

## PLANNING BOARD

Town Hall 1375 Ridge Road Lewiston New York  
Thursday – July 18, 2019  
PB 2019-7

Present: Baker, Conrad, Craft, Lilly, Taczak

Absent: Waechter, Burg

Presiding: Bill Conrad, Chairman

Conrad: Good evening. Welcome to the July meeting of the Town of Lewiston Planning Board.

The first item on the agenda was for Borrego Solar Systems, for property located at 4352 Williams Road in Ransomville.

Conrad: If you want to go over your project please.

Steve Long, from Borrego Solar. We were here last year for our other project. That is going to start hopefully in a couple of weeks. We are using Urban Anthony, Mark Kenward as our civil engineer on the project. He is going to do the presentation for you.

Mark Kenward: This is a big lot that we are putting it on. The subject property is located at 4352 Williams Road. We are proposing to construct and operate a 7.2-megawatt DC ground mounted community solar energy system. It's located on the west side of the road approximately 2,250' north of Swann Road. It has historically been used as actively tilled farm land. My first panel here is an overall view of the property. There is approximately 1,100' of frontage and is nearly 4,000' deep. You can see there are 5 farm fields on this and the rest of it is wooded and a lot of that wooded area has now been delineated as wetland by our sub consultant doing the wetland work. The project site itself as I said, this is a 97.65-acre parcel of land. The project site encompasses approximately 28.4 acres. It's in the front 2 fields, the 2 fields closest to Williams Road. I'm just trying to give you a point of reference here. The 28.4 acres includes a 17.62 acre within the fenced array which is here (map) and about just under 1 acre of access driveway from Williams Road. There is also about 4.95 acres of tree clearing and that is along this boundary here so it doesn't shade the solar array. This as I said is wetland but it's only going to be cleared of trees except for the 10' area closest to the fence which will be also grub and then tilled and seeded to grass just so there is a 10' grass buffer just outside the fence so it can be mowed around and maintained. As I said before there is .93 acres of access

driveway that is 20' wide crushed stone driveway. It's essentially very course crushed stone, queen crushed stone like railroad ballasts. They use the course crushed stone because they've gotten a waiver from the DEC to acknowledge it is permeable, in other words it will pass water. Poles and aerial electrical wires needed for the connection with National Grid extend about 200' in from Williams Road in to the site along the south side of the access road. Then after that everything is underground. The utility scale solar projects such as this which are allowed and regulated under the Town of Lewiston Zoning Code Chapter 360 Article 28, utility scale solar systems when proposed are allowed in rural residential districts as well as industrial zones. This is a rural residential zoning district. The proposed site lay out has been designed and laid out in accordance with the Town of Lewiston Solar Energy Code Section 360-220 which governs special use permit criteria for utility scale solar energy systems. These requirements include a minimum lot size of 5 acres and a maximum lot area of 100 acres. This project is 97.65-acre lot. The required minimum front setback is 200' and we are proposing a front setback of 536'. The required minimum side setback is 100' and the proposed minimum side setback is 108'. The required minimum rear setback is 100' and we are of course 1,828' to the rear, so we kind of crushed that one. The minimum required setback to existing dwellings is as follows: The required 250' to any existing dwelling on the subject parcel and in our case, we are 472' to the landowner's residence. You also require 500' to any existing dwelling on any adjoining property. The distance to the nearest dwelling on the adjoining property is 508' which is the Lauer property which is the next residence to the north of the site. Other Town Code requirements include a decommissioning plan which has been submitted and was in this application package. Construction of the facility is generally environmentally friendly. Minor amounts of excavation and grading work is required though. Some tree clearing and limited stump grubbing as I noted earlier is required and we're also doing some minor and limited site regrading in the proposed areas of the .....pads here and here (map) and also for some culvert crossings. As you enter in to the farm field area down the access road there is an existing culvert here, we're replacing that. We're raising the grade of the road up a little bit. As you proceed west a little further there was another area where we determined, I physically saw water flowing out of the wetlands across the fields. Generally, water flows north to south here so as we get, I'm sorry south to north. As we approach the middle of this field, we cross a proposed culvert which was a drainage furrow. The field has been carved up with drainage furrows over the years and we're going to try and maintain those drainage furrows and turn them in to drainage swales. We're raising the grade around the pad just to get them a little bit higher than the seasonal high ground water which is really the field elevation currently. It's not in a flood way or a flood plain and it's not wetland but it is a very wet and poorly drained field.

Conrad: The FEAF it does lie within the 100- and 500-year flood plain.

