

TOWN OF PERTH PLANNING BOARD

SEPTEMBER 25, 2024

6:00 P.M.

PERTH TOWN HALL

MEETING NOTES

PRESENT:

X RON CETNAR, CHAIRMAN
X TREAVOR GILDAY, VICE-CHAIRMAN
X DIANE CONRAD
X MICHAEL DIMEZZA
BOB GORDON
X TRACY GUTOWSKI
X NICHOLE SURENTO
X KALEB WALKER, ALTERNATE

MARK CONCILLA, CODE ENFORCEMENT OFFICER

X AARON ENFIELD, FULTON COUNTY SENIOR PLANNER

OTHERS:

Chris Korona

Jennifer Grote

Jake Welcome – Active Solar

Jason Dell – Lansing Engineering

Pete Watrobski – Perth V.F.D.

Paul Kruger – Active Solar

Dave Foster – Active Solar

AGENDA:

- Isabel & John Reale – Minor Subdivision at 742 County Road 126 (167.-1-42.12) within the Town of Perth and Town of Broadalbin
- Jennifer Grote – Minor Subdivision at 422 State Route 30 (166.-2-40.112)
- Active Solar – Concept Plan – Special Use Permit for a Solar Farm (Perth CS 111, LLC) along County Highway 107 on lands owned by Stanley Korona (167.1-22)
- Active Solar – Concept Plan – Special Use Permit for a Solar Farm (McQueen Road Solar I & II, LLC) at 583 McQueen Road on lands of Emim Services, LLC (178.-2-19 & 178.-2-21)
- Active Solar – Concept Plan – Special Use Permit for a Solar Farm (814 CH 126, LLC) at 814 County Highway 126 on lands owned by Thomas and Lisa Van Alystine (167.-11-1)

I. CALL MEETING TO ORDER:

The meeting was called to order at 6:07 pm

II. APPROVE MINUTES OF LAST REGULAR MEETING:

MOTION: To approve the minutes of the June 2024 meeting.

MADE BY: Tracy Gutowski

SECONDED: Nichole Surrento

VOTE: Unanimous

III. ISABEL & JOHN REALE – MINOR SUBDIVISION AT COUNTY HIGHWAY 126 WITHIN THE TOWN OF PERTH AND TOWN OF BROADALBIN:

A. Background:

Isabel and John Reale own 742 County Road 126 (167.-1-42.14) which is approximately 9.966+/- acres in size. They are looking to into two lots. The first lot will be 4.966 acres in size, which will house several barns. The second will be mainly in the Town of Broadalbin, however, the primary structure will be within the Town of Perth, the proposed acreage is 5.030+/- acres.

In speaking with the Fulton County Planning Director, who oversees the Town of Broadalbin Planning Board, it is recommended that the Town of Perth serve as Lead Agency for this project.

Per the NYS Department of Environmental Conservation, the Property does not have any wetlands within the Town of Perth.

B. Fulton County Planning Department Review:

Article 4.5 of the Town of Perth Subdivision Regulations identifies the information an applicant is required to submit to the Planning Board for a minor subdivision proposal. Upon review of the proposed preliminary plat by the Fulton County Planning Department, the following issues have been raised:

1. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
STATUS: Provided.

2. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200' thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10'.

STATUS: The area is being subdivided has hay fields on the northern portion of the property and is relatively flat. Does the Planning Board wish to see topography on the plat? Subsequently, the area which will have a cell tower should be indicated on the plat as there is an easement for the tower west of the barns.

DISCUSSION: Chairman Cetnar requested that Topography of the land being subdivided is provided on the Subdivision Plat.

3. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.

STATUS: Provided.

4. The tax map section, block, and lot number, if available.
STATUS: Provided.

5. All of the utilities available on all existing streets.
STATUS: Provided.

6. The proposed pattern of lots including lot width and depth, recreation areas, systems of drainage and sewer, and water supply within the subdivided area.
STATUS: Provided.

7. All existing restrictions on the use of land including easements, covenants, and zoning lines.

STATUS: It is recommended that the easement for Verizon be listed onto the plat, which was approved earlier in the year.

DISCUSSION: Provided.

8. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings the distances, made and certified by a licensed land surveyor.

STATUS: Provided.

9. All onsite sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and a note to this effect shall be stated on the plat and signed by a licensed engineer.

STATUS: A perc and pit test of the rear property will be necessary.

10. The proposed subdivision name and the name of the Town and County in which it is located.

STATUS: Provided.

11. The date, north arrow, map scale, name, and address of the record owner and subdivider.

STATUS: Provided.

