

MINUTES
Town of Vienna
Planning Board (PB) - Regular Meeting
October 19, 2023

Call to order: Chairman Calvin Collins called the meeting to order at 7:00 pm with a quorum present.

Attendance:

Board Members: Calvin Collins, Bill Shaughnessy, Mike Piper, Orrin MacMurray, and Martha Link. and Dave Gigon was unable to attend. There is one vacancy on the board.

Others: Several applicants and residents.

Secretary Kathy Pavelock, Liaison Darrin Smith, Town Attorney Evan Rossi. Codes/Zoning Officer (C/ZO) Reay Walker was unable to attend.

Minutes Approval:

A **motion** was made by Bill Shaughnessy, seconded by Orrin MacMurray **to approve the September 21, 2023, regular meeting minutes.** No discussion. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – absent for this vote
Vacancy – n/a		Motion Carried.

Correspondence:

- Received responses of SUB2023-01 239m review from Oneida Planning, DEC, and DOT.
- Coordinated signatures for letters of determination for SUP2023-05 and SUB2023-01.
- Received and filed notes from Orrin MacMurray for Sept. 22 and 29 regarding SUP2023-06.
- Filed plats for SUB2023-01.
- Received new applications: Relot2023-01, SUP2023-07, and SUP2023-07.
- Received and distributed a Notice of planned Cannabis Dispensary.
- Received and distributed DEC information for SUP2023-08 (Corey).

Public Hearings: None

New Business:

Relot2023-01 Adjust Lot Line between 7968 and 7996 Dixon Rd. Hansen/Fitzmaurice;
199.000-1-35 and 36.2; Zone RR2.

During a recent re-survey, it was discovered that the well belonging to parcel at 7996 was on the property line for parcel at 7968. It is agreed that the owners will reallocate .28 acres from 7968 to 7996. The board advised that the resulting parcels need to be filed with the county.

A **motion** was made by Orrin MacMurray, seconded by Bill Shaughnessy **to approve Relot2023-01 so long as only 2 lots will result from the reallocation.** No discussion. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – Abstain
Vacancy – n/a		Motion Carried.

The applicants were advised that a tax search will be needed for the parcel at 7996 (already have the certificate for 7968) and the filing fees paid to the town if they wish the town to file the plats. It is the responsibility of the owners to file with the county.

SUP2023-07 Ground-mount residential solar. William & Sandra Zorn. 3139 NYS Rte 49;
218.000-1-53.2; Zone C.

Mr Zorn provided an aerial showing the proposed installation site for the solar panels. He also requested that the public hearing be waived by the planning board. The board advised Mr. Zorn that it is required that they hold the public hearing and submit this project for a 239m review since the property is located on NYS Route 49.

The board asked that the applicant provide actual measurements for the setbacks at the next meeting. The board then declared a complete application and reviewed the Short Environmental

Assessment Form (S EAF). Mr. Zorn completed part one at this meeting. Parts 2 and 3 were completed by the board.

A **motion** was made by Orrin MacMurray, seconded by Mike Piper to **designate SUP2023-07 as “unlisted” with a negative environmental impact and schedule a public hearing for November 16, 2023 at 7:10 pm.** No discussion. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		Motion Carried.

SUP2023-08 Vegetable Stand and Ice Cream Shop. Mark & Michelle Corey.

548 NYS Rte 49/Drive 7; 214.020-1-1.7; Zone SR.

Mr. Corey provided an overview of his plans. This was formerly a vegetable stand many years ago. There is a need to provide updates to the structure. Mr. Corey has already engaged DEC who have declared this project as “unlisted” with a negative environmental impact. This project will require a 239m review to the county and DOT since it is located on NYS Route 49.

A **motion** was made by Mike Piper, seconded by Martha Link to **schedule a public hearing for November 16, 2023 at 7:15 pm.** No discussion. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		Motion Carried.

Unfinished Business:

SUP2023-06 Distributed Solar generation facility (5mW); RIC Energy; 2930 NYS Rte 49; 218.000-1-27.4; Zone C (along Rte 49) WR (remaining acreage).

