

**TOWN OF ULYSSES
PLANNING BOARD
MEETING MINUTES
Tuesday, 7/5/2016
7:00 p.m.**

Approved: August 16, 2016

Present: Chair David Blake, board members Rebecca Schneider, David Tyler, John Wertis, Sara Worden, and board alternate Ben LeWalter; Environmental Planner Darby Kiley; and Town Board Liaison Rich Goldman.

Public in Attendance: Thom Mayo and Jon McNamara of Renovus Energy, Shannon Hamilton, Jeff Goodmark, Nancy Kusamono, and Andrea Murray.

Call to Order: 7:01 p.m.

Agenda Review; Minutes Review (6/7/16)

Mr. Wertis made note of an email he sent to fellow Planning Board members regarding solar glare. Ms. Kiley said a three-lot subdivision proposal at 336 Pennsylvania Ave. would not be up for Board consideration this evening, though it is on the night's agenda.

Mr. Wertis MADE the MOTION to accept the June 7, 2016 meeting minutes, and Ms. Schneider SECONDED the MOTION. The minutes were unanimously accepted, 5-0.

Privilege of the Floor: No members of the public addressed the Board at this time.

Mr. Wertis offered his own definition of glare since the current zoning lacks one: "direct or reflected light of such intensity that when received by the human eye it causes loss of normal vision." Ms. Schneider thought it a good working definition, but it would need more refining. Planning Board members said they were generally comfortable with Mr. Wertis's working definition.

Continued SKETCH PLAN: Consideration of Sketch Plan for a 484.34 kW photovoltaic system at 7107 Jacksonville Rd, Tax Parcel Number 20.-1-6.1; R1-Rural Residence District. The Paleontological Research Institution, located in Ithaca, NY, will be leasing approximately 2.25 acres of land from the Finger Lakes Grassroots Festival in order to install an offsite solar collector facility. The panels will be in seven rows ranging from 370 to 400 feet in length for a total area of approximately 29,500 square feet. The project will be located directly south of a previously approved 360 kW system on 1.81 acres. Finger Lakes Grassroots Festival Inc., Owner; Renovus, Agent for the owner.

Mr. Wertis MADE the MOTION to open the sketch plan conference, and Ms. Worden SECONDED the MOTION. The motion was passed unanimously.

Mr. Mayo brought to the Planning Board an updated site plan and a preliminary planting plan. He offered one correction: the seven trees north of the driveway should be noted as 10 feet tall. Responding to Mr. Tyler's question concerning tree growth, Mr. Mayo said the proposed pine trees should grow about 1 or 2 feet per year. The updated planting plan takes into account the glare issue experienced at the Murray residence, and taller trees were added, he said.

Mr. Wertis reminded the Planning Board that it had previously discussed bringing in an independent evaluator to review the landscaping plan. It remains a possibility, he said. Also, Mr. Wertis asked what would happen if the existing drive to the project site were moved further north. He finds the current entrance too jarring, offering clear views to the solar infrastructure. Mr. Mayo said Renovus has proposed trees on either side of the drive that, once grown in, would limit site views into the solar arrays. Also, Renovus decided on the current driveway location given the grade on the east side of the project and the potential for runoff.

Asked by Mr. Blake if Renovus will assume responsibility for trees for the next 25 to 30 years, including maintaining and replacing any trees if they should die, Mr. Mayo said yes.

Mr. Wertis paid several visits to the Murray residence to see first-hand the apparent glare. Each of his visits was between 4:30 p.m. and 5:30 p.m., with various weather conditions. He said he did not experience any glare. Mr. Blake said he recently drove along Agard Road around 7 p.m. and noticed major glare off the panels and glare reflection on the Murray's second-floor windows.

