

PLANNING & ZBA MEETING, MONDAY, OCTOBER 25, 2021

ZBA MEMBERS PRESENT: JEFF MULLIGAN, BOB WESTFALL, JEFF PASSARELL, CINDY KELLEN

ZBA MEMBERS ABSENT: DIANE ATTEA

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

PLANNING BOARD MEMBERS ABSENT: KATHY MANNIX, RANDY KOZLOWSKI

OTHERS: CEO BRIAN GLISE, LANCE BRABANT, MRB GROUP, JAMES CAMPBELL, KRUK & CAMPBELL (TOWN ATTORNEY)

VISITORS: JEFF LEFROIS, KIM NEFF, DONALD & KATHLEEN GUNTHER, JAYESH CHAMPANERI, JAMES BEDRIN, BRYAN BAYER, DAVID UNDERHILL JR., DAVID UNDERHILL, BRADY BESHURES, CHRIS BILL, COLIN BILL, MATT HOLMES, MEG HOLMES, GARY WHEAT, JANET WARD, BROCK CUDDLEBACK JR., ANDREW LENNOX, KEVIN OVERTON

CLERK: KIM MCDOWELL

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

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

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

CARRIED 9-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM THE SEPTEMBER 25, 2021, MEETING SUBMITTED WAS MADE BY KATHY COLE; SECONDED BY BOB WESTFALL.

JEFF MULLIGAN - AYE
CINDY KELLEN- ABSTAIN
BOB WESTFALL- AYE

DIANE ATTEA - ABSENT
JEFF PASSARELL - AYE

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

CARRIED 8-0.

GUNTER, DONALD & KATHLEEN/4550 RED FOX RUN/TAX PARCEL #34.-1-3.132 - VARIANCE - ACCESSORY STRUCTURE IN FRONT OF PRIMARY STRUCTURE - PUBLIC HEARING

Jeff Mulligan stated this public hearing for a run-in horse shed that is in front of the primary structure.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY JEFF PASSARELL; SECONDED BY CINDY KELLEN.

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

CARRIED 5-0.

Jeff Mulligan asked if there were any questions or comments regarding this application.

Mr. Gunther stated there is nothing different from last month and if anyone has any questions, he will answer them.

Jeff Mulligan asked if we could close the public hearing but James Campbell requested it to stay open a little longer.

Jeff Mulligan asked if there was any SEQR process and Lance Brabant stated yes there is. This application is considered a Type II Action under SEQR.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
DONALD & KATHLEEN GUNTHER – 4550 RED FOX RUN
AG - ZONING DISTRICT - TM# 34.-1-3.132
AREA VARIANCE APPLICATION - ACCESSORY BUILDING IN FRONT
OF PRIMARY STRUCTURE

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 for an accessory structure (Run in Shed) to be located in front of the primary structure located 4550 Red Fox Run 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 Jeffery Passarell at a meeting of the Board of Appeals held on Monday, October 25, 2021. 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 –	ABSENT

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 October 25, 2021 meeting.

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

Jeff Mulligan again asked if there were any comments before closing the public hearing and there were none.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CINDY KELLEN;
SECONDED BY BOB WESTFALL.

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

CARRIED 4-0.

TOWN OF AVON

OPERA BLOCK BUILDING
23 GENESEE STREET
AVON, NEW YORK 14414
PHONE: (585) 226-2425 • FAX: (585) 226-9299
http://www.avon-ny.org/index_town.html

BUILDING AND ZONING DEPARTMENT

ZONING BOARD OF APPEALS DECISION SHEET

Hearing Date: October 25, 2021

Project Name/Number: Donald & Kathleen Gunther

- Area Variance Accessory Structure in front of Primary

Subject Property Address: 4550 Red Fox Run

Tax Account #: 34.-1-3.132

Zoning District: AG District

Agenda Item: Area Variance – Accessory Structure located in front of the existing primary structure. Proposed run in shed that is ±1,200 SF and ±14 foot tall.

Motion made by: Jeffery Passarell

Seconded by: Cindy Kellen

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

Approved:

Denied:

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval date 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.