12. A completed Environmental Assessment Form.

STATUS: Provided.

13. Signature Line for the Town of Broadalbin and Town of Perth

DISCUSSION: Will need to be provided.

14. General Location for the Cell Tower which is accessed through the easement of the property.

DISCUSSION: Provided.

C. Fulton County Agricultural District #1

In accordance with Section 305-a of Article 25AA of the Agriculture and Markets Law of New York State, a Site Plan subdivision application for a piece of property within an Agricultural District containing a farm operation or on property within 500' of a farm operation located in an Agricultural District must include an Agricultural Data Statement. All Agricultural District property owners within 500' of the project site must receive notice of the proposed action.

DISCUSSION: Those within Ag. District #1 are Lee Hollenbeck and Robert Douglas.

MOTION: To send an Agricultural Data Statement as to Lee Hollenbeck and Robert Douglas as their properties are within 500' of the proposed project.

MADE BY: Nichole Surrento

SECONDED: Tracy Gutowski

VOTE: Unanimous

D. State Environmental Quality Review:

Section 617.1 of 6 NYCRR states that, the basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of State, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant effect on the environment and if it is determined that the actions may have a significant effect, prepare or request an environmental impact statement. Under these terms, the review of a Site Plan application is subject to SEQR. Therefore, the following issues must be addressed:

1. Does the Planning Board feel that the Short Environmental Assessment Form, provided by the applicant, has been completed adequately?

3B. Should be O

3C. Should be 34.59+/- acres

Signature needed of applicant.

The Planning Board was agreeable and Mr. Enfield made the necessary corrections.

2. Does the Planning Board feel that any additional information should be provided as part of the SEQR process?
3. Type I or an Unlisted Action: Section 617.6 (b)(3) of 6 NYCRR states that, when an agency proposes to directly undertake, fund or approve a Type I or Unlisted Action undergoing a Coordinated Review with other Involved Agencies, it must, as soon as possible, transmit Part I of the Environmental Assessment Form, completed by the Project Sponsor, or a Draft Environmental Impact Statement (DEIS) and a copy of any application that has been received to all Involved Agencies and notify them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date the Environmental Assessment Form or DEIS was transmitted to them.

Type II Action: A Type II action is categorically excluded from SEQR. These actions have been determined not to have significant adverse impact on the environment. Once action is determined to be a Type II, no further environmental review is required. Section 617.5(c) provides the following actions that are not subject for a Type II Action.

4. Recommended that the project be classified as an Unlisted Action and to do a Coordinated Review with the NYS Department of Environmental Conservation.

MOTION:

To classify the project as an Unlisted Action Under SEQRA, authorize the Fulton County Planning Department to do a Coordinated Review with the Town of Broadalbin Planning Board and NYS Department of Environmental Conservation and give Involved or Interested Agencies until October 22, 2024 to offer comments.

MADE BY:

Treavor Gilday

SECONDED:

Nichole Surrento

VOTE:

Unanimous

E. Planning Board Action:

In accordance with Section 276 of the Town Law of New York State, the Planning Board must hold a public hearing on any subdivision application within sixty-two (62) days of the date of submittal of the completed application. Does the Planning Board feel there is enough information to schedule a public hearing?

MOTION:

To schedule a Public Hearing for 6:00 pm, October 23, 2024.

MADE BY:

Nichole Surrento

SECONDED:

Treavor Gilday

VOTE:

Unanimous

IV. JENNIFER GROTE – MINOR SUBDIVISION AND LOT LINE ADJUSTMENT ALONG NEW YORK STATE ROUTE 30: AT STATE HIGHWAY 30:

A. Background:

Douglas Frederick owns property along NYS Route 30 (SBL 166.-2-40.122) which is approximately 21.553+/- acres in size and 4224 State Highway 30 (SBL 166.-2-38) which is 4.2+/- acres in size. Mr. Douglas is seeking a three-lot subdivision and a Lot Line Adjustment:

1. Lot A: Establish a new lot at 2.401+/- acres
2. Lot B: Convey .0630+/- acres to Migadalia Crego (SBL 166.-2-40.12) which would go from 4.70+/- acres to 5.333+/- acres.
3. Lot C: 19.408+/- acres in size. (SBL 166.-2-40.122)
4. Lot D: 2.826+/- acres in size (SBL 166.-2-38) Land of Frederick Douglas

The Property does not have any wetlands within the Town of Perth and no parcels are in Fulton County Agricultural District #1

DISCUSSION:

Ms. Grote gave an overview of the project indicated that she is acquiring 2.4 acres from her father Douglas Frederick.