At this time, Mr. Blake asked Renovus representatives if it were true that Melissa Kemp – a Renovus representative who worked with the Planning Board on the company's Agard-Jacksonville road project – is in a relationship with the glare professional who addressed the Planning Board recently. The Renovus representatives said yes, but that both are professionals and do not believe it to be an issue. Mr. Blake thought it a conflict of interest, adding Renovus has an obligation to reveal such conflicts to the public. Mr. Mayo said the glare professional presented an independent software study.

Mr. LeWalter pointed to the first project's schematics and said it failed to match the actual grade on which the panels were installed. The result is an array that slopes toward the south, directing glare into the road. The project looks sloppy and unprofessional, he said. In response, Mr. Mayo said the installation is consistent with every project Renovus has ever done. The company built exactly on the grade they indicated. When the project was approved, the design was presented showing the arrays would be installed on a grade. The clearance was known.

Ms. Schneider said she would like to have an independent consultant review the issue of glare because it seems the Planning Board is getting mixed pieces of information. Mr. Mayo said Renovus, citing the glare study, expressed there would be limited glare, and the project was approved. The glare was a known, he said.

Mr. McNamara said a third-party is needed to evaluate the glare objectively. Renovus is here to do the right thing, he said, and noted the original planting plan has not even gone in yet, nor is the full project fully completed. This process needs facts. For residents living on the east shore of

Cayuga Lake, their glare off the lake is much more significant. Mr. McNamara asked Mr. Blake to isolate each instance in which the Planning Board felt distrust toward Renovus. Mr. Blake mentioned Ms. Kemp saying the second solar project had just a 40-percent chance of proceeding, but the second project was before the Planning Board in a month's time. Secondly, there was a change in ownership with the first project, shifting ownership from a non-profit – a detail the Planning Board viewed favorably – back to Renovus, a for-profit business. Had the Planning Board known a for-profit business would be the ultimate owner of the array, Mr. Blake said he would have been inclined to demand more tree plantings. The third strike, he continued, was learning of the conflict of interest involving Ms. Kemp and the person who presented the glare study.

Mr. McNamara said Renovus should not have disclosed who the solar users would be, and further, the Planning Board should not be discussing it. You know you are legally out of bounds, he said. As for the ownership of the array, Mr. McNamara said it was very unfortunate and not ideal for Renovus that the Sciencenter backed out. It threatened the stability of the company. On glare, he said Renovus did not mislead the Planning Board. He apologized and said nothing was done maliciously; Renovus built the project it had, and glare came up. They will do everything they can to fix it, he said.

Ms. Schneider said the project was viewed as an exciting opportunity for both the Town of Ulysses and Renovus. Ultimately, though, it proved a lesson in being more cautious and not as naïve, she said, since the Planning Board lacks a strong knowledge base when it comes to large-scale solar installations. She also noted that both projects were rolled into a single stormwater protection plan, an indication that Renovus knew the second project would proceed. It was also billed as a community solar farm, she said.

In response, Mr. McNamara said the Sciencenter basically left Renovus at the altar. Renovus had already bought the materials and would have gone out of business if the project did not get built, he said. Once the Sciencenter backed out, Renovus called Ms. Kiley to inform her of the change and to ask if Renovus needed to do anything else. They were told no, he said. Additionally, Renovus reached out to neighbors to inquire about interest in connecting to the solar panels. No neighbors ultimately signed up. We are not deceiving people, he said, adding he was shocked and appalled to read the draft minutes from the June 7, 2016 meeting.

Mr. Tyler said he is gratified with Renovus's intentions to correct any issues associated with the first project. He said he had an inclination glare would be an issue and regrets having not asked further questions about it.

Ms. Schneider reiterated the need for an independent consultant to review glare. She also suggested a resolution to the Town Board expressing the need to revisit the Town's solar ordinance and discuss issues, particularly allowable sizes of solar arrays as well as how to mitigate glare issues.

Resolution

Ms. Schneider MADE the MOTION to forward along the following resolution to the Town Board, and Mr. Wertis SECONDED the MOTION as follows:

“That the Town revisit its local solar law for possible changes and consider implications for solar expansion across the Town, particularly the appropriate number of projects and scale, as well as issues stemming from the initial solar project like slopes, impacts on neighbors and glare. The Town recognizes a need for a more systematic way to review projects.”