LEFROIS, JEFF/1686 LAKEVILLE ROAD/TAX PARCEL #35.9-1-30 -
SPECIAL USE PERMIT

Jeff Mulligan stated we needed some additional information regarding this Special Use Permit. The Board wanted to look at the site plan pictures that were provided.

Jeff Mulligan stated there are eight customer parking spots and 20 spots for selling cars. Mr. LeFrois stated there is only family members and one employee that work at the shop. Mr. LeFrois also stated that he terminated his relationship with Pioneer Trucks so there will be no longer be cars parked on the side lot.

Jeff Mulligan asked Lance Brabant if this site plan is acceptable from MRB Group perspective, which it is.

Jeff Mulligan asked if there were any questions from either Boards regarding this application.

Clara Mulligan had a question about the Pioneer lot, she asked if Gene still owns it, which he does.

Bob Westfall asked if Mr. LeFrois is taking over the whole building and he will be at the end of the month once Car Toys moves out.

Cindy Kellen asked about emergency accessibility and Brian stated there is plenty of room for emergency vehicles.

Kathy Cole looked at the picture Mr. LeFrois provided at night and stated that she just realized Mr. LeFrois doesn't even own the light that shines on the neighbor's property across the street.

Clara Mulligan asked about signage, and she was wondering if they are code compliant. Brian said they are and if he wanted to have additional signs, he would need to submit a permit.

Mr. LeFrios stated he is not requesting any additional signs.

Jeff Mulligan stated there is no issues with SEQR Type II action.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
LEFROIS BROTHERS AUTOMOTIVE – AUTOMOTIVE SALES AND SERVICE
1686 LAKEVILLE ROAD – GENERAL BUSINESS ZONING DISTRICT
TM # 35.9-1-30

SEQR RESOLUTION – TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering an application for Special Use Permit Approval to allow the sale and service of automobiles using the current infrastructure located at 1686 Lakeville Road, within the B-1 zoning district, and as detailed on the site plans, and all other relevant information submitted as of October 25, 2021 (the current application); 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, October 25, 2021. 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 –	ABSENT

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 October 25, 2021 meeting.

Kim McDowell L.S.

Kim McDowell, Clerk of the Board

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
LEFROIS BROTHERS AUTOMOTIVE – AUTOMOTIVE SALES AND SERVICE
1686 LAKEVILLE ROAD – GENERAL BUSINESS ZONING DISTRICT
TM # 35.9-1-30

SPECIAL USE PERMIT APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering an application for Special Use Permit Approval to allow the sale and service of automobiles using the current infrastructure located at 1686 Lakeville Road, within the B-1 zoning district, and as detailed on the site plans, and all other relevant information submitted as of October 25, 2021 (the current application); and

WHEREAS, the Zoning Board has classified the above referenced Action to be a Type II Action under Section 617.5 (c) of 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 thereby completing the environmental review; and

WHEREAS, the application was forwarded to the Planning Board for review and recommendation regarding the Site Plan; and

WHEREAS, no improvements are proposed to the existing site and therefore a waiver from a professionally prepared site plan was granted by the Boards; and

WHEREAS, the Planning Board at their meeting on October 25, 2021 completed their review of the Site Plan and made a recommendation of approval; and

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

1. The special use permit shall remain in effect for the current owner of the premises only, with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35. If ownership changes this special use permit will become null and void requiring the new owner will be required to apply for a new special use permit of operations on the site.
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 ensure 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 operations 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. The Special Use Permit shall be operated in accordance with the Request for Special Use Permit (Statement of Operations) dated October 1, 2021 and Site Plan reviewed at the October 25, 2021 Joint Board Meeting, both prepared by the Applicant, and in accordance with all applicable sections of the Town of Avon Town Code.

5. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
6. No proposed signage is approved with this application. A separate review and approval would be required.

The above resolution was offered by Jeffery Passarell and seconded by Bob Westfall at a meeting of the Board of Appeals held on Monday, October 25, 2021. 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 –	ABSENT

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 October 25, 2021 meeting.