B. Fulton County Planning Department Review:

Article 4.5 of the Town of Perth Subdivision Regulations identifies the information an applicant is required to submit to the Planning Board for a minor subdivision proposal. Upon review of the proposed preliminary plat by the Fulton County Planning Department, the following issues have been raised:

1. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
STATUS: Provided.
2. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200' thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10'.
STATUS: The Property Being
3. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.
STATUS: Provided.
4. The tax map section, block, and lot number, if available.
STATUS: Provided.
5. All of the utilities available on all existing streets.
STATUS: Provided.
6. The proposed pattern of lots including lot width and depth, recreation areas, systems of drainage and sewer, and water supply within the subdivided area.
STATUS: location of well and septic system will need to be show on Lot A. Does the Planning Board feel it is necessary to have one on Lot C?
DISCUSSION: The Planning Board was okay with not having one on Lot C.
7. All existing restrictions on the use of land including easements, covenants, and zoning lines.
STATUS: ?

DISCUSSION: Ms. Grote indicated there will be a 30' ROW on her property to access the rear parcel.

Mr. Enfield indicated that will need to be included in the notes section on the plat.

8. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings the distances, made and certified by a licensed land surveyor.

STATUS: Provided.

9. All onsite sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and a note to this effect shall be stated on the plat and signed by a licensed engineer.

STATUS: Perc. and pit tests will be necessary.

10. The proposed subdivision name and the name of the Town and County in which it is located.

STATUS: It is recommended that in Addition to Douglas Subdivision, that Crego Lot Line Adjustment should also be indicated on the plat name.

DISCUSSION: Ms. Grote indicated that the Lot Line Adjustment with Crego already occurred.

Mr. Enfield indicated that he will indicated that to Mr. Foss.

11. The date, north arrow, map scale, name and address of record owner and subdivider.

STATUS: Provided.

12. A completed Environmental Assessment Form.

STATUS: Provided.

C. State Environmental Quality Review:

Section 617.1 of 6 NYCRR states that, the basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of State, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant effect on the environment and if it is determined that the actions may have a significant effect, prepare or request an environmental impact statement. Under these terms, the review of a Site Plan application is subject to SEQR. Therefore, the following issues must be addressed:

1. Does the Planning Board feel that the Short Environmental Assessment Form, provided by the applicant, has been completed adequately?

3b. – Subdivision typically do not alter any land.

13b. - Should be a no, as the Subdivision will not alter the lands.

Planning Board members were in agreement to amend this within the SEQR Form.

2. Does the Planning Board feel that any additional information should be provided as part of the SEQR process?

3. Type I or an Unlisted Action: Section 617.6 (b)(3) of 6 NYCRR states that, when an agency proposes to directly undertake, fund or approve a Type I or Unlisted Action undergoing a Coordinated Review with other Involved Agencies, it must, as soon as possible, transmit Part I of the Environmental Assessment Form, completed by the Project Sponsor, or a Draft Environmental Impact Statement (DEIS) and a copy of any application that has been received to all Involved Agencies and notify them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date the Environmental Assessment Form or DEIS was transmitted to them.

Type II Action: A Type II action is categorically excluded from SEQR. These actions have been determined not to have significant adverse impact on the environment. Once action is determined to be a Type II, no further environmental review is required. Section 617.5(c) provides the following actions that are not subject for a Type II Action.

4. It is recommended that the project be classified as an Unlisted Action and to do a coordinated review with the NYS Department of Environmental Conservation, NYS Department of Health, and NYS Department of Transportation. Does the Planning Board feel as though another agency should be involved?

MOTION: To classify the project as an Unlisted Action Under SEQRA, authorize the Fulton County Planning Department to do a Coordinated Review with the NYS Department of Environmental Conservation NYS Department of Health & NYS Department of Transportation and give Involved or Interested Agencies until October 22, 2024, to offer comments.

MADE BY: Treavor Gilday
SECONDED: Tracy Gutowski
VOTE: Unanimous

D. Planning Board Action:

In accordance with Section 276 of the Town Law of New York State, the Planning Board must hold a public hearing on any subdivision application within sixty-two (62) days of the date of submittal of the completed application. Does the Planning Board feel there is enough information to schedule a Public Hearing?

MOTION: To schedule a Public Hearing for 6:00 pm, October 23, 2024.