Discussion ensued regarding who should lead changes to the solar ordinance – the Town Board, Planning Board or the newly formed Sustainability and Conservation Advisory Council. Ms. Schneider liked the idea of both the Planning Board and Sustainability and Conservation Advisory Council reviewing the ordinance.

Ms. Schneider said the purpose of the resolution is, in part, to make the Town Board aware that funds may be needed if a consultant is requested to review the pilot project (Renovus’s Agard-Jacksonville road installation).

The vote was as follows:

Mr. Blake AYE
Ms. Schneider AYE
Mr. Tyler AYE
Mr. Wertis AYE
Ms. Worden AYE

Result: Resolution passed.

Resolution

Mr. Blake MADE the MOTION to approve the following resolution, and Mr. Wertis SECONDED the MOTION as follows:

“The Planning Board requests a third party review of the previously approved major solar project as well as the project currently under consideration, on issues concerning glare, screening, the design of the project (sloped land, panel orientation), and the proposed planting plan (including types of vegetation).”

The vote was as follows:

Mr. Blake AYE
Ms. Schneider AYE
Mr. Tyler AYE
Mr. Wertis AYE
Ms. Worden AYE

Result: Resolution passed.

Ms. Murray told of her family's future plans of building a small house near their existing home. Raising panels to mitigate glare would create an aesthetic issue, which is an important concern. There are times when the glare is blinding, she said, adding a realtor thought the Murray property value could decrease by 10 percent due to the panels.

Mr. McNamara noted the project is not even completed yet, and there may not be a problem once it is completed. On devaluation, he said there are no facts to prove property values are devalued because of solar.

A brief discussion ensued about whether the Planning Board's intention with the resolution was to inform the current project or the existing one. The issue of who would ultimately pay for the consultant – the Town or the applicant – would depend on which the Board preferred. Ultimately, the Board reached a general consensus that the future independent analysis would inform the project currently under consideration.

Mr. McNamara said Renovus has done dozens of projects and has never had a similar problem anywhere else. He requested the Town, when seeking a consultant, avoid any instances that could create a conflict of interest among competitors. He asked for a timeline. Without one, the Town is essentially enacting a de facto moratorium. Ms. Schneider said the Planning Board is unable to provide a realistic time frame until a consultant is hired. Mr. Wertis suggested the Board hold a special meeting to further discuss Renovus solar. On the subject of glare, Mr. McNamara said any future review would reference the previous glare study, which was already presented to the Board. The FAA also has a great glare study, he said. Mr. Blake said the Planning Board would move as quickly as it can.

The Renovus discussion finished at 8:16 p.m.

Consideration of SEQR and Minor Subdivision approval for 1045 and 1071 Perry City Rd, Tax Parcel Number 32.-1-4.2; CD-Conservation District. The proposal includes a two-lot subdivision of an existing 40.25 + acre parcel into one lot with 10.00 + acres and two existing residences and the remaining lands with 30.25 + acres. On 4/7/15, a lot with 3.86 + acres lot received subdivision approval after the Board of Zoning Appeals granted area variances for lot area deficiencies on 2/18/15. Richard and Connie Evans, Owners; Lee Hamilton, applicant/agent.

Ms. Hamilton told the Planning Board of her family's intentions to build a new home on the property. There are currently two houses located on the parcel but neither is large enough. Once the new, third house is built, the other two homes will be used as rental properties, she said. The property has lake views and is not considered prime farmland, according to Mr. Goodmark. While noting the proposed subdivided parcels would be conforming, Ms. Schneider expressed concerns with approving incremental subdivisions – in this case a three-lot subdivision – within the Conservation Zone. To Mr. Goodmark's understanding, no further subdivisions can take place.

