

**TOWN OF NEW HARTFORD  
JOINT ZONING BOARD OF APPEALS  
AND PLANNING BOARD MEETING MINUTES  
JUNE 27, 2022  
TOWN OF NEW HARTFORD MUNICIPAL OFFICES  
8635 CLINTON STREET, NEW HARTFORD, NEW YORK**

The Joint Meeting was called to order at 6:00 P.M. Planning Board Chair Heather Mowat explained the solar application taking place this evening and how it is a joint Planning Board and Zoning Board of Appeals Public Hearings. The Zoning Board will address the variances requested by the applicant and the Planning Board will address the Special Use Permit application. She further explained the process for this application and what has brought the applicant to this point, from the presentation and recommendation from the Town Board to the Planning Board/Zoning Board of Appeals and its process.

Zoning Board Chairman Randy Bogar introduced the Zoning Board Members: Byron Elias, John Montrose, Fred Kiehm and Karen Stanislaus; Planning Board Chair Heather Mowat, members Julius Fuks, Jr., John Latini, and Lisa Britt. Also present was Asst. Town Supervisor Anthony Trevisani, Assemblyman Brian Miller, Town Attorney Herbert Cully; Highway Superintendent Richard Sherman; Councilmen David Reynolds, Richard Lenart; John Dunkle, P.E., Contract Engineer, Codes Officer Lary Gell, Assessor Darlene Abbatecola, and secretary Dory Shaw.

Mr. Bogar stated that this meeting is being recorded.

Mr. Scot Owens, property owner, Mr. Chris Koenig of C.T. Make Associates, Mr. Zack Lissard of U.S. Light Energy, Mr. Martin Schmidt, Civil Designer, and Genevieve M. Trigg of Barclay Damon appeared for this project. Mr. Owens explained how he reached a decision to use his property for a solar farm – he did a lot of research and has been working diligently with the firm of C.T. Male and U.S. Light Energy.

Mr. Lissard gave a history of what his company, and how this is locally produced energy – everything stays local. He explained the acreage involved and National Grid participation. He explained how the system works and fluctuates – he feels this isn't visually intrusive, transformer, etc. Further explained the transformers and how the energy is sent to the grid. Provides power to many homes.

Mr. Schmidt gave a presentation of this project and the requirements to qualify this project as defined in the NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance. A copy of this is attached.

Panel heights (9') off the ground. 18" higher than normal. No sheep will be affected – they can still graze.

Chair Mowat brought up storm water as there have been issues in this area. It was stated that this project will not add to the storm water.

Board Member Kiehm referred to National Grid and what they are going to install to go on the poles. Mr. Koenig explained this system, and they have been working with National Grid. He also stated that

National Grid requested the poles and not underground – they told them what they wanted. The poles are 25’ apart – six poles perpendicular to Oxford Road along the highway. There is an existing tree line that will remain wooded if possible but screening will be installed.

Town Attorney Cully explained they have to make a determination that there are no adverse impacts (visually) – they have to make a determination the variances aren’t going to result in significant adverse impacts. He stated what the variance requests are before this Board.

Board Member Brit addressed the height of the poles.

Board Member Fuks had several questions for the record... 1) 8.4% slope vegetative cover and posts driven – does construction impact the antecedent moisture condition; 2) is there going to be any herbicide on the ground (response – no) pollination discussion – this is required by NYSDEC and studies done, no impact on birds; no wild life issues; 3) has anyone looked at property values; 4) has anyone looked at electrical magnetic radiation and EMF level at the fence line and compared it to regular household appliances (It has been submitted; fence line; electric and solar radiation – no net change); 5) PILOT agreements and energy prices – has anyone looked at it or any tax assessment. Gap in the bottom of the fence will be about 6”; preservation of meadow conditions; herbicides are not on any of their solar sites; fencing height and monitoring (there is security monitors 24 hours at this site and the fence is secured and checked regularly); no soil contamination – this will be in the decommissioning plan.

Mr. Schmidt explained that there is information available – Board Member Fuks wants to make sure this is available to the public. Also, has there been any discussion about a PILOT program. Chair Mowat stated this is not a Planning Board issues. This is not in the jurisdiction of the Planning Board. Ms. Damon also addressed the Board on this program and stated that it is in the jurisdiction of the Town Board not the Planning Board or Zoning Board of Appeals.

Discussion ensued regarding pole visibility – Mr. Owens you will see pole tops through remaining trees based on alignment. Town Attorney Cully asked if they can provide visuals – yes. A visual rendering of the trees was presented by Mr. Lissard.

Environmental Impact Statement for the Planning Board – Type 1 action? Town Attorney Cully stated we will have to determine this but at this point, no.

Zoning Board Member Byron Elias asked about pole heights – standard 40’; also, the size of the national grid transmission line, and mega watts. Board Member Fuks explained.

