

**MINUTES**  
**Town of Vienna**  
**Planning Board (PB) - Regular Meeting**  
**September 21, 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, Martha Link, and Dave Gigon. There is one vacancy on the board.

Others: Several applicants and residents.

Secretary Kathy Pavelock, Codes/Zoning Officer (C/ZO) Reay Walker, and the Town Board Liaison were unable to attend.

**Minutes Approval:**

A **motion** was made by Bill Shaughnessy, seconded by Mike Piper **to approve the August 17, 2023, regular meeting minutes.** No discussion. Poll Vote:

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

**Correspondence:**

- Received responses of SUP2023-05 239m review from Oneida County Planning, DEC, and DOT.
- Submitted 239m review for SUB2023-01 to Oneida County Planning, DEC, and DOT.
- Received new application SUP2023-06 and materials for a Solar Project.
- Relayed recommendation from Planning Board to Town Board on filling vacancy. The Town Board did not appoint R. Leos due to a conflict with the Ethics Law.

**Other:** While awaiting the appointed time for public hearings, the board discussed the following:

- **Vacancy** - the board expressed their disappointment with the Town Board on not appointing R. Leos to the planning board.
- **Zoning Law Updates** – The town board has not voted on the cannabis moratorium. Five items were provided to the Department of State and the town board is waiting for information from the county.

**Public Hearings:**

**7:10 pm SUP2023-05 2 residences on single parcel;** Michael O’Grady; 1393 NYS Rte 49; 235.005-2-1.1; Zone SR; Convert 2 existing 30’x40’ garages into two 2-bedroom homes.

Bill Shaughnessy made a **motion to open the public hearing for SUP2023-5**, seconded by Orrin MacMurray. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Aye	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		<b>Motion Carried at 7:10 pm</b>

There were no comments from the public.

Mike Piper made a **motion to close the public hearing for SUP2023-5**, seconded by Dave Gigon.

Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Aye	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		<b>Motion Carried at 7:12 pm</b>

This property is subdividable with appropriate road frontage and set backs. The 239m review had no significant comments. Bill Shaughnessy made a **motion to approve SUP2023-5 allowing 2 residences on one parcel**, seconded by Mike Piper. Poll Vote:

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

Mr. O’Grady was informed that a Letter of Determination would be prepared with any conditions including comments from the 239m reviews, requirements for obtaining permits from the codes officer, and a requirement to appear before the planning board for any changes to the plans that were approved for this special use permit. Mr. O’Grady may contact the codes officer for further action upon receipt of the letter.

**7:10 pm SUB2023-01 Minor Subdivision;** Paul Avery; 1165 NYS Rte 49; 215.000-2-28/29.1; Zone SR.  
Note: This hearing was scheduled at the August 17 planning board meeting at the same time as SUP2023-05 which was scheduled at the August 9 meeting.

Orrin MacMurray made a **motion to open the public hearing for SUB2023-01**, seconded by Bill Shaughnessy. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Aye	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		<b>Motion Carried at 7:16 pm</b>

There were no comments from the public.

Bill Shaughnessy made a **motion to close the public hearing for SUB2023-01**, seconded by Mike Piper. Poll Vote:

Orrin MacMurray – Aye	Bill Shaughnessy – Aye	Martha Link – Aye
Dave Gigon – Aye	Calvin Collins – Aye	Mike Piper – Aye
Vacancy – n/a		<b>Motion Carried at 7:17 pm</b>

It was noted by the board that the application states this property is Shore Residential. It is actually Hamlet Residential. The application was updated. The plats are correct. Secretary Pavelock stated that we have not heard back from the 239m reviews. Orrin MacMurray made a **motion to approve SUB2023-01 2-lot subdivision contingent on receiving the 239m reviews from the agencies**, seconded by Dave Gigon. Poll Vote:

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

Mr. Avery was advised that upon receipt of all 239m reviews from the agencies, Secretary Pavelock will coordinate the signing of the plats with Chairman Collins. Mr. Avery signed all the plats.

**Unfinished Business:**

SUP2023-05 and SUB2023-01 were discussed immediately following the applicable public hearing. No further unfinished business.

**New 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).

Sean and Kevin from RIC Energy provided an overview of the proposed project as previously presented in April as a pre-application meeting. Additional information included natural screening, 25 acres available for this 5mW project, no variances are needed, waiting on review from the State Historical Preservation Office (SHPO), wetlands onsite, Army Corp of Engineers consulted, received a letter from the FAA, and this is commercial solar project but it is under 20mW. This project meets the set backs (130 feet to the panels with a height of 12 feet or less (panels swivel to access maximum sunlight). There was a discussion regarding the Stormwater Plan (SWPP). The board asked that we see a copy of the SWPP prior to the Planning Board approves the application. The board also asked about an Escrow to be used for outside help (engineer) to the planning board. It was agreed that \$10,000 would be sufficient if needed. Kevin from RIC said that usually there are no outside engineers and that RIC would attempt to clarify any issues.