Kenward: That must be in error because I don't think it does. We can confirm that.

Conrad: You have any idea Chris?

McAuliffe: Tim is the flood plain guy.

Kenward: There might be a portion of the property that is in a flood plain but the system is not.

Conrad: I just want to make sure we clear up whether it is or not.

There are portions of the property that are in that flood plain and that is associated with some of the ditches in the field. A portion of this road side ditch and then there are some man-made ditches, they are now blue line streams because they basically routed drainage in a north south east west pattern so they could till the fields back in the 1800's. When I did a site walk back in June which was still pretty wet there was a lot of pollywogs.

Baker: I went through the decommissioning plan. #5 here says break up concrete pads. Will they be removed as well after they are broken up?

Long: Yes, they will.

Baker: It doesn't state that.

Long: Maybe at the end it does state that they will be removed off site. There is a trucking cost to remove them. It's included in there. Everything that wasn't on the site before will be trucked off.

Taczak: They will need 29 truck-loads to remove the equipment and materials. The concrete is included in that.

Kenward: On completion of the site within the fence will be planted to a meadow grass and the remainder of the site west of the proposed solar array will still remain an agricultural use. These back fields are still going to be agricultural use and the access to them I've been told will be from the adjacent Becken property. I guess they can access some of these fields from the Becken property now.

Conrad: Is there an easement?

Kenward: Just informal I was told.

Conrad: We aren't going to land lock them, right?

Kenward: No because we're not subdividing or anything. But if they have to be accessed, they can still go around this way. The area outside the fence and the area to the north will likely be planted to a meadow grass as well. This is mowed twice a year. During construction the project will generate approximately 50 vehicle trips per day which is 25 arriving and 25 exiting.

This includes construction related to deliveries and employees. Once the project is operational it will generate no discernable noise to neighboring receptors, no adverse glare and no traffic. There is also no night time site lighting proposed. As I mentioned earlier the main activity is mowing the two times per year and an occasional visit by the electrical service technicians.

Baker: Those roads out there are all weight restricted so do you have a route plan for this in case there is damage to it? It would need a designated route.

Long: We do that for all our sites if there are weight restrictions.

Baker: I think it's a 10-ton weight limit.

Long: If they are blocked off, we can do .....I don't know of any other sites but if this one has weight restrictions, we can come up with a route to get to the site and if there is no way to get there....

Baker: Just to eliminate any damage.

Long: Yes exactly. We've done sites in Illinois and that's a bigger issue there. If it's going to be an issue we can agree to a specific route.

Kenward: I don't have any more information at the moment. I would be happy to answer questions and concerns.

Conrad: Questions from the Board?

Lilly: Proof of land ownership was discussed. We did have a letter from Mr. Piva but we will need that he actually owns the property which I'm sure he does.

Long: We have the title for it.

Lilly: The Building Inspector's Office would probably need that.

Taczak: The owner has quite a history of dealing with the Building Inspector for various issues of surplus equipment for lack of a better word on the property. It's been an on-going thing since 2017. I understand our representative from the Building Department said he is making some progress but I'm not a happy camper doing this until, for over 2 years he's been....

Baker: 2 years ago, he was given until July 5<sup>th</sup> and what's today the 18<sup>th</sup> of this year.

Taczak: He's been dragging his feet.

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Long: We told him that also. I think with this project on the line too that he hopefully will step it up. That's all we can do.

Taczak: I understand it's not you guys it's the owner but that's my feeling. I think my fellow Board members are not happy when we saw this.

Lilly: I think the other concern too would be if he does step it up and comes in to compliance and then this is approved and built and then it goes back to these collection.....what do we do at that point?

Long: As part of the approval maybe you could put some kind of restriction on the number of unregistered vehicles.

Baker: The Town has that restriction allowed.

Long: I don't know if the Town is going to do inspections at the site but I mean you are going to be out there and essentially see if something is happening.

Taczak: I know I'm probably making a mountain out of a mole hill but I don't care. I don't want to see it fall back in because once this array is built and this guy decides to revert back to his collections for a lack of better words, where does the Town stand? Then we're looking in to....the thing is built; he's reverted to this. Do we shut it down? Is that something we can do?

McAuliffe: Not sure on the solar farm. I know we can send him to court which typically he is in court with the inspection we keep on pushing back. It's in the courts right now but I don't know how that would affect the business.

Long: Where this is located is not where his collection is.

Taczak: I realize that but it's still on his property as this is.