Chairman Bogar opened the Public Hearing for anyone wishing to address this application:

-Mr. Mark Owens, 3743 Oxford Road. He is current a steward of this land that he farms (his mother and father own it). He had concerns, but is satisfied with this project. He is comfortable with this and feels it is a positive move for the area. He has had discussions with his brother, Scot, and any hurdles have been overcome. As time goes on, he feels the farmers are going to need more support from the community and Town officials. His land will remain a farm. This project is going to help him with the commitment. Discussion ensued regarding how many acres are involved. He noted that the Board may

want to read the last paragraph of his memorandum stating this is a positive asset to the community (this has been made a part of the file).

-Assemblyman Brian Miller, 9195 Red Hill Road. The Owens are a good family and he supports this project. This is the first solar project in the Town of New Hartford. He feels this is a good project and that a lot of time has been spent researching this. He feels this will work fine at this location.

-Mr. Gary Pfluke, Oxford Road. He is concerned about water problems in this area and explained how flooding occurs regularly. He wants to make sure this project doesn't add to these existing problems.

Mr. Schmidt explained that they follow NYSDEC guidelines. These panels are above ground and are not going to increase the velocity of water. He isn't aware of flooding issues but this project will not increase any water volumes that exist.

Mr. John Dunkle, Contract Engineer, explained his position with the Town and what has been happening with water issues and how they are being corrected. He agrees with presentation that NYSDEC set certain standards for solar farms. We established an understanding if the panels are properly spaced apart and to the slopes there can be a mitigating affect and no increase. Also, these panels rotate. He explained further. He hasn't seen the SWPPP yet, but will be looking into this. Bottom line is when spaced further enough apart, it is going to have no change in volume, but it shouldn't create any additional problems.

Chairman Bogar asked Mr. Dunkle if he had an opportunity to look at this area. Mr. Dunkle said he would meet with Mr. Pfluke and walk it to see the erosion. The Planning Board can't fix all the problems downstream. We can make sure this development doesn't make any matters worse.

-Mr. Michael Dunn, Willowvale Avenue. He resides at the lowest part below the farm. He explained the location of the gully and the events that occur. Definite velocity and drainage concerns. Highway Superintendent Richard Sherman stated Oxford Road is a County road and they go there frequently. It is in his driveway, which is part of the problem. He explained how the water flows. He mentioned the former trailer park nearby that may be for sale and he would like to obtain it for a retention area. He will continue to reach out to the County regarding this water issue.

-An email was received from Mr. Keval who is a member of the Oxford Heights Owners Association as they are concerned about aesthetic issues – poles versus underground. This has been made a part of the file.

Mr. Koenig stated he did a study with National Grid and it was determined by design that showed poles and where they can be placed above ground. This is what they gave them and that is why poles are being used. If they are to go underground, they would have to go back to National Grid.

The Public Hearings were opened again at approximately 8:00 P.M.:

-Ms. Andrea Sandock, 2 Rockport Road (Oxford Heights) stated that she doesn't feel this development will have an impact for her area. She will take this information back to some residents who are not in attendance.

The Public Hearing closed again at approximately 8:05 P.M.

Town Attorney Cully read from our Ordinance regarding Solar Energy systems (which is a part of the file). This is in our Ordinance that the utility company has asked those poles be above ground.

There being no further input, the Public Hearings ended at approximately 8:00 P.M.

Town Attorney Cully stated we can go forward to grant the Area Variances based on the determination these variances do not create any adverse impacts and basically declare a negative declaration for these variances.

At this time, the Zoning Board of Appeals Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Chairman Bogar reminded Mr. Owens that two Zoning Board Members are absent from tonight’s meeting. Do they want to take a few minutes to decide whether to go forward or would they like to proceed? Mr. Owens and representatives took a few minutes to decide.

Also, Chairman Bogar asked the Board Members in attendance if they would like to proceed also – answer: yes.

Motion was made by Board Member Byron Elias to **approve** the application as requested/submitted; and that this project will not create any significant adverse environmental impacts as a result of the variances requested, and therefore that a negative declaration under SEQRA be issued; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar – yes	Board Member John Montrose - yes
Board Member Fred Kiehm - yes	Board Member Byron Elias – yes
Board Member Karen Stanislaus - yes	

Motion was **approved** by a vote of 5 – 0.

Further, motion was made by Board Member Byron Elias to grant the Area Variances as requested; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar – yes	Board Member John Montrose - yes
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Board Member Fred Kiehm - yes  
Board Member Karen Stanislaus - yes

Board Member Byron Elias – yes

Motion was **approved** by a vote of 5 – 0.

The applicant will appear before the Planning Board at the July 11, 2022 Planning Board meeting for Special Use Permit.

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Motion was made by Board Member Byron Elias to approve the draft minutes of the June 20, 2022 Zoning Board of Appeals; seconded by Board Member John Montrose. All in favor.

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There being no further business, the joint Public Hearings meeting adjourned at approximately 8:15 P.M.

Respectfully Submitted,

Dolores Shaw, Secretary  
Zoning Board of Appeals/Planning Board

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Attachments