The Town Attorney Evan Rossi received a copy of the application and other materials. The board relayed questions from Attorney Rossi. A solar input form needs to be completed and returned to the Supervisor, Assessor, and Attorney as soon as possible. A copy was provided to the applicant. RIC is agreeable to a Host & Community Agreement. The applicant will send a note to the attorney stating

they are agreeable to negotiate this agreement. RIC will communicate with the attorney regarding the agreement and amount for a Performance & Decommissioning Bond. RIC plans to respond “yes” to a “Payments In Lieu Of Taxes” (PILOT).

The fire department will be sent a copy of the application and other materials. RIC Energy has communicated with the Town Supervisor, County Executive, and the School District regarding PILOT. They have not communicated with the Town Assessor. There will be an access road built which will require the appropriate DOT permits.

This is considered a Tier 3 solar project. RIC is the applicant and the property owner will lease the property to RIC. It is unclear if RIC will be the operator of the completed project, however RIC believes Vienna PV, LLC, a related organization for RIC will be the operator. RIC plans on hiring an installer that will be specified in the applicable building permit applications. The property owner signature is required in the Special Use Permit Application. Owner Ed Lambrych was present at the meeting and signed the application.

A Full Environmental Assessment Form will be required. The board is not ready to review this form yet. Typically, the planning board will ask to be lead agency. RIC will be performing a visual assessment and obtaining a delineation. The board said that they think a balloon at 12-20 feet would be beneficial. The board asked that a spill prevention plan be prepared. There are no batteries or battery storage for this project. The board asked that the applicant check page 31 of the Town Zoning Law for requirements. The board explained that the law requires a Unified Solar Permit. RIC thought it was not required for this project, but they will check on it. RIC has an agreement with National Grid. There will be natural ground under the panels. An Operations Plan and Decommissioning Plan are required (including owner signatures).

The board will review all the materials presented and prepare questions for the next planning board meeting on October 19.

See attachment 1 for additional notes prepared by Orrin MacMurray.

#### **Sketch Plan Reviews:**

**Paul Rosati; 575 NYS Rte 49; 214.000-1-24.2;** Discussed potential plans for 12-acre parcel. This parcel is located on the north side of NYS Rte 49 across from Godfrey Point. There is currently water for one residence and OCWA is willing to provide for more residences. The existing structure is in disrepair. There are wetlands on this property, however, he does not plan on using the east side. Mr. Rosati is most interested in building multiple cabins on this 12-acre parcel. The board explained that it might be beneficial if this project is categorized as a campground per out Zoning Law. Mr. Rosati will confer with his engineer.

#### **Public Comments:**

**Mike Piper;** Possible subdivision on his property on NYS Rte 49. Mike explained that he is considering a 2-lot subdivision of his 6.75 acres into 3+ acres for each parcel.

**Ed Lambrych;** Mr. Lambrych stated that RIC is pleased with the town’s attitude regarding the Solar Project. He has not heard anything regarding the proposed Dollar General project on his other property. They will probably not pursue this project. Ed is concerned with the Zoning Law requirement limiting buildings to a 10,000 square foot footprint.

**Other:** The board further discussed the purpose of the Zoning Law 10,000 square foot footprint. It was determined that this requirement has been in the law since the inception of the Zoning Law. The board will add this item to the list of topics for the next Zoning Law update.

**Next Meeting:** October 19, 2023. Agenda items are due to the secretary by October 12, 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 - Issues for Consideration

Notes by Orrin MacMurray dated 22 Sep 2023

Meeting was attended by all PB members and Mr. Sean Frusco, Project Manager and Mr. Kevin Bliss, Sr Permitting Manager for RIC Energy, the Applicant.

The following are questions from the PB and answers from RIC Energy to augment the meeting minutes which will be separately published by the POB Secretary. The (P--) indicates the page in the TOV Zoning Law where this issue is discussed.

