

PLANNING BOARD

Town of Lewiston 1375 Ridge Road Lewiston New York
Thursday – January 20, 2022
PB 2022-1

Present: Baker, Conrad, Lilly, Waechter, Taczak

Absent: Burg, Lattanzio

Lilly: Good evening. Welcome everyone, ladies and gentlemen to the Town of Lewiston Planning Board meeting for Thursday, January 20, 2022. I will be sitting in for Bill Burg, Chairman. He couldn't make it this evening.

Roll Call

Lilly: We would like to welcome Bill Conrad back to the panel.

A motion to approve the minutes of August 2021, was made by Taczak, seconded by Waechter and carried.

A motion to approve the minutes of November 2021, was made by Taczak, seconded by Baker and carried.

The first item on the agenda was a one lot split for Tom Tiede, 4044 Creek Road, SBL# 73.00-1-22.

Lilly: Please come up to the microphone, give us your name and address and tell us what you have in mind.

Thomas Tiede, 4044 Creek Road: I'm looking to subdivide a vacant lot next door to my house.

Lilly: You have an existing house. A parcel of property 230'x900'. The lot where the house is going to be on the property that is 149'x912'?

Tiede: That's what the house is on now. I'm going to subdivide 75'.

Lilly: I believe the other lot will be 80'x912'?

Tiede: Yes.

Lilly: The purpose of this for the other property?

Tiede: I want to put an addition on my house and getting rid of the vacant land will help me pay for it.

Taczak: The addition is going on your property?

Tiede: Yes.

Lilly: This is to downsize the property itself and a revenue stream perhaps for the property that you have. Any other questions? I think Town Code would classify this as a minor subdivision.

A motion to recommend a negative declaration was made by Conrad, seconded by Waechter and carried.

A motion to classify the subdivision as a minor was made by Taczak, seconded by Waechter and carried.

A motion to recommend approval of the subdivision as presented was made by Taczak, seconded by Waechter and carried.

The next item on the agenda was a special use permit for Our Lady of Fatima Shrine, Swann Road, SBL# 88.00-1-1.11.

Lilly: Please state your name for the record and tell us about your project.

Father Peter Calabrese, Swann Road. We propose to put a digital sign approximately where the tree line between the seminary property and the Shrine itself. The purpose of the sign is to let people know when events are and to give a little bit of warning for the entrance to the Shrine grounds. I have a representative from Cooper Signs here as well.

Robert Bronkie, Cooper Signs to assist in any questions that might be asked regarding technology.

Lilly: It looks like the sign is going to be 10' wide and 10.6' high?

Bronkie: The message center is 3'x8'. You are right about the sign being that height.

Lilly: The picture here depicts some brick and stone at the base and then the message above that.

Bronkie: Then a header above that.

Lilly: Does this fall in to the building codes as far as the size?

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Masters: They came to the ZBA and got a variance for this already. That was approved. Just so you are all aware, the electronic message boards are allowed in residential districts for fire houses and religious entities.

Lilly: Is there any pictures as to where this is going to be placed on the property? (Picture brought forth)

Bronkie: This is the sign and the distances from the property line and center of road.

Waechter: It's not blocking any driveways or anything like that?

Bronkie: No.

Conrad: What would be the hours that it would be animated?

Calabrese: Certainly till 11:00 at night. 6:00 in the morning until 11:00 at night.

Bronkie: It has automatic ability to go down to dim. It has a cell phone in it for diagnostics and also to control right down to daylight savings time and compensate for all those factors.

Calabrese: Special nights like Christmas Eve we would probably leave them on later until mass is over.

Conrad: When the Golf Course had their sign, there were issues with it being too bright and too late at night.

Bronkie: We can dim them down. It can be controlled.

Lilly: We know where the sign is going. It meets the building codes. Are the setbacks off the road good Tim?

Masters: Yes. One thing I.....I'm sure Cooper Signs is aware of the code but there is a regulation on how often they can change messages. You can't do off premise advertising. All that is listed in the code under light emitting display signs. Just make sure you are aware of that.

Conrad: Does that have to go to the signage committee or no?

Masters: No.

Lilly: There is going to be a concrete footer. I think I saw something about 2 piers.

Bronkie: Full concrete with reinforced footer, masonry work above grade with 30" of stone.

Lilly: How far is the power source to the sign?

Calabrese: We've begun talks with National Grid to put a pole right across from where it's going to be.

Lilly: Niagara Mohawk will put a pole and then a short drop to the location.

Bronkie: From the pole it will be underground. No over head wires.

Lilly: We don't have any blinding issues, brightness? How about any sort of shrubbery or some sort of landscaping around it?

Calabrese: There is a tree line near there that's going to be cut back. There are no plans to put anything in.

Conrad: It's decorative in nature with all the stone and everything.

Lilly: Any other questions or concerns regarding the electronic sign? It seems like there are other electronic signs in the area. There is one out front here at Town Hall. It's approved in religious locations as well.

Masters: They actually put that in an exemption just in 2012. Just so you are also aware the Code does call for a landscape base.

Lilly: Some sort of low landscaping around the stone.

Masters: 361-78.

Conrad: Can it be seasonal?

Masters: It says landscaping of ornamental plantings and shrubs at the base of such signs and shall screen the base from view from the public right-of-way.

Taczak: Would the stone base be considered? I can see if it was plain but being stone and ornamental.

Masters: I guess it's going to be on your subjective view of ornamental plantings and shrubs right.

Lilly: I do think some sort of landscaping would make where the concrete block meet the turf would soften that. Even if it was seasonal with some perennials or ornamental grass that would stay low without ever maturing to a growth that would hide the message board.

Calabrese: We can do that.

Lilly: It probably wouldn't take more than 8 shrubs or something of that nature.

Bronkie: Where the footing meets the base, above that, that base is going to be a type of finishing that is going to match the.....granite of the sign. It's going to be finished.