Long: We've done all we can do. We realize it and was said the Town is concerned. You've got to clean this up.

Craft: You would probably find out how much he makes a month on his solar farm and fine him that until he cleans it up.

Taczak: That's up to the court. You see where I'm going, you're showing us what you're planning on doing which is a very viable plan but we have to recommend to the Town Board for approval and as far as I'm concerned this is a stick in the mud.

I get it. You are here as a representative of the land owner though.

Long: I'm saying I'm not the land owner so I can't move the stuff for him. We talked to him about it.

Lilly: What has been his response?

Long: He said he was going to come in to compliance. I don't know if you gave him a deadline? I don't know what that is but....so I don't know what the dead line is if there is a new dead line so he said he would comply with what the Town requires him to do. We've asked him and then he told us.

Conrad: We want to make sure you're not sticking your neck out either before something like this would happen.

Long: You can put some kind of dead line on it like prior to getting a building permit which gives him a little bit of time to have it removed before the project starts.

Taczak: What is something reasonable?

McAuliffe: I think that will be fine knowing that we won't issue a building permit until he's out of violation. When would you be ready to break ground?

Long: It could be six months.

McAuliffe: We could say you have to be done by 5 months to the property owner.

Long: This project getting built is huge to him so he has a huge incentive.

Taczak: January 1, 2020.

Craft: What does he have on it, does he have collections or just junk?

Taczak: Cars and junk.

Lilly: What are the infractions exactly?

McAuliffe: Property clean-up and junk cars is the main thing. He's been working with us better than most people do but the scope was so large it was taking a while. Because he was so cooperative, we weren't really hitting him as hard as we might with other people. He was showing us receipts from scraping but I think speeding it up would be in order.

Lilly: I think with the property and applying for this project that's great he's been cooperating so far. He needs to get to the finish line.

Conrad: He needs to take it up a notch.

McAuliffe: 5 months I think is reasonable to ask that it's all taken care of.

Taczak: By the first of the year.

Lilly: What is the next concern should he fall back in to this situation years down the road?

Conrad: I think at that point it's beyond the project here. It's all on the Building Inspector.

Lilly: There is only so much we can do here.

Conrad: It's an incentive.

Long: Some degrees of what contingencies you are allowed to attach to this project. You could probably attach something to the effect that he's already out of compliance with the Town Code and Zoning. You can attach a contingency on him coming in to compliance with it. In terms of attaching future contingencies that isn't something that should be attached to the project itself is going to be questionable. There are Town Code provisions that address it, anyhow right? He's just in violation of them right now. To add another layer as a future ongoing contingency moving forward would be questionable.

Conrad: I think the best thing is to tie the permit or ground breaking to it. Other questions from the Board?

Lilly: The 500' that you're back, the minimum is 200'. There is a nice section of woods there along Williams Road, that is a heavily wooded area although there are a number of trees starting to decline. I see no other landscaping. That is probably the best natural buffer I've seen on some of these solar plans that I've seen so far. My concern is what would happen if that wooded area completely dies off?

Kenward: That is a big wooded area. It is now delineated wet land. There is going to be a jurisdictional determination site walk scheduled August 16<sup>th</sup>.

Long: They are coming out there to look at it.

Kenward: It's always a transition. If the ash trees are dying, there is going to be other vegetation that's going to take hold and become more prevalent, I think. There are probably a variety of other pioneering trees in there. I have to believe that even if these were left alone,

they would eventually grow within 10 years to heavy brush I'm sure. Yes, the ash trees are dying but if we use other natural vegetation that is well established that would take hold.

Baker: How long would that take?

Long: I haven't walked that actually but I'm guessing there is.....brush and that to be honest that's probably going to die and come in every year.

Baker: You can see through in the fall.

Long: You have a substantial distance that a lot of is going to cross and you're not....I think with the distance even if it was no leaves on it, it would be tough to see unless you're looking and saying I think there is solar in there.

Baker: Do you think it would be appropriate for you to include a contingency?

Long: To keep the tree buffer there? It's tough because we don't control that...

Baker: If it dies out to improve it or something. To establish it or something.

Long: We can provide screening at the fence line. We don't really control that part of his property. We control the leased area....

Baker: He could chop that down and where would that leave you?

Conrad: It's protected the wetlands; I don't know if he could be in there.

Baker: It is dying off right now the large vegetation.

Long: Like we were saying no one is going to touch it, there's no reason to, it's wetlands, he can't farm it.

Baker: It's good until it starts rotting.

Long: That's not his business.

Baker: I'm just putting it out there for discussion.