MADE BY: Treavor Gilday
SECONDED: Mike DiMezza
VOTE: Unanimous

V. ACTIVE SOLAR:

- **CONCEPT SPECIAL USE PERMIT FOR A SOLAR FARM (PERTH CS 111, LLC) ALONG COUNTY HIGHWAY 107 ON LANDS OWNED BY STANLEY KORONA – “1926 COUNTY ROUTE 107 SOLAR”**
- **CONCEPT SPECIAL USE PERMIT AND LOT LINE ADJUSTMENT FOR A SOLAR FARM (MCQUEEN SOLAR I & II) AT 2039 COUNTY HIGHWAY 107 ON LANDS OF EMIM SERVICES, LLC – “MCQUEEN ROAD COMMUNITY SOLAR I & II”**
- **CONCEPT SPECIAL USE PERMIT AND LOT LINE ADJUSTMENT FOR A SOLAR FARM (MCQUEEN SOLAR I & II) AT 2039 COUNTY HIGHWAY 107 ON LANDS OF EMIM SERVICES, LLC – “MCQUEEN ROAD COMMUNITY SOLAR I & II”**

Mr. Enfield provided a document from Code Enforcement Officer Mark Concilla who was not able to be at the Planning Board meeting.

Several Planning Board members expressed concern that Mr. Concilla was not at the meeting, and the letter was dated the day prior and did not email to them ahead of the meeting.

Mr. DiMezza indicated he wished to have Mr. Concilla present, an attorney, and an Engineer, as though they are only conceptually they should be present. He stated he has been asking for this since the Borrego Project on County Road 132, when the attorney for the developer tried to force the board to do a Positive Declaration.

Mr. Enfield stated he made Mr. DiMezza aware he has been looking at securing an Engineering Company for the Town, however the contract had not been signed.

Ms. Gutowski also concurred with Mr. DiMezza citing growing concerns of development pressure and lack of municipal resources to the Planning Board.

Planning Board members also expressed concerns that the solar law was being misinterpreted by the Code Enforcement Officer regarding setbacks.

MOTION: To table review of Active Solar's three (3) projects until the Town Board and Town Attorney has had a chance to review language.

MADE BY: Mike DiMezza
SECONDED: Tracy Gutowski
VOTE: Unanimous

POST MEETING NOTE: It was made aware that CEO Concilla's spouse works for Active Solar and may be a conflict of interest.

VI. OTHER BUSINESS:

A. Planning Board Chairman:

Chairman Cetnar indicated the following meeting was Wednesday October 23, 2024.

After a back and forth conversation the following dates were agreed upon for November and December

- Thursday, November 21, 2024
- Thursday, December 12, 2024.

Mr. Enfield stated that should a Public Hearing occur, it is within the 10 day notice, however there may be some delays on SEQR.

B. Fulton County Planning Department:

Mr. Enfield indicated that the Planning Commission could start working on the Comp Plan during the October Meeting.

C. Other:

Mr. DiMezza expressed frustration that there is a lack of municipal support from the Town, indicated that Mr. Enfield, while a County Employee, is a Contractor to the Town and that Code Enforcement should be present.

Furthermore, Mr. DiMezza stated that there needs to be a clear answer from legal on the Code Enforcement's interpretation of Local Law #2 of 2023, which amended the Town's Solar Regulation. He asked for that Planning Board recommend the Town Board consider a moratorium.

After a back and forth conversation, the Planning Board agreed that in addition to looking at the setbacks, the Town should also consider the following:

MOTION:

To Recommend that the Town Board of Perth enact a moratorium on renewable energy and establish a focus group due to the following reasons:

1. Inconsistencies with Local Law #2 of 2023 vs. the 2017 Solar regulation law needs to be clearer specifically on Property Lines vs. Residences;
2. It is recommended that the solar law should incorporate the use of agrivoltaics and/or greenspace fees;
3. The current law needs to take into account emergency services during inclement weather, such as plowing during winter months;
4. The 6-month moratorium on Battery Energy Storage Systems (BESS) has since passed, with no progress made toward regulating BESS.
5. Some time ago, the Fulton County Planning Department reviewed conditions for adequate wind energy systems and found that it would be unlikely that one would be feasible. However, with changes in technology, it is recommended that the Town's Zoning include such regulations;
6. The Fulton County Agricultural and Farmland Protection Plan will be completed by spring 2025, which will have some guidelines for municipalities on renewable energy, such as Commercial/Industrial solar energy systems.

MADE BY:

Tracy Gutowski

SECONDED:

Treavor Gilday

VOTE:

Unanimous

Mr. Enfield indicated that the Town of Johnstown and Town of Mayfield have set up a similar working group with Town Officials and Fire Department members and seems to be working out good.

VII. CLOSE OF THE MEETING:

MOTION:

To close the meeting at 7:08 pm

MADE BY:

Nichole Surrento

SECONDED:

Treavor Gilday

VOTE:

Unanimous