Lilly: The stone is attractive but I think some soft landscaping would also enhance the appearance. Anything else? I think it meets some of the items to comply with the Town, a, b, c, d & e on the second page. I think it would be beneficial to the community to have such a signage board. The electronic signage board seems to be the way to go nowadays.

Seaman: You have to do SEQRA and then again, it's a recommendation to the Town Board. I would just note that when you make that recommendation you should add the condition of the landscaping that you discussed.

Taczak: This needs a special use permit also.

A motion to recommend a negative declaration on the SEQRA was made by Waechter, seconded by Conrad and carried.

A motion to recommend approval of the special use permit with landscaping around the base of the sign was made by Taczak, seconded by Conrad and carried.

Seaman: You guys will be in front of the Town Board. They need to approve this as well. There will be a public hearing if it's called for, for the special use permit.

Lilly: Thank you.

The next item on the agenda was a site plan review/special use permit, 2371 Ridge Road, SBL# 90.00-1-9.

Robert Kuhn, 2371 Ridge Road. I want to obtain a special use permit for retail sales of ATV's and motorcycles at the property.

Lilly: How long have you owned it?

Kuhn: Since 2017.

Lilly: When you purchased it in 2017 were these your plans for it?

Kuhn: It started out as a personal garage, warehouse and it evolved from that.

Lilly: Sales and service of motorcycles and ATV's. Any particular brand?

Kuhn: Just general motorcycles and ATV's.

Lilly: Will you be doing this on a full-time basis?

Kuhn: It's going to start off pretty much by appointment only because I'm still working a day job. Once I transfer from leaving my full-time job then it will be open full-time.

Lilly: From the paper work it says you are expecting 1-10 shoppers and a couple of employees?

Kuhn: Yes, it's going to be real small scale.

Lilly: Is the parking area large enough for it?

Kuhn: Yes.

Lilly: Tim, would the parking lot and the lot of the property be of size?

Masters: The only thing I was really concerned about was where the stuff for sale would be placed in regards to the in and outs of the building and the right-of-way.

Lilly: It's an open curb I think right off the shoulder?

Masters: He said there is a curb in the middle?

Kuhn: There's an entrance on either side of the property line. There is a curb that goes right in the middle of the building.

Lilly: Over the past year or two it looks some improvements there?

Kuhn: Yes, I've been fixing it up, coat of paint to make to look presentable.

Masters: He also put a new pitched roof on it which really changed the appearance.

Lilly: I drive by there; it looks like there have been some nice improvements to it. It's fully water and sewer?

Kuhn: Yes, water, electric, natural gas so there's heat in the building.

Lilly: It's all up to date with today's codes. Pat Martin from the Fire Dept., you toured the building and you have no issues?

Martin: Yes. It's actually been an improvement from the vacant building that sat for 20 years. He's been very cooperative in getting things updated.

Lilly: It used to be a service gas station. This seems like it would go down the same path if you will. There has been some sort of change in the code that maybe causes a little pickle for this as far as the sales part of it.

Masters: Any time you have a sales and service new establishment it's by special use permit in the business district. That's why he had to come in here. I have no issue with it. I would just like a clear understanding of where the sales stuff is going to be in the parking lot. If you guys don't come to an agreement of that it's really hard for me to enforce if they encroach on the right-of-way or not. I'm asking....

Lilly: Will you have vehicles out on the front...for sale signs and things like that?

Kuhn: It will be during the day. If anything, we will have some motorcycles lined up near the road obviously on the building side of the curb. I'm not going to have them in the road or anything. During the night time everything is going to be inside. There won't be any vehicles out in the night.

Taczak: How many are we talking?

Kuhn: Maybe 5 or 6. It's going to be motorcycles and ATV's. They don't take up much room.

Conrad: What about storage of fuels or oils?

Kuhn: All of that is going to be in enclosed cabinets inside.

Conrad: What about dumpsters?

Kuhn: That will be inside. There will be nothing outside.

Lilly: Say a customer wants to come in and do a test ride on a motorcycle. Would you have a license plate that they can take it down the road?

Kuhn: Yes, I have to go through this process to get approval from the Town, then I can apply for the dealer's license through the State. I'll have dealer plates and everything and then they can take a test ride.

Lilly: How about the ATV's?

Kuhn: ATV's, I haven't decided on test rides for ATV's. It would probably just be sales of ATV's.

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Lilly: There is no property in the back?

Kuhn: There is a small amount of property. If anything, just up and down the side lot a little bit.

Lilly: The neighbors? You've been there a couple of years. Do they know what you're proposing?

Kuhn: I've talked to all the neighbors. They love that I'm fixing the place up. I've gotten along well with everyone.

Lilly: Anything else anyone would like to add or comment?

Waechter: I just have a question as far as the fuel tank removals. I'm assuming that you have clean soil sampling?

Kuhn: Yes, I have the paperwork for that. Do you want a copy?

Waechter: Yes, you can submit a copy or let us look at it.

Baker: That was done by previous ownership, wasn't it?

Kuhn: It was done prior to me purchasing it.

Waechter: I'm assuming that you're not going to be disturbing any of the remediation area?

Kuhn: No.

Lilly: Is there anything sir you would like to add to this?

Kuhn: I think the only thing was, when I was speaking with Tim back in 2012 it was pretty much downgraded from business to rural business so that's why it had to go for a special use permit. I don't know if it would go back to business or if the special use permit would be fine?

Seaman: That's correct. It wouldn't change the zoning but you would be able to operate under your special use permit. So, if you end up changing something or doing additions or changing site work or expanding your business then you would be adjusting your special use permit and site plan approval and you would need to go through the process again.

Conrad: We're talking about a possible expansion of the business. Hopefully you're successful and hopefully you have the success and be able to expand at some point. Shall we set a

threshold on the number of motorcycles that you're going to be selling so we have a bench mark as far as when we can judge when the expansion actually happens?