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

CHAMPANERI, JAYESH/6107 EAST AVON-LIMA ROAD/TAX PARCEL #36.-1-75.1 - LIQUOR STORE SITE PLAN APPLICATION

Kathy Cole asked Lance to give us an update on the application. Lance stated this application is taking a vacant garage and requesting it for public use; therefore, we need to have stamped, signed plans for any approvals to be made.

Mr. Champaneri stated that he has engineers working on the site plan and they should have them completed in a couple of weeks.

Lance Brabant said they will need to show water connection and an easement agreement, show where the meter will be, and where the septic system is located. We will also need light locations, dumpster location. Mr. Champaneri stated the dumpster is already on property. Mr. Champaneri stated the parking lot is already in place it just needs to be paved.

He is wondering when he will be able to begin construction on the building, he is concerned about his liquor license which states he needs to have everything ready by January 2022.

Lance Brabant stated there are some approvals from other agencies before you will be able to do any work on the property.

Kathy Cole asked if we needed to have a public hearing for this application which we do not since it is just a site plan application.

Lance Brabant stated that hopefully we will get a site plan before the November 22, 2021.

Jeff Mulligan stated when he looked at the plans, he feels there should be a way for people to access the building from in front of their cars not walking behind them. Mr. Champaneri said there will be a walkway in front of the building.

Kathy Cole asked if the two garage doors on the side of the building will be removed and they will.

Clara Mulligan asked if there is any ADA parking and there will be right next to the door.

Kathy Cole asked if he is concerned about going between both buildings for customers and he is not, he said there is enough room.

Mr. Champaneri will return to the November 22, 2021 meeting for further review of this application.

WHITE HORSE ENTERPRISES, LLC, ACTING AGENT FOR 1558 WEST HENRIETTA LLC/1558 EST HENRIETTA ROAD/TAX PARCEL#35.-1-8.3 - POSSIBLE USES FOR PROPERTY, DISCUSSION ONLY

Mr. Andrew Lennox and Mr. Chris Bills were here to discuss this parcel. They do not plan to change anything on site, just clean up the outside of the building and display cars for sale in the existing parking area.

Mr. Lennox is here to determine what the next steps are and what applications are needed, he feels these uses are similar with what has already been in place previously on this parcel.

Kathy Cole asked if they are planning to sell cars on this parcel in addition to what is on his other car lot around the corner. Mr. Bills stated they are getting a little packed and

he is looking to have approximately 30 cars in front and the 2 bays in the rear as a detail shop.

Clara Mulligan asked how you can fit 30 cars without having to make any changes. Mr. Bills stated you could have 10 cars on the back side and 10-15 cars in front and they would only be on the pavement.

Kathy Cole asked if this will be an overflow from your current operation. Mr. Bills stated the office is very small and this building is bigger, so it will be nicer to use. Mr. Bills also plans on making some changes to the other building but that might take a while. He plans on combining all three properties on his other lots around the corner.

Kathy Cole is concerned with the number of cars he is proposing since they have so many cars on the other lot. Tom McGovern also feels that is a lot of cars on this parcel.

Mr. Bills showed the Board members exactly where he wanted to put cars on this parcel.

Jeff Mulligan asked if he is planning on having the sales office for his business on this parcel or will there be offices in both locations, and he will have both offices open.

Lance Brabant asked Brian and the Board if they are considering this a similar use, if so, it would not require a special use permit. Brian stated a special use permit should be done in his name since he is the new owner of the property.

Lance Brabant stated there are certain items that are needed on the site plan if they are going to go the route of a special use permit.

Jeff Mulligan asked if he also purchased the H&R Block side of the property, and he did but he doesn't plan on selling cars there, it will be H&R Block for the next 10 years at least.

Bob Westfall asked if he is planning on doing something about his need for additional office space, Mr. Bill would like to combine the properties, pave, and lights.

Lance Brabant stated they will need a special use application and the plans need to show the spaces, the number and size of spaces, access is being maintained, employee parking, and a detailed statement of operations.

Brian Glise asked if they are planning on purchasing this new lot and Mr. Bills is leasing it for the next 6 months and then purchasing it.

Jeff Mulligan asked if the parcels are combined with the mini storage parcel and Mr. Bills thinks it is.

Tom McGovern asked if displays spots are the same size as parking spots and they are.