- What correspondence or other communication have you had on this project beyond the Planning Board?  
Answer: Letters from the Town Supervisor and the County about negotiating a PILOT were received.
- PB Role is to consider the Special Use Permit (SUP) application and act upon it. (P52)  
Answer: Understood.
- We have not reviewed your material yet having just received it. There is a lot here for us to review and that will take us some time.
- If we need to hire outside help for our review, will you establish an escrow account for this purpose?  
Answer: yes
- If yes, in what amount?  
Answer: \$5,000 to \$10,000 would be acceptable.
- This is a Tier 3 System under our Zoning Law (P50)  
Answer: Agreed.

Some general questions/comments prior to our review of your SUP application:

- Is it correct that the Applicant will be the Operator, that the Applicant will hire an installer to construct the system and that the Applicant is leasing the land from the landowner for this project?  
Answer: Vienna PV, LLC which is wholly owned by RIC Energy is the applicant. The property will be leased from the property owner. RIC has not decided if they will operate the project or not at this time. RIC does not construct their projects with their own staff. The project will have a contractor to do the build/installation.
- Is your application cosigned by the landowner and applicant?  
Answer: yes.
- Is the installer identified yet? (We will need installers name before a Building Permit can be issued.) (P31, 53)  
Answer: No, not yet.
- SEQR Required. In general, what documents have you provided?  
Answer: A long form and additional supporting materials.
- Is an environmental report provided?  
Answer: No but extra material is.
- NOTE: DEC is addressing wetlands on site with results pending. Awaiting USACE Federal wetlands reply. Awaiting Archeological clearance from NYS.
- PE Signed and Sealed Site Plans and equipment design Required. (P53, 54, Article 6)  
Answer: Stated that it is provided.

- Visual Assessment Required (P54)  
Answer: Provided. We requested a balloon view shed analysis. Max equipment height was reported to be 12 feet and site geography will largely hide the system from view.
- Screening and Landscaping Plan (P55)  
Answer: Stated that it is provided.
- SWPPP Required (P30)  
Answer: Not provided at this time. A SWPPP will be required prior to declaring the application as complete. We will proceed with SEQR without the SWPPP.
- Spill Prevention Plan Required (P31)  
Answer: Not provided at this time. This will be required before the application is declared complete.
- Unified Solar Permit Documents Required (P51)  
Answer: The applicant has the NYS Form but has not completed it as of yet. We asked that the form be completed and sent to the Town.
- Will the system as proposed have battery storage?  
Answer: No.
- Operations and Maintenance Plan is Required (P54)  
Answer: Stated it is provided.
  - If Batteries are involved have you addressed fire protection, NFPA design standards, Security, local fire department coordination/training, providing required equipment and chemicals on site? (P55)  
Answer: There are no batteries.
  - NOTE: Applicant agreed to meet with the local Fire Department to coordinate site design and other related provisions.
- Do you meet setback (300' front, 100' side and rear, 300' occupied residence), height (20') and lot coverage (80%) requirements of our law?  
Answer: Yes, according to the applicant.
  - If not, are you requesting a variance/referral to the ZBA? (P54)  
Answer: No variance is requested.
- Decommissioning documents are required.  
Answer: Agreed
  - Are Decommissioning documents included and are they signed by both Landowner and Applicant/Operator who will be joint and severally liable to the town for Decommissioning in case of abandonment? (P53)  
Answer: Applicant states the plan is in their submittal but is not signed currently.
  - If Batteries are included, they must be covered by the decommissioning plan proposed.  
Answer: There are no batteries.

Other Issues:

Although not SUP issues there are other issues that will need to be addressed with the Town through the Town Board, The Town Assessor and the Town Atty.

- Is a completed NYS Solar Project Input Request Form included in your submittal?  
Answer: No.
- If not, would you please complete one and return it to the Town Assessor with a copy to the Town Supervisor and Town Atty.  
Answer: One will be provided.
  
- In our preliminary meeting, I recall you saying that the Applicant would be willing to negotiate a Host Community Benefit Agreement.
- Is this still the case?  
Answer: Yes.
- If yes, would you please send the Town Supervisor a letter to this effect with a copy to the Town Assessor and Town Atty.  
Answer: Applicant agreed to send a letter as requested.
- NOTE: No amounts, annual escalation or terms were discussed.
  
- A Bond or other security is required for Decommissioning. (P53, 55)
- Do you plan to offer the Town a Bond?  
Answer: Yes, that is the intent currently.
- What surety will you use for this Bond?  
Answer: Unknown currently.
- What Bond amount do you propose?  
Answer: Unknown currently.
  
- What are your Tax plans?
- PILOT?  
Answer: Yes.
- Do you plan to pay based on the Uniform Calculator? If so, would you please send a letter to this effect to the Town Supervisor with a copy to the Town Assessor and Town Atty.  
Answer: We did not get a clear answer as to Tax plans.