The board explained that a lot of review by the board and work by RIC has been accomplished since the last meeting. Sean from RIC explained that RIC has submitted a Viewshed Analysis, Revised Full EAF, SWPPP, State Historical Preservation letter, revised site plans based on an actual survey, and the wetlands delineation report. Copies were provided to the board and attorney.

The board went over a list of questions dated October 19, 2023. A copy of this list with comments added by Orrin MacMurray on behalf of the planning board dated October 30, 2023 is attached to the minutes.

The board discussed the draft lead agency letter including who should be the recipients of the letter and the contents. Sean will investigate some of the agencies on the list and provide an updated list of recipients. Sean expressed his desire for the board to move forward on a 239m review as soon as possible. The board was concerned that we are not ready for a full 239m review.

A **motion** was made by Orrin MacMurray, seconded by Mike Piper to **proceed with sending the lead agency letter contingent on a full list of agencies.** No discussion. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		Motion Carried.

A **motion** was made by Bill Shaughnessy, seconded by Mike Piper to **allow Orrin and/or Dave to communicate with the applicant between planning board meetings.** No discussion. Poll Vote:

Orrin MacMurray – Abstain	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		Motion Carried.

Sketch Plan Reviews: None

Other:

- Zoning Law update topics - nothing new to report.
- Cannabis - Per NYS Law, the Town has received notification of plan to open a cannabis dispensary on Route 13 where the former North Bay Electric had a business. There is no action needed by the planning board at this time. The Town Board will not have a moratorium on this subject due to issues with Oneida County Planning. The planning board will need to handle any applications received based on the current Zoning Law. The state has issued rules in a 300–350-page document. Orrin has a copy and will begin a review.
- Payment In Lieu Of Taxes (PILOT).- Liaison Smith reported that he met with Assessor Amway on town laws including PILOT. Revisions will be presented at the next town board meeting.
- Engineer - There was a discussion on help from the town engineer with the solar project decommissioning plan. The town does not currently retain an engineer.
- Special Meeting - The board thought it would be good to have a special meeting for the purpose of discussing the Solar project. **A motion** was made by Mike Piper, seconded by Bill Shaughnessy **to hold a special meeting on November 9 at 1:00 pm for the purpose of reviewing the solar project information.** No discussion. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Absent	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a	Motion Carried.	

Public Comments:

Ed Lambrych; Mr. Lambrych stated that RIC is pleased with the town’s attitude regarding the Solar Project. He has received word that the proposed Dollar General project on his other property has not given up yet. They may be re-applying with a smaller building.

Next Meeting: November 16, 2023. Agenda items are due to the secretary by November 9, 2023.

Orrin MacMurray made a **motion to adjourn**, seconded by Martha Link. **Motion carried 9:25 pm.**

Minutes prepared by:

Kathy Pavelock
Planning Board Secretary

Attachment 1 - Solar Project - Applicant Submittal Review prepared 19 Oct 2023
Applicant Submittal Review with comments - 30 Oct 2023 Update

Unless otherwise indicated, original comments shown without highlight based on the Applicants submittal prior to the 19 October Planning Board meeting.

Highlighted information covers what was discussed at the 19 October Planning Board meeting. Where no comment is shown no resolution was reached and the issue remains open.

New Planning Board comments dated 30 Oct 2023 based on review of drawings with the Revision No. 1 date of 10/11/23 as provided to the Planning Board at its 19 Oct 23 Planning Board meeting.

General:

- Notes dated 22 Sep referencing 21 Sep PB Meeting.
 - The PB is currently reviewing the application internally. If outside assistance is needed the Applicant has agreed to fund up to \$10,000 in engineering review expenses.
 - The system installer is unknown currently. The Applicant will need to provide the name of the proposed system installer prior to a Building Permit being issued.
 - NYS DEC wetland delineation and USACE deferment of wetland authority to NYS DEC. Status?
Ans: Delineation Report provided. No reply from USACE currently.
 - A Visual Assessment for the project needs to be provided. The Applicant has agreed to provide a balloon study as part of this assessment with photos of the site from various locations including NYS Rt 49 and Vienna Rd. Status?
Ans: Viewshed Analysis was provided. Balloon photos not available yet. Will be provided at the next meeting.
 - A SWPPP is required prior to the application being complete and a SEQR determination. Status?
Ans: A SWPPP dated 10/10 23 was provided signed and sealed by a NYS Professional Engineer certifying that it meets the requirements of the SPDES General Permit for Storm Water Discharges from Construction Activity.
 - A Spill Prevention Plan is required. Status?
Ans: Pending.
 - Unified Solar Permit documents are required. Status?
Ans: Discussion took place the result of which was that the PB waved this requirement due to other more detailed information being provided.
 - The Applicant has agreed to meet with the local Fire Department to obtain their input and incorporate the addressing of their items into the project application. Status?
Ans: No meeting has been conducted. The Applicant sent them a letter. We asked that they meet with the Fire Chief and the head of the Vienna Fire District.
 - The Decommissioning plan will need to be signed by both the Applicant and the landowner when complete.

Other Items:

- Items not the responsibility of the Planning Board for SUP review but discussed at the 21 Sep 2023 PB Meeting.
 - The Applicant has agreed to submit a NYS Solar Project Input Request Form. Status?
Ans: Not prepared yet.
 - The Applicant has agreed to send a letter to the Town Supervisor with copies to the Town Assessor and Town Attorney indicating their willingness to negotiate a Host Community Agreement. Status?
Ans: Not sent yet.

- The Applicant intends to provide the Town a bond for the project. The Town has requested the proposed amount of such a Bond and the surety company who would issue it. Status?
Ans: No information at this time.
- The Applicant has indicated they intend to negotiate a PILOT Agreement for the project. Status?
Ans: Letter sent. No further action was reported.

Review of Plans:

- Sheet C-100 Dated 9/14/23, Revised 10/11/23
 - Show landowner and reference to lease. It is suggested that another box be added at the bottom of the sheet between the box entitled Site Information and the box entitled Applicant with this information.
 - Change Applicant Box title to Applicant/ Lessor
- Sheet C-150 Dated 9/14/23, Revised 10/11/23
 - See Zoning Law pages 30 and 31 for required minimum information in total.
 - Example. Distances, bearing's, and areas of the site to be leased and any remaining lands of the Lessor.
 - Example, Show the boundaries of the individual tax parcels that make up the total site parcel with lot coverage percentages for the project on each individual tax parcel.
 - Example, Show the area to be leased by Applicant.
 - Example, Location and ownership of all parcels.
 - Example, Location of Zone and District boundaries.
 - Etc. as required.
- Sheet C-200 Dated 9/14/23, Revised 10/11/23
 - Tier 3 Solar Electric System not allowed in Commercial Zone. Commercial Zone extends 500 feet from CL of NYS Rt 49. Entrance road and electrical components are in the Commercial Zone. Show Zone boundary.
 - Tier 3 Solar Electric Systems are allowed in WR Zone.
 - See setbacks on "Zoning Compliance Table" and on Dwg.
- Sheet C-300 Dated 9/14/23, Revised 10/11/23
 - Who delineated the wetlands?
Ans: Wetland Delineation Report has been submitted.
 - Does the NYS DEC agree? Document this.
Ans: No NYS DEC document presented to confirm their agreement yet.
 - Has USACE differed wetland jurisdiction to NYS DEC? Document this.
Ans: Pending.
 - Are contours and tree lines from actual survey by Thew Assoc?
Ans: Yes.
 - If not, what is source of contours? N/A
 - Access road is right next to PL. In some locations grading appears on plan to be on adjacent property. Consider moving access road east to create buffer along PL to protect adjacent landowner. Access Road has been moved on plan farther east of the westerly property line. However, in one area it still appears on the plan to be about 10 feet from the property line. Road should be relocated further east at this location.
Ans: Listened to issue. Will talk with engineers and consider.
- Sheet C-301 Dated/Revised 10/11/23
 - See last comment for Sheet C-300 regarding Access Road Enlargement A and B.