Clara Mulligan asked, from a comprehensive plan standpoint with what they had in mind for East Avon, does that give us any guidance for this parcel that is zoned General Business/Light Industrial.

Jim Campbell stated it gives more of the specific uses, the code is based in substance on the comprehensive plan, and it is a little bit of a balancing act.

Jeff Mulligan feels that we just limited Mr. LeFrois to 20 cars on his parcel and feels we should only allow Mr. Bills to have 20 cars as well.

Cindy Kellen stated you need to submit your site plan before we can give you details on what you can and cannot do.

Lance Brabant asked that this site plan be all inclusive and even if there are improvements in the future, you may want to put them on there now.

Kathy Cole asked Mr. Bills if he is certain that the current owner will sell him the property and yes, he is.

Kathy Cole stated his next step would be to submit a special use permit application with all the supporting documents for next month's meeting and then you can have your public hearing the following month.

Clara Mulligan asked if the Boards could require the site plan to include trees and landscaping, and they can.

Mr. Bills was wondering if he could put a sign like his other sign, and Lance suggested working with Brian on that.

AVON CSG 1 LLC ACTING AGENT FOR STARKEY DRIVE HOLDINGS LLC &
PHILIP SILVAROLE/5530 WOLCOTT DRIVE/TAX PARCEL #44.-1-36.4 -
SOLAR FARM

Mr. Bedrin from Dimension Energy and Mr. Bayer from C&S Companies are present for this application.

Mr. Bedrin attended the October 14, 2021, Town Board meeting and the Town sent a letter to the Planning and ZBA Boards giving approval of the use in the PDD zoning for this application.

Mr. Bedrin stated this is in a PDD zoning and is a 4MW, located on Starkey Drive. The lot coverage will be 6.1 acres which is the panels themselves. We will need a variance for the setbacks on this project, there is a 100-yard setback from Starkey Drive and 50 feet from side and rear. Mr. Bedrin feels this is a good site for solar since there is no productive farmland and no residential structures close by. Mr. Bedrin would like to start the SEQR process tonight and have the Planning Board declare lead agency on this application.

Kathy Cole asked Lance to give us an update from MRB Group standpoint.

Lance Brabant stated they have started their review and feel that all the required information has been provided. They are not compliant since they must have variances from some of the setbacks and dimensions from the Solar law.

James Campbell stated that we will need to coordinate with the Town Board, Planning Board, and ZBA Boards due to it being in the PDD. The Town Board was presented this application and they viewed it favorably and gives the go ahead for the SEQR process to begin.

Lance Brabant stated with other solar projects the Planning Board has been lead agency and the draft resolution is set up that way. If the Boards feel we can begin, November 2, 2021 - December 1, 2021, will be the time for any agency to send any concerns back. The earliest any action can be taken would be end of December/beginning of January.

James Campbell also stated that the setback requirement deviations will also need to go before the Town Board.

Lance Brabant asked if this application has been referred to the County yet and it has not.

Bob Westfall asked how the applicant defines unproductive farmland and Mr. Bedrin stated that is what he was told by the landowner. Jeff Mulligan stated as a farmer that land is very wet and heavy ground, and it is unproductive in his opinion. Clara Mulligan questioned whether it is considered prime soil and Jeff Mulligan stated it is.

Jeff Passarell stated other than the farmers opinion is there any formal way to find out if this land is in fact unproductive. Jeff Mulligan stated there is a website about soils that you could look for answers.

Clara Mulligan stated the County does discourage putting solar on prime soil and even though it is prime soil but not productive for farming.

Lance Brabant stated that even though it is in a PDD district it is not in Agriculture therefore it makes it a different threshold.

James Campbell stated the applicant may want to include some documentation to the Town stating this information that we can include in the County's referral packet.

Clara Mulligan also asked about the combining of lots just to have solar on it and James Campbell stated it was in the law so that applicants can't have several different solar farms on one big parcel.

Kathy Cole asked Lance if declaring lead agency is the next step and he stated it is unless there are any other questions or comments.

Lance Brabant stated that a motion is usually done to refer to the County and a more formal resolution is done for declaring lead agency.