Seaman: Typically, you would consider an expansion relative to the site plan review. If he expanded his parking lot for example or he expanded the show room, or expanded any physical component of the parcel, that would be an expansion. Relative to his business flourishing that's not something you would typically put a cap on unless you want to clearly define where he is displaying the vehicles. Then that's a different kind of question. You guys really haven't broached that. If you wanted to try to look at the site plan. This is up right now for site plan review as well as special use permit. If you did want to look at the site plan and engage with the applicant on that to define exactly where he is potentially putting vehicles, you would have to condition your recommendation for approval in that way to the Town Board. If he expanded beyond that sure. That is not something you need to necessarily do unless you think it's a valuable step for this process.

Taczak: Would 5 motorcycles that you mentioned be the upper limit of what you would like to have outside?

Kuhn: I could probably line up 10 motorcycles along the whole length of the curb. Would I want to have 10 out there at a time, probably not. There could be a day where I might have that many out but as far....it's strictly going to be motorcycles and ATV's.

Conrad: What would be a comfortable number that would give you your starting point plus some success? The number of motorcycles.

Kuhn: I would say 10 would be the max of on display before I would have to make changes.

Seaman: It sounds like he's already constrained to a certain amount with regards to the parking lot. I don't know if I would put any additional conditions on that. If he's going to have more than 10, he'll have to expand his parking lot. The expansion of the parking lot is what will trigger him coming back. So, you don't need to tie it probably to the number of motorcycles he has out there.

Conrad: I don't know that I agree with you. I think what we can have is a restrained site where too much is being placed in that. We have a certain idea of what would be a comfortable number....someone else, not you, for example things I've seen in other towns where, even in Sanborn other businesses where they just cram....we limit them to 5 vehicles and you know a year down the road there are 20. No disrespect I'm just saying things that I've seen in the past and other businesses that are restricted by their size but still jam more in there than....

Masters: I'll give you an example, we had the guy at the corner of Niagara and Ward come in and the Planning Board at the time when they reviewed his special use permit didn't put any

parameters on it. It's really hard for me and Pat to go up there now and say you have 5lbs in a 3 lb. bag when I don't have anything to go by. If you go by Ward and Niagara, you will see exactly what I mean. We constantly get complaints about it and I don't have a lot of things to hang my hat on.

Lilly: The complaints are there are too many automobiles?

Masters: Encroaching in to the right-of-way.

Lilly: Just to be clear it's not going to be automobiles?

Kuhn: No, strictly power sports, motorcycles, ATV's, along those lines.

Lilly: Will there be signage or anything of that nature?

Kuhn: There's no plans. If anything, it's just going to be the name of the business on the building.

Lilly: Looking at the property size, it looks like the frontage is 146' at an angle and on the short side about 92'. Behind the building, does that property drop off quite a bit?

Kuhn: The drop off follows pretty much right along the edge of the property line.

Lilly: Behind the building it is a flat area?

Kuhn: Correct.

Masters: There is a lower garage door down there.

Kuhn: Yes, there is an entrance for the garage for the basement portion.

Lilly: There is a basement and ground level with 2 bays.

Kuhn: There used to be sales of snowmobiles at one time.

Conrad: Is that something you would move in to as well maybe snowmobiles or boats?

Kuhn: We don't get enough snow up here; other than the snow we got the last couple of days. It's not business feasible.

Waechter: I just have one question as far as where you are going to display the motorcycles? Are you going right in to the front of the building, you're going to take that 45', the length of your building will be how you have your motorcycles?

Kuhn: It's going to be pretty much right along where that curb is near the road.

Waechter: You're going to come up to the curb? Is it going to stay within that 45' or do you plan on going right up to your drive is where the curbs are?

Kuhn: It's going to be within from the road to the building. They will run parallel with the building.

Waechter: I guess my recommendation would be that we put in there is no motorcycle display on the right-of-way and it's limited to I would say 50' or 60' parallel to your building? Is that enough?

Kuhn: I think that's reasonable. Let's go with 60'.

Taczak: Then you have approximately 40' on each side for a road way coming in and out.

Waechter: If he's lined up out at the road way and you go from, where are your curbs at in relation to the building? What I'm trying to do is get a way to clarify that...

Kuhn: Do you have a copy of the aerial view?

Taczak: That's what we're looking at right now.

Waechter: It's offset where that curb is right? Is that length of that curb long enough?

Kuhn: Yes, for the display of the motorcycles.

Waechter: So that could be our delineated boundary? Is everybody okay with that?

Lilly: 60' we're saying?

Waechter: Do you know how long it is?

Kuhn: It's probably close to 60'.

Waechter: I guess we should have an accurate measurement on it. That would be my recommendation. I don't know how everybody else feels? Can you limit your motorcycle display space to in-between the driveways and out of the right-of-way?

Lilly: Do we want to do SEQRA before that Tom?

Seaman: Yes.

A motion to recommend a negative declaration to the Town Board was made by Conrad, seconded by Waechter and carried.

Lilly: What Sarah is speaking about is the Building Dept. to have a true measurement of some sort of 60' no wider or longer than the curb that runs along the right-of-way. That there is some sort of way to measure it in the future. Would that work for you sir?

Kuhn: Yes.

Lilly: So, 60' and not in the right-of-way, to run parallel to the curb.

A motion to recommend to the Town Board for approval of the site plan review/special use permit with the condition that there be no more than 60' of display along the existing curb, was made by Waechter, seconded Taczak and carried.

Seaman: You will also end up in front of the Town Board for a final consideration.

The next item on the agenda was a site plan review for Sanborn Area Historical Society, Saunders Settlement Road, for a solar array.

Steve Long, Borrego Solar. I'm the project manager. We're here again with a project on Saunders Settlement Road. I have Marc Kenward from Erdman Anthony and he will give the details.

