



NIAGARA COUNTY PLANNING BOARD
SAMUEL M. FERRARO CENTER FOR
ECONOMIC DEVELOPMENT
6311 INDUCON CORPORATE DRIVE
SANBORN, NEW YORK 14132

Joseph Kibler
Chairman

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MEETING MINUTES

Niagara County Planning Board
6311 Inducon Corporate Drive – Suite 100
Sanborn, New York 14132
Monday, December 20, 2021 – 2:00 p.m.

- Members Present:** Bill Agronin, J. Anthony Collard, Walt Garrow, Joseph Kibler, Andrea Klyczek, Normal Machelor, James Sobczyk, Mary Jo Tamburlin
- Members Absent:** Thomas Ohol, Jonathan Welka, Garret Meal (Ex Officio)
- Staff Present:** Amy Fisk, Jacqueline Minicucci
- Others Present:** Thomas Prohaska (Buffalo News)

1. The meeting was called to order by Chairman Kibler at 2:00 p.m.
2. A motion was made by Mr. Garrow and seconded by Mr. Collard to approve the November 15, 2021 meeting minutes. Unanimous. Carried.
3. *Niagara County Planning Board Referrals*

No. 6784 – Town of Newfane – Special Permit, Site Plan Review

Request by Omni Navitas Holdings, LLC for the Planning Board to review a special permit request and site plan for the construction of a 5MW utility scale solar energy system located at 6260 Drake Settlement Road. The property is 60 acres and is zoned, RR, Rural Residential. Peter McAuliffe of Omni Navitas, property owners Patrick Dannebrock and Keith Hetrick, Andrew Reilly from Wendel as planning consultant for Town of Newfane and Newfane Planning Board Chairman Bill Clark were present to discuss the project. Property owners Patrick Dannebrock and Keith Hetrick informed the board that the parcel is not actively farmed even though the property has an agricultural exemption. The owner has an agreement with Stedman's Nursery where approximately 30 trees are planted annually and the nursery has the ability to dispose of shrubbery and leftover vegetation on the parcel. The Town of Newfane is working through the SEQR process. Mr. McAuliffe was present via webex and stated there are no residences in the area, the property has existing trees on three sides and additional vegetative screening will be installed on the fourth side. There are wetlands on the property but they will not be disturbed. No battery storage is proposed. A decommissioning plan has been developed. Mr. Reilly (via webex) stated that an area variance is needed since more than 50% of prime agricultural soils will be affected. The Town's solar law states that this rule doesn't apply if the property hasn't been actively farmed in the last 5 years. In this case the farm hasn't been actively farmed in more than 10 years but an agricultural assessment was claimed which creates a unique situation. Mr. Garrow noted that granting the area variance could create a precedence for future

projects. New York State Agriculture and Markets determined that the proposed action would not have an adverse effect on agriculture. The Niagara County Agriculture and Farmland Protection Board expressed concerns about leachate running in the 18-Mile Creek watershed. Ms. Tamburlin asked if the project was reviewed by Niagara County Soil & Water Conservation District. Mr. Reilly stated additional drainage studies were submitted to the Town to address the issues raised. The Town Planning Board is reviewing the reports. Mr. Clark stated the project will not affect any residential properties and the town doesn't view the project as taking away local farmland since the property hasn't been actively farmed in a long time. A soil scientist reviewed the property and felt the site does not contain prime soils but the state soil maps can't be changed. Mr. Garrow noted that granting the area variance could create a precedence for future projects. Mr. Clark commented that each project is reviewed carefully because of unique circumstances. Mr. Reilly noted that in the Town of Newfane's solar law, areas are identified where solar is not allowed to protect prime farmland and this parcel does not fall into those zones. Mr. Machelor suggested that less land is used so that a variance isn't needed. Ms. Fisk stated that the use of prime soils for solar is a major concern for Niagara County. Mr. Garrow stated that he felt the project should go back to the municipality for local determination. Ms. Fisk reminded the board that local determination means that the project has no county-wide impact and use of prime soils is a county concern. Mr. Garrow made a motion stating that the project has no significant inter-municipal or county-wide impact and seconded by Mr. Agronin. 7 Yes, 1 No (Machelor). Carried.

No. 6780 – Village of Middleport – Zoning Text Amendment, New Zoning Ordinance

Request by the Village of Middleport for the Planning Board to review a zoning text amendment and new zoning ordinance request to allow school district uses in light industrial districts for athletic or recreational purposes. There was no representative present to discuss the project. Ms. Fisk informed the board that the request is a simple text amendment. A motion for approval was made by Mr. Sobczyk and seconded by Ms. Klyczek. Unanimous. Carried.

No. 6781 – Town of Lewiston – Area Variances

Request by Niagara University for the Planning Board to review six area variance requests associated with a proposed 4MW solar energy system located on the Niagara University Campus. The project site is 17 acres and is zoned PUD, Planned Unit Development. Tom Burns and Chris Leardini from Niagara University and Katie Soscia of Montante Solar were present to discuss the project. Mr. Burns gave the board a brief history of the University's presence in Niagara County stating that it has a significant community and financial impact to the area. Ms. Soscia stated that Niagara University will use all of the power that is produced. The university will be developing a green energy curriculum where students will study the benefits of solar, therefore, the solar needs to be in a location accessible to the students. The surrounding area is industrial so there will be no negative impact to residential properties. The New York Power Authority owns the adjacent land and is in support of the project. The solar panels will have vegetative screening and decorative fencing will be installed. Environmental studies were conducted and no environmental issues exist that would preclude solar development. A stormwater mitigation plan is being developed. Ms. Fisk said this is an excellent location for solar because it doesn't use any farmland. A motion for approval was made by Mr. Agronin and seconded by Ms. Tamburlin. Mr. Machelor abstained. Unanimous. Carried.