MOTION TO REFER APPLICATION TO THE COUNTY WAS MADE BY THOMAS MCGOVERN; SECONDED BY CLARA.

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

JEFF PASSARELL - AYE

KATHLEEN COLE -AYE

THOMAS MCGOVERN - AYE

RANDY KOZLOWSKI - ABSENT

KATHLEEN MANNIX - ABSENT

CLARA MULLIGAN - AYE

BRIAN THORN - AYE

CHRISTOPHER STERNER - AYE

CARRIED 9-0.

Lance Brabant read through the resolution to declare lead agency to all present.

**TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 1 LLC SOLAR PROJECT
STARKEY DRIVE, AVON, NY
TAX MAP ID: 44.-1-36.12 & 44.-1-36.4
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW**

SEQR – DECLARING INTENT TO BECOME 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 CSG 1 LLC Solar Project (Project), a proposed 4.37-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on ± 27-acres site as described in the Site Plans dated October 2020 and all other relevant information submitted as of October 25, 2021 (the current application); and

WHEREAS, the Planning Board has reviewed the completed State Environmental Quality Review (SEQR) Full Environmental Assessment Form (EAF), Part 1 prepared by the applicant on the above referenced Solar Farm (hereinafter referred to as the Action); and

WHEREAS, the Planning Board determines that said Action is classified as Type 1 Action under the SEQR Regulations; and

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

WHEREAS, the Planning Board determines that it may be the most appropriate agency to insure the coordination of this Action and will provide written notifications to the involved and interested agencies, for the purposes of conducting a coordinated review and making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby declare its intent to be designated as the lead agency for the Action.

BE IT FURTHER RESOLVED, that the Town Engineer (MRB Group) is directed to provide notice hereof to the involved and interested agencies, seeking their agreement (or objection thereto) in writing on or before noon on **Wednesday, December 1, 2021**.

The above resolution was offered by Tom McGovern and seconded by Clara Mulligan at a meeting of the Planning Board held on Monday, October 25, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole – AYE
Randy Kozlowski - ABSENT
Kathy Mannix - ABSENT
Christopher Sterner - AYE
Clara Mulligan - AYE
Brian Thorn - 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 October 25, 2021 meeting.

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

Mr. Bedrin asked how the Boards will handle a public hearing and how does it come together. James Campbell stated in the past, we have done one joint public hearing with all the Board for everyone to hear the information at once and the Boards agreed.

Lance Brabant suggested at the November 22, 2021, meeting is when we schedule a public hearing that is good for all Boards.

Mr. Bayer stated that he initiated the SEQR process through SHPO and Lance will coordinate with him.

Thomas McGovern asked about battery storage in the future for this site. Mr. Bedrin stated he is not experienced in storage, and they are not incorporating storage for this project.

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

Ms. Ward & Mr. Overton are present here to discuss this application on behalf of Mr. Wheat.

Ms. Ward stated this parcel is zoned Agricultural but is not enrolled in an agricultural district. The project is 5MW, the parcel is 36 acres, the panels and roads are 18.9 acres. The project is designed to follow the new solar law. There will be vegetative buffers along the north and some along the east and fencing will have green slates. The panels near Mr. Wheat's house are a little closer but since he is a participating landowner, they can be closer. There is small wetlands and a pond on the parcel which they have received a no permit required from the US Army Corp.

Jeff Mulligan asked what the classification of this parcel is, and Ms. Ward stated it is in one of the pages in the application and the soil is in the 1-4 classification.

Ms. Ward stated it is currently used as agriculture, there is a tree line along the south and west, glint glare analysis and noise study is included in the packet along with a stormwater protection plan. Decommissioning plans were used from the Pole Bridge Road project that was approved recently and followed the solar law.

Ms. Ward stated this lease is for 25 years with option for two-five-year extensions.

Glint/glare study showed no visual impact, and the noise study is compliant with NYS DEC. The panels are fixed tilt and will be facing the south away from homes.

Clara Mulligan stated this parcel is 88% prime soil. Jeff Mulligan asked if it was highly eroded, Mr. Wheat didn't know the answer to that question and neither did Ms. Ward.

Ms. Ward is waiting for feedback from both the Town Attorney and the Town Engineers as far as comments on the application.