Marc Kenward: The proposed project will construct and operate a 5 mega-watt ground mounted community solar system at 2660 Saunders Settlement Road. It's located on the south side of the road approximately 650' west of Bridgeman Road. The site has been used as actively tilled farmland, although the last few years the central portion which is this area here has been left fallow and is reverting back to brush. The land on the southern portion down in here (map) and on the northwest portion is still actively farmed which they rent out to area farmers by the Sanborn Historical Society. The project site area is a 59.5-acre land parcel. It 1,165' of frontage on Saunders Settlement. It's approximately 1,952' deep. The project encompasses approximately 42.7 acres in the central and southern portion. The two fence arrays, there will be two fence arrays because this area is dissected by a creek or stream that runs right through here. There are two arrays, one on the north side of the creek and one on the south side. There is access across the creek right here, after the bend. The two fenced arrays total 23.35 acres. It will be 1.8 acres of access driveways to Niagara Street. Rather than access the site from the front which is where the Historical Society has their event center, their

displays and buildings, the property comes with a right-of-way all the way over to Niagara Street and West Street to the corner here. They own this building here. There is an existing farm lane there. We will have to improve it with a 20' wide crushed stone access driveway. As I said it follows the same line as the existing farm lane along the south edge here. The other access that comes back here is down through farm land this way but there is no defined farm land from the corner here up to across the stream. This has all been actively tilled in the past few years. The poles and electrical wires needed for the interconnection with National Grid will be located along this access driveway just west of the corner of West Street and Niagara Street. There are already several poles there. We show a configuration of that. That is all subject to approval by Niagara Mohawk. There are several different poles in there. We have to sort out which pole they want us to connect to. We don't know that for sure yet. Utility scale projects such as this are allowed and regulated in the Town of Lewiston Zoning Code. This proposed project is in a rural residential zoning district which is allowed by the zoning code. The site layout and design layout are in accordance with the Town of Lewiston solar energy zoning code, Section 360-220. The special use permit for criteria for utility scale solar energy systems. The large scale solar is designed and requires a minimum lot size of 5 acres and a maximum of 100. We are 59.5-acre parcel of land here. I want to point out that includes this parcel as well as this corridor out to Niagara and West Street. It has the frontage on Saunders Settlement. The required minimum front setback is 700' and we are 1,234' back from Saunders Settlement. The required minimum side setback is 100' and we are at 109'. The rear setback is 100' and the proposed rear setback is 103'. There is also required setbacks to existing dwellings. There is 250' to any existing dwelling and subject parcel. There are no existing dwellings on the parcel. A dwelling being a residential house or anything like that. All the buildings here are used for commercial and display purposes and museum purposes. There is a 700' requirement to any existing dwelling on adjoining land. The distance to the nearest dwelling on adjoining lands is 1,081' which is the Wienke property on the south side of Saunders Settlement Road to the west. There is another requirement for 500' to any existing structure on adjoining lots. The distance to the nearest structure on adjoining lots is 935', which is also to the west I believe. I believe it's the barns on the neighbor's property. The maximum allowed height is 20' above grade. For this site the maximum height of the panels will be 9'. That's from the ground to the top edge of the solar panel. This is a tracker system. The panels rotate with the sun but the top of the panel will never be more than 9' above grade. The Town solar zoning code also requires provisions to reduce potential impact. We are providing vegetative screening in the form of 9'-10' high ever green trees on the east side, on the south array and along the northeast side of the north array. The trees are here and run from the creek south to the access driveway here and up here at the north they are run to the north of the array a little bit. There is existing vegetation here that is going to remain. There are proposed trees here. We're not proposing any trees through here because this is wetland area. That would be considered an impact to plant trees there. There is some existing vegetation that helps already screen it, along here along the back side of the properties that front on West Street. Construction of the facility is environmentally friendly. Minor amount of excavation and grading work are required. Some minor and limited site re-grading are proposed in areas to equipment pads. The equipment

pads are here for the north array and down here in the middle of the south portion for the south array. We try to get them raised above grade about a foot or two. As I mentioned there are wetlands present on the site but wetland impacts will be minimized because the inspections of panels and support posts that will be driven, not dug in to the wetland areas here and those are not considered impact because we're not excavating or filling to put those in. We just push them in the ground. The exception is there is a few corner posts and gate posts on the fence line that have to be dug and have concrete footers. The wetland impacts are very minor. Upon completion of site area, within the fence we plant a meadow grass and the remainder of the site outside the fence array will be planted with honey bee forage mix of clover. During construction the project will generate approximately 50 vehicle trips per day, which is 25 arriving and 25 exiting. That will be through the entrance driveway here on Niagara and West Street in the hamlet of Sanborn. Once the project is operational it will generate no traffic, no discernable noise to neighbors and no adverse glare. There is also no night time site lighting. The only activity once it is operational is the mowing up to two times a year and an occasional site visit by electrical service technicians. The other thing I wanted to bring to your attention is we've done some preliminary view shed analysis and we've discovered a very nice tool with google earth. I hope that you all have something like this? We initially looked at 5 viewpoints. If you flip the first sheet, I'll explain what this means. The first view point was from the West Street School playground which is here. We used an eye height of 2 meters which is approximately 6'. What you see on the drawing here is the florescent green, those are areas that can be seen from that view point. Anything that is florescent green can be seen from ground level. Our view shed analysis; we were also able to locate in the tree lines opposed to screening. They are the green dots here. What is important to note is how little of this current property could be seen from that West Street playground. If you go to the next view point which is from the rear of some houses on West Street, again I'll point out there is existing vegetation hedgerows and things like that here. This is not definitive but it gives you a pretty good representation of what can and cannot be seen from those viewpoints. Where the property is on the sheet, there is very little that can be seen at that eye height from the vantage point. It appears to be mostly screened by topography and by existing vegetation. Going to the next view point, view point 3 which is from the front out at the road, at the subject address out here and there is very little that can be seen. The topography, right about in here the land starts to drop off substantially. The grade slopes down to this creek here. It's screened by natural vegetation at an eye height of 6' out here at the road. This is screened by the topography of the land. It can't be seen because it's so much lower.