Long: We don't control that part of his property.

Baker: There is a lot of if involved in the answer. It probably will fill in or new trees will replace it.



Kenward: We have a lot of sites and we never have this kind of buffer that is a natural buffer.

Conrad: We've approved other ones that have had far less. The other thing is these solar arrays are so low, lower than mine.

Long: The low brush will screen them.

Baker: In other planning board sections the issue of energy storage has come up. Is energy storage planned?

Long: Not for this one.

Conrad: The contamination history, there was a spill incident there. Bob, you say that has been cleared.

Lannon: It was closed in 1985.

Kenward: Do you want the history on that? As far as I know there was an old dug well in the farm stead area over here. The previous owner poured pcb contaminated oil and motor oil in the well and set fire to it to kill the snakes. How it got reported I don't know but I think it's fortunate that it did. What were they thinking?

Conrad: Some of the things on the fbf that I was looking at, you're in an agricultural district so the use is fine for that. What we've done in the past with other projects is the glare studies and impact on the view from the escarpment and things like that. We require glare studies from....

Long: We submitted that.

Lannon: They have 12 receptors. Based on a model they ran the results where they had 4 observations and then they did a line of sight analysis on those 4 and given the topography and screening you can't see it, no glare, dated July 15<sup>th</sup>.

Conrad: Did you get a chance to read through it though?

Lannon: Yes, no problem.

Conard: The National Grid thing, obviously it's something you have to work out with National Grid as far as....

Long: It happens every time. They don't give you a full study until we pay them and until we start running, we don't pay them. It always comes back where you're hooking up is not capable and until they do more exact study and then they tell you how much cost is. They're not going

to do anything until they get paid. There are a million of these projects and they're not going to do them all until you pay them.

Taczak: I might have missed it, where are you hooking up?

Long: Williams Road. The pole line they're hooking to is on the east side of Williams Road.

Conrad: We're doing our due diligence here with the review.

Seaman: What is your process? You eventually get a building permit from the Town and then you go to Grid?

Long: As we go through permitting, we'll pay them, 25% payment and 75% payment, so as we go through permitting when we start permitting, we give them the 25% and once it gets approved, we will give them the other payment so then they do the full study. Then we know the exact cost. It's very typical. We know the capacity of the sub-station it's going in based on the one on Swann Road, so we know there is capacity there. We have an idea of what the connection cost is.

Conrad: Chris, we did receive the Niagara County Planning Board's approval?

McAuliffe: Yes.

Conrad: Do we get any correspondence from any neighbors or anybody saying anything?

Long: I have nothing.

Conrad: What about the access road. There is only going to be one access road. Did Pat review this?

McAuliffe: Pat just finished up a document today so he is asking for documentation that the proposed fire access road would be able to support 75,000 lb. load and the road will be maintained throughout the project's life span. That is his only request.

Long: I have to ask our structural engineer who looks at Geotech before, it's all what you put in for base. We have typical of what you have for the top of the roads. We have to, I would have to know what size the trucks that will be on there.

Taczak: A loaded fire truck.

Long: Oh 75,000 lbs., I didn't catch that. That's typical.

Conrad: That would be handled through your department anyways or Pat.

Long: We can do that. It will be based on the road base, so we'll have to modify that.

Conrad: One access road is good for him, right?

McAuliffe: The access road is good. As long as it can be maintained and bare that weight then Pat is good.

Conrad: No battery storage on site at all right?

Long: If we did, we would have to come back to the Board. Right now, no.

Conrad: Again, when I was reading through some of the information which is a lot, I thought I saw something in there about battery storage.

Long: Not on this site.

Seaman: Is there anything in the application now that says what the capacity for the road is?

Kenward: You don't do Geotech out there until they're more or less through the site plan approval and special use permit. They don't want to spend money if they don't have to. I suspect it will come back with a heavier road than what we show right now.

Long: We can make that a condition when we come for the building permit. We will have that modified road section on there.

Conrad: Removal bond, I know I saw the engineer's estimate. It has to be in place obviously before you get your permit. The one issue I have with the estimate is that you have \$33,000. In there for scrap for the materials and such as a credit so it dropped the overall estimate from what I calculated to be \$180,000. down to \$150,000. I don't know if that is legit in the market of scrap in 20 years?

Long: The initial estimate as .....and actually doesn't give a lot of value to metal, you have the fence and racking. It doesn't give a high value to that. There is just a lot of it so it adds up....it's not bad....

Baker: The copper cable and stuff to?