Responding to a question from Mr. Wertis regarding property management, Ms. Hamilton said they would be willing to do whatever possible to preserve the natural character. Mr. Goodmark

added parcel B has been used by a couple of farmers who harvest hay, an ongoing practice there for some 80 years.

Noting that a house design is not available yet, Ms. Kiley said the Planning Board would only see a house design if the home and/or a roadway were to be located in the Slope Overlay District. Ms. Hamilton said she spoke with Ms. Kiley and said she is willing to locate the house wherever it will have the least land disturbance. They are currently working with a team of architects on house plans.

Mr. LeWalter asked about water wells and noted they appear to be located toward the Black Diamond Trail-side, an area with a slope that appears unfavorable. Mr. Goodmark said there are currently two water wells on the property, but both houses are using one service. A new well will have to be dug. He said a nearby pond has a drainage feature, and water seems readily available in the area.

At this time, Ms. Kusamono – a neighbor – expressed her support for the Hamilton proposal.

Resolution for SEQR Determination

Mr. Wertis MADE the MOTION for a negative determination of environmental significance, and Mr. Blake SECONDED the MOTION as follows:

WHEREAS:

1. This is consideration of Minor Subdivision Approval for the proposed two lot subdivision at 1045 and 1071 Perry City Rd, Tax Parcel Number 32.-1-4.2; CD- Conservation District. The proposal includes a two-lot subdivision of an existing 40.25 +/- acre parcel into one lot with 10.00 +/- acres and two existing residences and the remaining lands with 30.25 +/- acres. On 4/7/15, a lot with 3.86 + acres lot received subdivision approval after the Board of Zoning Appeals granted area variances for lot area deficiencies on 2/18/15. Richard and Connie Evans, Owners; Lee Hamilton, applicant/agent; and
2. This is an Unlisted Action for which the Town of Ulysses Planning Board is acting in this uncoordinated environmental review with respect to Subdivision Approval; and
3. The Planning Board, on July 5, 2016, has reviewed and accepted as adequate a Short Environmental Assessment Form Part 1, submitted by the applicant and Parts 2 and 3 prepared by Town staff; and
4. The Town Zoning Officer has recommended a negative determination of environmental significance with respect to the proposed Subdivision Approval;

NOW THEREFORE BE IT RESOLVED:

That the Town of Ulysses Planning Board hereby makes a negative determination of environmental significance for the reasons set forth in the Environmental Assessment Form Parts

2 and 3 referenced above, in accordance with the New York State Environmental Quality Review Act for the above referenced action as proposed, and, therefore, an Environmental Impact Statement will not be required.

The vote was as follows:

Mr. Blake AYE
Ms. Schneider AYE
Mr. Tyler AYE
Mr. Wertis AYE
Ms. Worden AYE

Result: Resolution passed.

Resolution for Final Plat Approval

After a discussion, Planning Board members reached a consensus to include a third resolved requesting the applicant provide a copy of the deed with road easement and maintenance agreement.

Mr. Tyler MADE the MOTION to approve the Final Plat, and Ms. Worden SECONDED the MOTION as follows:

WHEREAS:

1. The Town of Ulysses adopted zoning regulations, most recently revised in 2015, include Article XXI – Land Subdivision Regulations establishing criteria for subdivision procedures; and
2. This is consideration of Minor Subdivision Approval for the proposed two lot subdivision at 1045 and 1071 Perry City Rd, Tax Parcel Number 32.-1-4.2; CD- Conservation District. The proposal includes a two-lot subdivision of an existing 40.25 +/- acre parcel into one lot with 10.00 +/- acres and two existing residences and the remaining lands with 30.25 +/- acres. On 4/7/15, a lot with 3.86 + acres received subdivision approval after the Board of Zoning Appeals granted area variances for lot area deficiencies on 2/18/15. Richard and Connie Evans, Owners; Lee Hamilton, applicant/agent; and
3. The lots created by the proposed Subdivision meet the zoning requirements for the CD- Conservation District; and
4. This is an Unlisted Action for which the Town of Ulysses Planning Board, on July 5, 2016, has made a negative determination of environmental significance with respect to this project, after having reviewed and accepted as adequate a Short Environmental Assessment Form Parts 1, 2 and 3; and
5. The Planning Board, at a Public meeting on July 5, 2016, has reviewed and accepted as adequate the plat entitled, “Survey Map Showing Portion of Lands of Richard J. and Connie R.