Conrad: How much lower is it?

Kenward: Almost 20' lower. That's view point 3. View point 4 is from another area on West Street, right near this intersection. The second street north of the corner of West and Niagara Street.

Conrad: I think it's Maple.

Kenward: We're trying to look through here between the houses. As you can see by this google analysis which was generated by google, it's not very visible at all. Our last view point was from the high school sports field over here to the west. Again, we're looking across two strips of farmland from that school sports field. You're not able to see very much of that. We have commissioned visual simulations but I want to get some acceptance for concurrence of what we've done so far and see where your concerns might be? We don't have any problems doing some visual simulations from some of these view points but we want to get you on board with our thinking here and get some opinions from you and hear what your concerns might be, so we can have some visual sims done where you might expect them.

Lilly: You went over a lot of information there and I think we have a lot of questions and items to be asked to dissect all of this. But before we get in to that I would like to enter in to the record Sandy if I could, a letter from Mr. Ron Craft who lives at 105 north 4th Street. He is on the position of the Sanborn Museum Planning Board and he would like the Planning Board to okay the solar project. It's a lengthy letter as Ron Craft's letters usually are. There is no date on this but I'll date it as January 20th 2022. As far as questions and dissecting all this, should we start with the professional table over here? Bob, as the engineer, we haven't called on you this evening.

Lannon: I've gone through the drawings. I think they are in pretty good shape. I have a couple of what amounts to be very minor comments. Just a thought or recommendation the last couple of solar farms that went through that you are familiar with. The height of the trees is 9-10', it's likely going to be a minimal of 10' just as a heads up. I would suggest you go 10' or better on tree height. I have a couple of questions on where the 4th gate is. I couldn't find it but again that is a minor point. I wanted to check and see when you're coming down West Street and going down the east west road there on the south part of the property, that is 20' and has to be done for fire truck access and weights. I'm sure Mr. Martin will get in to that.

Kenward: The length by NEC Code for any power generating stations and we are having a discussion with the Fire Dept. understanding we have to provide certain

Lannon: That's pretty much it. I can get those to you in writing but they are very minimal. There's not a whole lot to it. The screening is important, you have the fence and the slats in the fence.

Kenward: I didn't mention that, the museum asked and required Steve, the park developer to use the screening slats which is the fuzzy green garland type material we've been using. They want it on the north, east and west faces of fence. They want it screened with the screening slat. That is in the site plan. It's a minor detail but an important detail to mention. The fence is 8' high.

Lannon: I have a question on decommissioning, what is the period of time, you have 20 here?

Long: 25 with a 4–5-year extension.

Lannon: We will have to tweak that a little bit to escalate it for 25. It's very minor in the whole scheme of things. Just so you know the SEQRA, lead agency coordination letters were sent out on December 22, 2021. They conclude tomorrow, so tomorrow is the end of the 30-day coordination period. Nothing on SEQRA tonight but we should be ready to go for that for the next Planning Board meeting.

Lilly: Tim, you had put in an email about the tree height which is 10' minimum.

Kenward: We can do that.

Lilly: The power access from Saunders Settlement Road not Niagara Street because that's a B district. This might be something you are just hearing tonight?

Masters: That strip that we have on Niagara where that first wider strip is actually zoned business. It's not zoned rural residential. The Town Code does not allow industrial solar in a business district. That's why I was wanting to ask can you come in off of Saunders Settlement Road?

Long: The Historical Society didn't want to just because they didn't want anything to intrude in to their museum area.

Masters: The option, you will have to talk to them about it. The solar law expressly says not in the B district.

Long: Where is that district boundary?

Masters: That district boundary is that first larger square right there is all zoned business. Once it goes smaller it goes to rural residential all the way back. From here down is all business and that's where you're putting the pole farm, the entrance way and all that. The Town Code would not allow that to be there. The options are if you come off of 31 there are no problems.

Long: What does the Town Code say?

Masters: You can't put it in the B district, any portion of it. You would have to come in off of 31 and there is no issue or you would have to request a variance or some other idea.

Kenward: Let me ask you this, if we're going for a variance would it be in anyone's best interest to move the pole farm so it's in the correct district but still have a driveway and get a variance for the driveway access from there?

Seaman: I don't see how you can get a variance; a use variance wouldn't work; an area variance wouldn't change the Town Code relative to allowable uses within certain districts. You need the Town to change a district or change their law. You might want to talk to, I don't understand why you wouldn't come in off Saunders Settlement Road?

Long: It was a preference. I didn't realize that's what the set up was. We have to look at that and see where the best spot to go up to 31.

Seaman: Are there 3 different parcels, the main parcel and then.....

Masters: It's all one parcel. It doesn't look that way on the plan but it is.

Kenward: There were two parcels that were quick claim deeded way back a long time ago.

Seaman: You said there were two parcels that were combined?

Kenward: Along here and here. They did a quick claim deed together.

Seaman: It may not be an issue but if for some reason you end up going with this long stretch.....this project should be on one parcel.

Kenward: It is, it's all one parcel.

Masters: On the current tax map it's all one parcel.

Kenward: It was put together by this parcel and these two quick claim deeds. It is all one parcel.

Masters: My other issue is the drawing doesn't clearly show what you're going to do with the fencing by the pond. It's kind of open ended.

Kenward: We'll have to close that gap. (fence)

Lilly: We have some comments from Pat Martin?

Martin: I'm curious with the proposed roadway that's coming off West Street. It seems quite lengthy. Do you have the dimension on that?

Glenn Wienke: We do own that property. Does that make a difference on the zoning? We already own along the tracks there.

Masters: That doesn't make a difference with the zoning.

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Kenward: I guess I don't have a total length on that.

Martin: It looks like it's almost a half mile. That's not even close to being acceptable under the Fire Code. When I'm looking at the other end where you're showing this 20' wide vehicle access gate that's coming off of the property, it doesn't look like it's paved.