Long: There is a little bit but most of it is the fencing and the rack.

Conrad: When it gets decommissioned in 20 years or whatever, what about the wiring in the ground? That was a discussion we had on another one.

Kenward: Their policy is to remove the conduit.

Conrad: Obviously that is what the Town would prefer. I've seen some shady things in the construction business. One of the things I want to see is the utility plan which wasn't part of the package.

Long: The site plans don't typically show that. When it goes further on to the building permit plans there will be an electrical set of plans that will show it in a lot more detail. As to what's on the equipment areas exactly and how it will tie in to the grid. Ours just shows little dots. Theirs shows blow ups of out there.

Conrad: The one thing that would have been nice as far as this plan and the review of this Board is just to know where those things are where the connection is and things like that.

Long: I can tell you that the equipment areas are here and they're just really boxes. There are no buildings. Everything else is under ground. You will have these poles which will have equipment on them. You'll have a meter a recloser and then you will have a customer meter. There are 4 poles that have equipment on them, not giant equipment but pole mounted equipment that's it.

Conrad: Where is the substation that you're connecting to?

Long: I don't know exactly where it is. I don't think it's far away. It's the same one that Swann ties in to I believe.

Lilly: That would be on Swann Road then, closer to Creek.

Long: I don't know exactly where that is in relation to the site. I don't think it's very far.

Conrad: Do you have to connect directly to that substation?

Long: You connect it to the line that connects to the substation.

Conrad: It's not a direct.

Kenward: The C3 site plan gives you some idea where the buried electrical ducts are. There is some line work on there representing that. C3.0, called the layout and materials plan. Here is the...after this pole it's underground. You can follow the line to the pads and then there is buried conduit that comes out here, a bank of buried conduit and it picks up, all the cables are

run under racking for the solar panels and they all come together and down this conduit here and down this conduit here. Those are underground. The cables along the racking are tucked in and attached to the racks.

Lilly: How deep underground are they typically?

Long: 2.5'.

Conrad: So, there is basically 2 sections of this array?

Baker: Is there any outdoor lighting involved here?

Long: No. There is lighting that is motion sensor and I can tell you which .....for NEC Code. No one works on them at night but you have to have it because they want it.

Conrad: Is that right near where the equipment is?

Long: They are only 8' high, less than the panel height and they are never on. They are just there because they are required by code. We don't work on these at night.

Baker: How high is the perimeter fence?

Long: 7', no barbed wire.

Conrad: Any other questions from the Board?

Taczak: Is the access road going to be gated or anything?

Long: Yes, it will be gated.

Kenward: There is a gate here but as far as a gate out at the road, that's only if the Town wants it.

Long: If the Town wants it, we can put a farm swing gate up here. The utility has to have access to the poles. We could put something out here so you don't have people driving down the road. We could do that.

Conrad: Any questions from our engineer or attorney, building inspector?

Lannon: A lot of the comments we had you have already gone through in detail. A couple minor administrative comments on the SWPPP but nothing that's going to stop the project.

Morreale: Is the whole solar farm fenced all the way around?

Long: Yes, with a 7' chain link fence.

Conrad: It's just the array that's fenced in not the other, there is 28 acres in total that you're working with.

Kenward: The fence runs along the south side of the road here, 10' outside that fence they are going to grub the stumps out and maintain it as a grass meadow. In this area up here also counts as that 28 acres because this is no man's land setback area. The intend is to keep it maintained and mowed.

Conrad: Beyond the 10' on the bottom you said that area is going to be cleared of trees.

Morreale: Do you do an inspection every year? We did some solar farms already I just don't remember?

Kenward: They come twice a year and mow and when they are out there, they will inspect the perimeter also.

**A motion to tentatively approve the solar panels with a January 1, 2020 date for the homeowner to come in to compliance with the complaint action or sooner other codes through the Building Inspector's office. The road is to be created to have a 75,000-pound capacity. Proof of land ownership. The removal bond has to be in place before the building permit is issued, was made by Taczak, seconded by Craft and carried.**

The next meeting will be August 15, 2019, at 6:30 P.M.

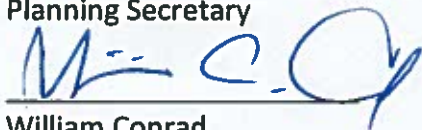
Taczak: We didn't have any minutes to approve.

**A motion to adjourn was made by Conrad, seconded by Lilly and carried.**

Respectfully submitted,



Sandra L. VanUden  
Planning Secretary



William Conrad  
Planning Chairman