part 2 and Part 3 for the Planning Board's consideration and make a determination.

Lance stated the first step in this process is to declare yourselves Lead Agency. MRB Group has filled out the Full EAF and through the pandemic and other means our 30 days have long ran out. There have been no objections from other agencies therefore it gives the Planning Board the authority to do this review. We need to go through that resolution and possibly make your motion to approve it.

Kathy Cole asked Lance to read the whole document. Lance read SEQR Designating Lead Agency Resolution

TOWN OF AVON PLANNING BOARD RESOLUTION
NEXTERA ENERGY RESOURCES AVON SOLAR
EAST AVON ROAD & POLE BRIDGE ROAD, AVON, NY
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SEQR - DESIGNATING LEAD AGENCY

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is considering Special Use Permit Approval & Site Plan allow for the development of the Avon Solar Project (Project), a proposed 5-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on 33.8 acres of the approximately 118-acre parcel as described in the Site Plans dated June 19, 2020 and all other relevant information submitted as of August 17, 2020 (the current application); and

WHEREAS, the Planning Board has determined the proposed action referenced above to be a Type 1 Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has on Monday, December 16, 2019 declared its intent to be designated the Lead Agency for the proposed Action under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has provided written notices to this effect to the involved and interested agencies; and

WHEREAS, the Planning Board has not received any written objections from the involved agencies to the Board's being designated as the lead agency under the SEQR Regulations; and

WHEREAS, the Planning Board has previously determined that it is the most appropriate agency to insure the coordination of this Action and for making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as the lead agency for the Action identified above herein;

The above resolution was offered by Kathy Cole and seconded by Thomas McGovern at a meeting of the Planning Board held on Monday, August 17, 2020. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Randy Kozlowski - AYE
Kathy Mannix - AYE
Thomas McGovern - AYE
Clara Mulligan - AYE
Brian Thorn - ABSENT FROM VOTE
VACANCY

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 August 17, 2020 meeting.

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

Lance also included the Full EAF Part 1 that was given by the applicant for our records.

Lance read each question for the Full EAF Part 2 with 18 sections and 10 pages. He will read each section if it is applicable to this application he will read the questions for the section for the Planning Board to answer. Section 1 is Impact on Land and the answer was yes. Lance read questions a-h and the answers were no or small impact may occur. Section 2 is Impact on Geological Features and the answer was no. Section 3 is Impacts on Surface Water and the answer was yes. Lance read the questions a-l and the answers were no or small impact may occur. Section 4 is Impact on groundwater and the answer was no. Section 5 is Impact on Flooding and the answer was no. Section 6 is Impacts on Air and the answer was no. Section 7 is Impact on Plants and Animals and the answer was no. Section 8 is Impact on Agricultural Resources and the answer was yes. Lance read the questions a-h and the answers were no or small impact may occur. Section 9 Impact on Aesthetic Resources was no. Section 10 is Impact on Historic and Archeological Resources and the answer was yes. Lance read questions a-e and the answers were no or small impact may occur. Section 11 is Impact on Open Space and Recreation and the answer was no. Section 12 is Impact on Critical Environmental Areas was no. Section 13 is Impact on

Transportation was yes. Lance read the questions a-f and the answers were no or small impact may occur. Section 14 Impact on Energy and the answer was no. Section 15 is Impact on Noise, Odor, and Light and the answer was yes. Lance read the questions a-f and the answers were no or small impact may occur. Section 16 is Impact on Human Health and the answer was no. Section 17 is Consistency with Community Plans and the answer was no. Section 18 is Consistency with Community Character and the answer was yes. Lance read questions a-g and all were no or small impact may occur except f which is the proposed action is inconsistent with the character of the existing natural landscape was answered moderate to large impact may occur.

Since one of the questions in Part 2 was answered yes, Part 3 must be filled out and there was much discussion on the inconsistent with the character of the existing natural landscape. Lance stated we will have to evaluate whether it has been mitigated through the project and that in both the Town's Compensation Plan and Solar Law, agricultural land is identified for solar fields. Kathy Cole asked when the buffering of all the trees being proposed, does that make it a no or small impact and Lance stated it just means that the impact has been potentially mitigated. Lance stated it is based on whether or not you feel the project before you, do you feel the mitigation on the plan or what you may require for your review is enough to offset that impact. There was much discussion on what the landscaping that is being proposed will make an impact. Jim Campbell stated that the Planning Board can require whatever landscape they want that will help.

Lance stated this has to be published on the Environmental Notice Bulletin and Lance will send it to be published.

Lance read to all present the SEQR Determination of Significance Resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
NEXTERA ENERGY RESOURCES AVON SOLAR
EAST AVON ROAD & POLE BRIDGE ROAD, AVON, NY
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SEQR - DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is considering Special Use Permit Approval & Site Plan allow for the development of the Avon Solar Project (Project), a proposed 5-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on 33.8 acres of the approximately 118-acre parcel as described in the Site Plans dated June 19, 2020 and all other relevant information submitted as of August 17, 2020 (the current application); and

WHEREAS, the Planning Board has determined the above referenced Action to be a Type 1 Action pursuant to Part 617 of the State Environmental Quality Review (SEQR) regulations; and

WHEREAS, the Planning Board determined that said Action to be subject to a coordinated review and approval by other involved agencies under SEQR Regulations; and

WHEREAS, the Planning Board has been designated the lead agency, under the provisions of Part 617.6 (3) and (4) of article 8 of the State Environmental Conservation Law; and

WHEREAS, the Planning Board has given consideration to the comments provided by the involved agencies and interested agencies at tonight's meeting; and

WHEREAS, the Planning Board has completed its review of Parts 2 and 3 of the Full Environmental Assessment Form (EAF); and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7 (c) of the SEQOR Regulations and the information contained in Parts 1, 2 and 3 of the Full EAF.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby accept the findings contained in Parts 2 and 3 of the Full EAF and directs the Planning Board Chairperson to sign and date the Full EAF Part 3.

NOW, THEREFORE, BE IT RESOLVED that 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) the site is will not negatively impact an identified archaeological sensitive area;
- (vi) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
- (vii) there will not be any hazard created to human health;
- (viii) 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;
- (ix) 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;

- (x) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (xi) 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
- (xii) 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 Full Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the Planning Board's determination.

The above resolution was offered by Kathy Cole and seconded by Thomas McGovern at a meeting of the Planning Board held on Monday, August 17, 2020. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Randy Kozlowski - AYE
Kathy Mannix - AYE
Thomas McGovern - AYE
Clara Mulligan - AYE
Brian Thorn - AYE
VACANCY

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 August 17, 2020 meeting.

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

Lance stated that the SEQR process has been completed. Lance stated the next phases are the evaluation of the site plan and special use permit. First, is the Planning Board and site plan.

Kathy Mannix asked that these parts be continued to the next joint meeting since it is so late and these will take some time to review thoroughly.

Tom McGovern agrees because he would like to look through the information again.

Brian, Clara and Diane are having a very hard time to hear and understand and he thinks this discussion should be held until the meeting as well.

Kathy Cole agreed as well and it was determined the next joint meeting will be September 14, 2020 at 7:00PM.

After the meeting Kim realized that September 14, 2020 is a court date and the meeting was moved to September 15, 2020 at 7:00PM.

ZBA & PLANNING BOARD MOTION TO CLOSE THE MEETING WAS MADE BY TOM MCGOVERN, SECONDED BY RANDY KOZLOWSKI.

KATHLEEN COLE -AYE
TOM MCGOVERN- AYE
RANDY KOZLOWSKI - AYE
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
VACANCY

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

CARRIED 11-0.

MEETING CLOSED.