Kenward: That was like a secondary access point. We put a 20' gate there which would help for....

Martin: It's not paved or anything.

Kenward: There was no formal access. It was like a secondary access to facilitate mowing.

Martin: With all the projects, I think you've done 4 or 5 now in the Town and we've been very lenient but this is excessive. It doesn't even come close to meeting the Fire Code. You've got problems. I think you're done with this road way coming off of West Street to be honest with you. I don't know how you meet the Fire Code.

Kenward: Is there a maximum length it can be?

Martin: At 750' you would have to get special approval on it. If you're at a half mile it's well over that.

Long: We're trying to protect esthetics of the museum to be honest. Their preference is to go in the back and they own it, it seemed like....

Martin: It's not going to fly. The Fire Company is going to be screaming about it. Even the construction of the roads are questionable. I'm sure if I went out and looked at your places they haven't been plowed. We're looking at access roads that don't in winter time conditions that have rocks that are going to damage fire equipment. You're compounding your problems.

Long: That's why we're here for the comments and feedback.

Martin: I just don't see this roadway being the only way in.

Lilly: Could this road way be used just for construction purposes and once construction is done you could put an entrance off Route 31? At that time there's not that much activity going on. Is that an option by any chance?

Masters: I think it would be better coming off 31, a heavy-duty highway rather than West Street which isn't designed for that.

Conrad: Plus, you have the school right there.

Masters: You have the school, the gas station and a big cluster right at that corner. I didn't talk to Dave Trane about it but I can before the next meeting.

Lilly: Truck traffic and construction traffic could end up wandering through that neighborhood opposed coming off...

Masters: You have the library right there.

Lilly: That seems to be one issue. Any other Planning Board members?

Taczak: I'm looking at the letter from National Grid, preliminary analysis. Executive summary of Section 1, the company has determined that the local area is not suitable for the interconnection of a generator system as proposed. The customer shall not proceed with the proposed installation of the system until these technical requirements are satisfied. What's going on with this?

Long: There is a lot of electrical stuff that is not and that's what they're saying is the existing infrastructure needs to be upgraded. They don't give you or tell you what that is or the cost until you pay for an extensive study which we've done. They are in the process. It takes 4 months.

Seaman: You say it takes 4 months?

Long: Yes.

Seaman: When did you apply for it?

Long: I don't know the exact date? A couple of months ago.

Baker: Does it generally go back and forth?

Long: It can. They do an extensive study; we get a long estimate and they give us a cost.

Seaman: What would it be that they end up giving you a cost for? What type of upgrades?

Long: We'll be upgrading the line and sometimes the substations, depending on how many projects that are connected.

Lilly: Where is the substation located?

Long: I can't remember which one this is.

Taczak: You mentioned that this array is set up differently than some of the other ones you've done where it will move with the sun?

Kenward: They are called tracker systems. If you go over to Lockport Road. There is one on Lockport Road near Wagner's. That is a tracker system. The rows are orientated north/south. The panels rotate to follow the sun.

Taczak: They just rotate up and down? They don't rotate side to side?

Long: It's one access. It rotates east to west. In the morning it's facing east and the evening it faces west.

Taczak: Is the power you're generating powering the movement of the panels?

Long: Yes.

Taczak: How would that affect the bases that are being just, being pushed in to the land....how does that movement affect....

Long: The.....is well above that.

Taczak: I realize that but I'm talking about the movement of the panels and all that.

Long: They move super slow. It's almost like watching the minute hand on your watch. They move a little bit every 6 minutes.

Lilly: When National Grid comes back with this cost could you be so floored that you don't do the project? How do you know where that is going to go and are you prepared to move forward with whatever that expense might be?

Long: We're taking a chance, based on the preliminary that we think it's going to work. That's what we have to do.

Baker: A lot of the area is designated wetland and I understand the supports are going to be pushed in but there is going to be a lot of traffic, a lot of activity just to do that, to get the panels in to position and to push them. How do you prevent a major disturbance to all this wetland area?

Long: We try to do it in the dry season if possible. We use methods with track machines which spread out the weight.

Baker: It still ends up churning it up I would say.

Long: We've done it before. You just have to be careful. You can't make a mess.

Kenward: On the Williams Road site they used quite a few track machines on the Williams Road site. I cite that because it's a low-lying site with wetlands there. The machines that put the posts in are track driven. They used a trackskid steer quite a bit on that site to move the material around.

Long: They aren't big machines actually that do it. They are smaller than you think. The posts are 8' long. It doesn't take a big machine to put them in the ground.

Baker: You have to get them to where they are going to be working.

Long: They will store them off the wetlands and bring them in with the smaller machine.

Kenward: We never put our staging storage area in a wetland. We always locate it upland. If we have to come in off Saunders Settlement Road, this area right here is where it would probably be for the storage area.

Baker: I'm trying to understand the sequencing of this. I understand you try to take every precaution but if you're saying you do it on the dry season whatever that means, is that July or August? That would limit the construction for that part of the project to July and August.

Long: That is the best case if that's when it ends up. If it's not then we would use precaution to install in the wetland areas. If you don't do it right, you're going to get stuck and make a mess.

Baker: What happens with the mess?

Kenward: We have to restore the site back; any disturbed area has to be restored and seeded if it's not a paved area.

Baker: It's definitely going to get disturbed to some extent.

Kenward: What we were saying is what the Army Corp. of Engineers and DEC count as disturbance is excavation or fill. Yes, we do run vehicles across it. Keep in mind when this was tilled, they were basically tilling wetlands. It's not really any more disturbance then when it was being tilled ag land.

Baker: That's not what it's going to be used for now.

Kenward: It's going to be a less intrusive kind of use. Tilled ag land is disturbed every year. This is returning back to brush because it hasn't.....it wants to revert. If something is left like this nature takes over very quickly.