Evans, Located on Perry City Road, Town of Ulysses, Tompkins County, New York,” dated 5/24/2016, by T.G. Miller P.C. Engineers and Surveyors, and other application materials; and

6. The Town of Ulysses Planning Board has given due consideration to all information and comments in conducting the subdivision review;

THEREFORE IT IS HEREBY RESOLVED,

1. That the Town of Ulysses Planning Board hereby waives certain requirements for Subdivision Approval, as shown on the Subdivision Checklist, having determined from the materials presented that such waiver will result in neither a significant alteration of the purpose of subdivision control nor the policies enunciated or implied by the Town Board; and

2. That the Planning Board of the Town of Ulysses hereby grants Final Plat approval for the subdivision as shown on the plat entitled, “Survey Map Showing Portion of Lands of Richard J. and Connie R. Evans, Located on Perry City Road, Town of Ulysses, Tompkins County, New York,” dated 5/24/2016, by T.G. Miller P.C. Engineers and Surveyors.

3. That the applicants provide a copy of the deed with road easement and maintenance agreement.

The vote was as follows:

Mr. Blake AYE
Ms. Schneider AYE
Mr. Tyler AYE
Mr. Wertis AYE
Ms. Worden AYE

Result: Resolution passed.

Town Board Liaison Report

Mr. Goldman had no report.

Board members briefly discussed the Town’s new Sustainability and Conservation Advisory Council and its membership before readdressing Renovus. Mr. Goldman asked if it was fully understood who would be responsible to dismantle the Agard-Jacksonville road solar project if it needed to be taken down. To Mr. McNamara’s previous comment earlier in the evening, Mr. Goldman thought the Town had every right to know the financial arm of the project if the financing company is responsible for decommissioning. Ms. Kiley said Renovus did submit a decommissioning plan to the Town. Citing Town Zoning, she also said decommissioning costs could be billed back to the property owner – Grassroots – if Renovus failed to uphold its end. It was unclear among Board members whether or not Grassroots was aware of such a stipulation.

Subject turned to the terminology of “Community Solar”, which Mr. Goldman thought to mean locally based solar, with town residents linked into the solar array. Renovus uses the term more in a grandiose and general sense, he said. It does not mean the Ulysses community.

Ms. Schneider noted the Town is allowing solar in an R1 district. If it were a factory, the Planning Board would not approve it. If a year or two out, solar arrays are deemed “heat islands” or contribute to glare pollution, the Town would view the entire project differently, she said. This pilot project went astray, and we have yet to resolve why it went astray, she said. An independent analysis is an important step.

On the subject of disclosure, Ms. Kiley clarified it is not that the Planning Board cannot know the solar customer; only that it cannot deny Site Plan Review because of who the customer is. The subject of Payments in Lieu of Taxes was briefly discussed, but Ms. Kiley noted the Town, County and school district have opted out of receiving taxes related to solar for 15 years.

On Renovus’s tree-planting plan, Mr. LeWalter said the existing pines would do okay because of their size. However, some of the proposed plantings are not deer resistant. He does not believe the additional tree plantings on both sides of the entrance driveway will fill out like Mr. Mayo says. Any northern views from south of the installation will suffer, he said, so it might be worth discussing how to proceed in that area: to keep it all residential or expand solar.

Mr. Wertis MADE the MOTION to adjourn the meeting, and Ms. Schneider SECONDED the MOTION. The motion was unanimously approved.

Meeting adjourned at 9:06 p.m.

Respectfully submitted by Louis A. DiPietro II on July 10, 2016.