- Sheet C-400 Dated 9/14/23, Revised 10/11/23
 - Revision has deleted the contours on the east side of the site including the Class C Stream area which appears to now be designated Zone A on the drawing. Replace these contours to a minimum of 200 feet to the east of the stream for clarity on stream location and slopes.
 - Plot centerline of Class C Stream on drawing.
- Sheet C-401 Dated 9/14/23, Revised 10/11/23
 - Total disturbed area of all phases shown is 22.5 acres. Is this correct?
 - New phasing plan is shown.
- Sheet C-500 Dated 9/14/23, Revised 10/11/23
 - No comment at this time.
- Sheet C-501 Dated 9/14/23, Revised 10/11/23
 - Where will Geogrid be installed? Clarify on Dwgs.
 - Where will Geoweb be installed? Clarify on Dwgs.
- Sheet L-100 Dated 9/14/23, Revised 10/11/23
 - No plantings proposed except for “Meadow Mix” and “Grass” as shown?
 - Ans: Correct.
- Sheet L-500 Dated 8/18/23, Revised 10/11/23
 - Who will be responsible for maintenance, including watering, as detailed here?
 - Ans: The Applicant.
 - What guarantee does the Town of Vienna have that the site will be maintained?
 - Ans: No answer was provided.

Review of Application Document Dated August 30, 2023:

- App A - Special Use Permit Application
 - Confirm with PB Secretary.
- App B - Building Permit Application
 - Confirm with Code Enforcement Officer
- App C - General Description.
 - No Comments at this time.
- App D – Site Plan Check List
 - Some information remains incomplete.
- App E – Civil/Site/Drainage Plan
 - See Drawing Comments
- App F – SEQR FEA/Part 1
 - There is a Class C Stream on Site. Please show center line on drawings.
 - Status of wetland authority. DEC? USACE? Documentation?
 - FEA/Part 1, B, list all permits and their issuing agencies.
 - FEA/Part 1, D.1.e, please confirm that all “Phases” shown on C-401 are to be constructed as one project.
 - Ans: Confirmed.
 - FEA/Part 1, D.1.h, will stream protection and SWPPP require retention? If so revise.
 - FEA/Part 1, D.2.b, please review when stream is plotted.
 - FEA/Part 1, D.2.e, please include how stormwater quality, volume and runoff will be handled.
 - The Planning Board will send out a letter to those parties to this action indicating that it intends to take Lead Agency status.
- App G – Verification of Utility Notification
 - What is the projects “Queue position”?
 - Ans: They have agreement from National Grid to take the power. No date.

- App H – Landowners within 500 feet
 - Provide readable map.
- App I – Property Operation and Maintenance Plan
 - Fire Dept. requirements?
 - Specify month in which testing will be done?
 - Snow plowing of 1,500 foot +/- access road for emergency access?
- App J – Agricultural Data Statement
 - No Comments at this time.
- App K – Equipment Spec Sheets
 - What is the useful life of the equipment?
Ans: 25 years.
 - Coordinate with Code Enforcement Officer.
- App L – Consent to Lease
 - No Comments at this time.
- App M – Panel anti-reflective properties
 - In comparison with other technology available today to reduce glare where does this system fall?
Ans: All are about the same.
 - Are there other panels available with better properties?
Ans: No.
 - If so, what are they? N/A
- App N – Decommissioning Plan
 - Page 3, state that all foundations will be removed unless the owner wants them left in place. Please revise to same wording as for driveways on page 2 and 3.
 - Top of Page 3 states all underground wiring will be removed. Page 4, Section 2.5, states underground wiring must be left in place. Which is correct? Clarify wording.
 - Please provide an estimate of the cost of Decommissioning and an appropriate annual escalation percentage for the agreement.
 - Bond amount and surety company proposed.
 - Who is responsible for Decommissioning if the project is sold? Where is this covered?
- App O – USGS 7.5 Minute Topo
 - What is the purpose of this Appendix?
- App P – LIDAR Elevation
 - Is this the same data that is shown in the drawings?
- App Q – LIDAR Slope
 - No Comments at this time.
- App R – FEMA Flood Insurance Rate Map
 - No Comments at this time.
- App S – NYSERDA NOI Form
 - Are these standards being complied with?
 - If so, where stated?
- App T – NYSDAM Solar Construction Guidelines
 - Are these standards being complied with?
 - If so where stated?
- App U – One Line Diagram
 - Coordinate with Code Enforcement Officer.