Waechter: I have a question based on the wetland and I noticed that you're in the 100-year flood plain. Is there going to be an insurance issue as far as having to make accommodations for having to be in the flood plain? According to the SEQRA your project is in the 100-year flood plain.

Kenward: If it is, it's in an area of shallow

Long: I don't think it's in the 100-year flood plain.

Waechter: That's what's on my paperwork. That's why I'm questioning it. I would assume if you are you have some things that you may have to do.

Kenward: The panels are lifted off the ground on a height of about 3-4' off the ground. We don't put equipment pad areas in areas that are prone to flooding. We do try to have it above grade 1-2'.

Long: We've done some in flood zones and we double check that. Anythinghas to be 1' above the 100-year flood elevation.

Waechter: We've been having some catastrophic rain events and I don't see those improving in the future. If you are already in a flood plain, that's a potential problem.

Long: The panels are going to be well above the equipment areas will have to be raised up.

Lilly: I think there are two things here, one you said this has been tilled recently and farmed last season and somewhere it also said it's abandoned farm land. What exactly is it?

Kenward: The south area here, south of the creek has been actively tilled for the past many years. This middle portion, there is some tree line here and this middle portion here which shows up brown on here because of the age of the aerial imagery, this hasn't been tilled in 2 or 3 years now. When I walked this site a year ago, the brush was higher than me.

Lilly: Is there a reason they're not farming that or utilizing that?

Kenward: We were advised by a former farmer who owned it, Mr. Wienke that it was rocky.

Conrad: Back to the National Grid document for the screening analysis, it lists the customer as ReJean DeVaux?

Long: That is our inner connection engineer. He puts the request in to National Grid. He's from Borrego.

Conrad: He should be identified as such because that was confusing to me. As with all the other utility solar projects that have been in the Town there won't be any battery storage there right?

Long: Correct.

Conrad: Does the FAA have to review this since....

Long: We submit all our projects to the FAA.

Conrad: Have you submitted that or you're not at that point yet?

Long: I think we did submit it. It takes 45 days to review.

Conrad: This is a 59.3-acre site. This project is going to encompass 42.78?

Long: That's correct.

Kenward: Basically, they can almost do this in thirds. The front third remains as is, the middle third and south third.

Conrad: The woodlands is going right?

Kenward: Some of the woods is going in this area here.

Lilly: How wooded, how dense and what size trees are in that area?

Kenward: I don't believe, we didn't survey the map every tree out there. They are second or third generation trees I would think at most. It's more brush than it is trees. There are some larger trees in there. My opinion is there are no signature trees of great value.

Lilly: But there are some trees that would have to be removed?

Kenward: There is 4 acres of tree clearing, 4.7 acres of tree clearing is required.

Conrad: One of the other things you were talking about was the view sheds that the Board would be interested in seeing from the elevations as developed right?

Kenward: The view shed analysis is google earth is one thing. Visual simulations.....to take photos at eye height from the ground. I believe one of them will be from this play ground, one might be from the school sports field, one from in front and I believe they were going to try and get one or two along West Street looking out.

Conrad: What lies directly south of that haul road to the property?

Kenward: That's the railroad right-of-way.

Conrad: What is south of that?

Kenward: More farm fields.

Waechter: As far as the railroad, is there any issue as far as the visual impact with the railroad? I'm not familiar with how often trains go through there and if there is any issue. I notice you're not doing any screening on the railroad side.

Kenward: We weren't doing any screening along the railroad. I don't know, I have no idea.

Waechter: Is it passenger, is it cargo?

Conrad: It's usually cargo in this area.

Waechter: I would think if it's passenger trains going through there it would need screening there. I'm just not familiar with what runs back there.

Seaman: Regardless of what's back there, the Code does require screening completely around the project.

Lilly: You would have fence back there with mesh.

Kenward: We would probably do that before....

Lilly: Which would count as screening I believe. It's 8' with no barbed wire at the top. That would be around all sides of it. You have a large farmer's field on both the east side which buffers the residents which are on the West Street and then there's a farmer's field on the west side as well. Then south is the railroad tracks. It seems like a lot of concern is visual, people seeing these things and it's an eyesore. This seems to be tucked away and hidden. You still have some tree screening on the east side, almost 200 trees on that side.

Kenward: We are doing trees here.....

Lilly: I don't think we are going to come to any conclusion here tonight but if we were to summarize some things here it seems to be the road access or the construction and final road and maybe the wetlands to make sure.....I think it said .15 acres of disturbed area but it seems like it's larger than that?

Kenward: I think what we calculated was the wetland impact was .15 acres and that's it.

Lilly: It just seems looking at that, it seems like it's much larger of an impact on the wetland area.

Long: It's how they consider it.

Waechter: Did the DEC weigh in?

Long: It's just the Army Corp.

Waechter: It referenced the DEC in the bottom paragraph.

Long: We definitely submitted, I'm not sure if we received back but we submitted a jurisdictional determination from Army Corp. and DEC. The initial from our wetland scientist is they are Army Corp. wetlands.

Seaman: Do you expect a need for any additional permits from the Army Corp. or do you expect that that's what it is? That letter is essentially your permit?

Kenward: I understand we still need the permit because we're impacting 20.5 acres.

Long: They are saying they are a wetlands issue impacted and you will have to get a permit. We will submit what the impacts are. If they're under a certain amount you don't need a permit.

Seaman: You do anticipate making further submissions to the Army Corp.

Lannon: There are 5 wetlands on the site. The jurisdiction said only 1 & 2 are subject to the permit.

Waechter: 1, 2 and the stream.

Baker: It says wetland 2 is 2.83 acres. Wetland 1 is 2.32 acres.

Long: We are saying our disturbance is a certain amount. Those are the size of the wetland.

Baker: Do they define what disturbance is? How is that defined?

Long: They have definitions and they've determined that the posts that are driven are not an impact. It's changed over the years.

Seaman: So, there is a culvert I see that you have anticipated going over that Army Corp. delineated stream. Is that a culvert that already exists?