Jeff Mulligan asked how many poles will be added and there will be 3 new poles and an equipment pad, and it is a 3-phase line.

Jeff Mulligan stated he is bothered by this going on this kind of soil that is quality farmland. Ms. Ward states this provides a long-term stable income to the owner and provides income to future generations. Mr. Wheat also feels he is preserving the farmland by putting solar in and he is farming electricity.

James Campbell said the solar committees were very concerned about that as well. They questioned how much should they allow without compromising the farming community and that is why they limited the size of solar allowable.

Ms. Ward feels this location is a nice pocket where it will not be that visible. The leased area is 18.9 acres, and the total parcel is 36 acres which is below the 60% allowed.

Clara Mulligan asked why the panels are different colors and it is because of the different sizes, dark blue is 450MW and green is 320MW. The different sizes account for the Safe Harbor tax credits for the project.

Lance Brabant asked if all the panels proposed from ground level are going to be the same height and yes, they are. Jeff Mulligan asked how tall they are, and the maximum height is 15 feet and racking are 8-10 feet.

Lance Brabant asked if they provided spec sheets on each of the panels being proposed and Ms. Ward stated they are in the electrical drawings.

Clara Mulligan asked about the soil sampling that is required and Ms. Ward stated you do it before construction and they take samples throughout the site and is done bi-annually through the life of the project. Lance Brabant also stated as part of the Operations & Maintenance Plan the name of the environmental monitor will be included.

Jeff Mulligan asked how much percentage of the Town of Avon is covered doing a project like this. Ms. Ward doesn't have an answer to that question, but Brian Glise googled it and it stated 1 MW covers 4-900 houses.

Ms. Ward asked if there were any comments from MRB Group and Lance Brabant hasn't finished the review yet. Ms. Ward feels the only thing outstanding is the SHPO review and it is in process.

Lance Brabant feels the SEQR process could possibly begin and referral to the County at the November 22, 2021 meeting.

Clara Mulligan had a question about the Community Benefit Agreement in the solar law and what does that entail. James Campbell stated that PILOTs are becoming more limited, and the CBA directs more of the funds towards the Town instead of the

School and County since the Town has more impact due to the solar projects.

Brian Glise stated that the webinar he listened to talked about the post inspections in regard to wires and that should be covered in the planning process. Lance Brabant stated if you have a fence around the panels, you will not need to require that and there will be a professional that says it is constructed properly.

Ms. Ward asked about the escrow account that is required for professional fees and how much is required. James Campbell said previously we have required \$10,000.00 initially for projects.

Kathy Cole stated since the project is close to her sister and brother-in-law's residents, she is going to recuse herself from this application. James Campbell stated she will not be able to participate in both discussions and decisions. Brian Thorn is the Vice Chairman for the Planning Board and will take the lead on this project.

Ms. Ward asked if we wanted any printed copies of the application supplied for meetings, but everyone prefers electronically. James Campbell stated we will need 3 hard copies once all decisions have been made.

Kathy Cole asked if there were any other questions and Lance Brabant had some information regarding Piranha Phase II application.

Lance Brabant stated that we started the process back in May/June but have not been able to do anything with it since some of the involved agencies specifically the Village of Avon and LCWSA have not responded on the sewer issues. We have recently received a response letter from LCWSA stating that they would allow a connection to the sewer system for this project. Lance Brabant feels at the November 22, 2021, meeting the applicant can come in and start the process again. James Campbell stated that this application will have less impact than a single-family residence from a discharge standpoint. Lance Brabant stated the uses will require approval from the Town Board, but Brian Glise thinks the Town Board has given some uses approval already. James Campbell feels they will still need to come to the Town Board to get approvals for uses in this phase of the project.

Kim McDowell asked if the Boards still would like to do once a month joint meeting and they agreed they would like it to

continue. Kim McDowell also asked if the 4th Monday of the month is still good as well and it was determined it should be the 3rd Monday of the month instead.

MOTION TO CLOSE THE MEETING WAS MADE BY CLARA MULLIGAN; SECONDED BY CHRIS STERNER.

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

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

CARRIED 9-0.

MEETING CLOSED.