No. 6782 – Town of Lewiston – Special Permit, Site Plan Review

Request by the Sanborn Historical Society for the Planning Board to review a special permit request and site plan for the construction of a 5MW ground mounted utility scale solar energy system located at 2660 Saunders Settlement Road. The project site is 59.53 acres and is zoned, RR, Rural Residential. Mark Kenward of Borrego Solar, Bonnie Haskell, Bill Read, Gerry Treichler and Glenn Wienke of the Sanborn

Farm Museum were present to discuss the project. Mr. Kenward stated the site proposed is not active farmland. The property was purchased 20 years ago for museum use. There is 5 acres currently being leased for farming at the north of the property. An additional 5 acres at the south of the property are farmed solely for weed control. The project doesn't require any variances. The setbacks proposed are to the panels and not to the fence. Some fence posts and solar panel posts will be driven into federal designated wetlands. A view shed analysis was presented. Vegetative screening exists on the east side of the project. There will be two fenced arrays to straddle the stream that runs thru the middle of the property. Ms. Fisk stated that according to reports provided, the parcel has 36.8% prime soils, 31.2% statewide importance soils, and 34% prime soils if drained. The use of prime soils for solar development is a major concern for the County. The Town of Lewiston solar law doesn't include any restrictions on the use of prime soils for solar development. Mr. Read stated that the property is very rocky making it difficult to farm. Proceeds from the solar array will help fund the operation of the farm museum. Ms. Fisk commented that if the project were to be approved then the museum should consider incorporating agri-voltaics to provide a demonstration on how solar and agriculture can sustainably co-exist. A motion for approval was made by Ms. Klyczek and seconded by Mr. Collard. Mr. Machelor abstained. Unanimous. Carried.

No. 6783 – Town of Lewiston – Site Plan, Zoning Map Amendments

Request by LMK Realty Associates for the Planning Board to review a site plan and zoning map amendment requests for SBL #101.12-1-1.4 at Northridge Drive and Ridge Road. The northern portion of the property will be rezoned to PUD, Planned Unit Development and the southern portion will be rezoned to GB, General Business. Two 5-unit townhome buildings are proposed on the PUD portion of the property. The parcel is 4 acres and is currently zoned R-1, One-Family Residence. Nick Massaro and Dominick Massaro of LMK Realty were present to discuss the project. Mr. Massaro stated that they currently own the adjacent parcel and would like to subdivide the R-1 parcel to extend the PUD allowing them to construct two 5-unit townhomes and leave the rest of the parcel as General Business. They have no plans for the business portion of the parcel at this time. The entrance will be located on North Ridge Road. A motion for approval was made by Ms. Tamburlin and seconded by Mr. Agronin. Mr. Machelor abstained. Unanimous. Carried.

No. 6785 – City of North Tonawanda – Site Plan Review

Request by James Collins for the Planning Board to review a site plan for the construction of a 47-lot, single-family subdivision on a combination of parcels located at 1144, 1162, and 1196 Sweeney Street. The project acreage is 30.6 acres and is zoned R1-1, Single-Family Residence. Ken Zollitsch of GPA Engineering, and James Collins were present to discuss the project. Mr. Zollitsch stated that patio style homes will be constructed on the new lots. No variances are required. The existing utility infrastructure will be utilized. There will be no disturbance to the onsite wetlands. Ingress and egress will be from East Goundry Street and Claire Avenue. No connection is proposed to Sweeney Street. A motion for approval was made by Ms. Klyczek and seconded by Mr. Machelor. Unanimous. Carried.

No. 6786 – Town of Wheatfield – Zoning Text Amendment

Request by the Town of Wheatfield for the Planning Board to review a zoning text amendment for a new law addressing Battery Energy Storage Systems. Andrew Reilly, Town of Wheatfield planning consultant was present via webex to discuss the project. Mr. Reilly stated the NYSERDA model law was used except there will be a 3-Tier system for battery storage projects. Tier 1 are backup energy systems similar to a backup generator and only require a building permit; Tier 2 are larger backup systems for businesses and require site plan approval; Tier 3 are primary use systems to store energy that will be sold back into the grid. Tier 3 systems will only be allowed in industrial zoning districts and will be limited to 1MW. A

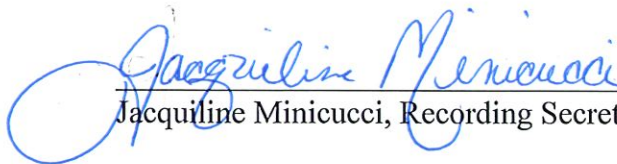
motion for approval was made by Mr. Agronin and seconded by Mr. Collard. Mr. Garrow Abstained. Unanimous. Carried.

No. 6787 – City of Lockport – Site Plan Review

Request by State Group Industrial for the Planning Board to review a site plan for the renovation of a building located at 52 Walnut Street. The property is 0.43 acres and is zoned B-2 Central Business District. Josh Mee and Eric Labiak of Verizon were present to discuss the project. Mr. Mee stated that they are currently replacing the existing cooling system which requires the installation of vented windows. The board had no concerns. A motion for approval was made by Ms. Klyczek and seconded by Mr. Agronin. Unanimous. Carried.

4. *Old Business* – None
5. *New Business* – None
6. *Adjournment* – A motion was made by Ms. Klyczek and seconded by Mr. Machelor to adjourn the meeting at 4:02 p.m. Unanimous. Carried.

Respectfully submitted,



Jacquiline Minicucci, Recording Secretary