Kenward: Yes, twin, 24" culverts.

Seaman: Are you changing those or are they staying?

Kenward: They are staying. They're in good condition.

Baker: It says in one location they're going to be replacing them. In another location they are going to be saved.

Kenward: There is a small culvert right here.....

Baker: There are 4 culverts altogether, 2 locations.

Kenward: There's a very old...have submerged, half buried 12" culvert here. We're going to replace that and just open it up and let it out a little more. I'm not aware where this other one might be.....

Waechter: I have a question on your disposal fee. I was just wondering where your nearest transfer station was going to be or where you are going to be disposing of them in the future? Also, I noticed that you have \$9. per panel or per module that is your disposal fee. The research that I've done it's about a \$20-30 disposal fee. I just feel like your dollar number might be a little light.

Long: We just did this on another one. I'm not sure what we agreed to on that one. I think they just used the same number.

Waechter: I think that discussion did come up.

Long: That is a number that was accepted last time so we re-used it. Typically, we don't in other counties. I know Niagara has changed it so we are, that was agreed upon before. We can check and make sure.

Waechter: I do know that was discussed last time. I noticed your inflation rate is at 2.5 so thank you very much.

Seaman: What is the vegetation management plan for specifically for the wetland area? What do you do with the vegetation that is growing in the wetland area to keep it from over taking your 9' tall solar arrays?

Kenward: When they mow the array, they also have to mow a certain distance out from the fence I think right Steve? You have to be able to maintain the fence as well.

Seaman: So, it's mowed?

Long: Yes, twice a year. It's usually end of June and then October.

Seaman: It would be the same for both parts of your project?

Kenward: Muck land versus wetland, it's all mowed. I may be wrong I don't think mowing is considered an impact in the eyes of the DEC or Corp of Engineers.

Seaman: But planting a tree would be?

Kenward: Yes, because we're excavating.

Long: You have to dig a little hole yes.

Lilly: What else do we need to accomplish tonight? What do we need to clarify this evening for the applicant?

Seaman: Procedurally you're not going to be able to take any actions tonight. SEQRA is still on-going, the coordinated review has been initiated. You guys could potentially call for a public hearing, you will do that eventually. Whether or not that takes place next month is your call. I would say if you do call for a public hearing next month, anticipate leaving it open because there is going to be a number of things.....as far as tonight there is probably no action other than if you want to call for a public hearing. Really, it's their first brush through and they're well aware different topics keep popping up. The real purpose of tonight is to get a good over view, unless someone has additional information to add.

Lannon: We have the SEQRA package that we sent out. We sent a coordination letter both to the Army Corp. and the DEC. If there's any permit issues that will be governing this, it'll come back through the SEQRA process. They'll have to comply with any permit the Army Corp. or DEC has to issue. The points are all well taken but it will be up to them to comply with the permit conditions issued by the DEC.

Conrad: When we did the Kilmer site, even though the Kilmer site was well off of Townline Road we still asked for the elevations, I think it was a 5 year and a 10 - year development of

growth for screening. I personally would like to see that from behind the West Street neighbors and from the school. The other thing Tim you raised a point about a fence being opened. Along the creek is the fence open at any point or is it closed?

Kenward: The fence that faces south on the north array, I don't have screening on. I did screen a little bit, not totally but I did screen some of the east facing fence. The fence lines overlap right here, I didn't screen this east face because the arrays overlap. What I'm hearing though is you would like to see screening on this south fence?

Conrad: I'm not talking about screening; I'm talking about the issue we had before with maintenance of a water way.

Masters: This one here, the creek is outside the fenced area. They will be able to maintain it.

Conrad: That's where I was headed.

Masters: Tom is right about the screening; the Code does call for all 4 sides.

Conrad: I understand. I was talking about access and being able to take care of that creek.

Lilly: Niagara County Planning Board has recommended approval. The setbacks for the fence lines in the project are within the guidelines and the no glare report reports that there won't be a glare issue. Rob, would you like to speak on behalf as a Town Board member?

Rob Morreale: Sarah brought up the decommissioning bond, didn't we have a set rate?

Taczak: 2.5.

Lannon: The current bond says 20 years, that's why I asked him about 25, so we'll have to escalate it for 5 more years.

Lilly: Do we call for a public hearing for next month?

Seaman: Considering they need to re-think what they're entrance point is going to be and very likely re-engineer their whole entrance point, I would suggest maybe a public hearing next month is premature. It's important to bring the public in early and often on these things but maybe it's just a month premature.

Conrad: Do you want to hear from the audience?

Seaman: It's not scheduled for a public hearing.

Lilly: Would anybody in the audience have a quick comment they would like to add this evening before we adjourn? There will be a public hearing so you will have a chance at that point as well if you don't want to speak this evening. For the applicant it sounds like that road is a bit of an issue that might, actually there are 2 strikes against you as far as the Fire Dept. and the right-of-way. It sounds like the Historical Society might have to live with that road coming off of Saunders Settlement Road.

Seaman: Is there a fence detail on there? If there isn't one, I think you should make sure there is one.

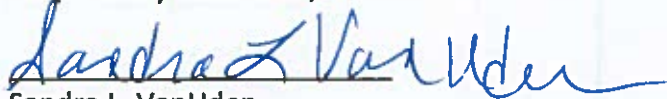
Long: It's in the back.

Lilly: You have a few items to iron out with different departments and we'll meet perhaps again next month or it will be up to you.

The next meeting will be February 17, 2022, at 6:30 P.M.

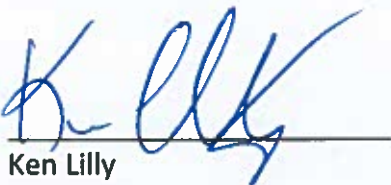
A motion to adjourn was made by Taczak, seconded by Waechter and carried.

Respectfully submitted,



Sandra L. VanUden

Planning Secretary



Ken Lilly

Vice Chairman