

TOWN OF COXSACKIE PLANNING BOARD
MINUTES OF REGULAR MEETING
August 6, 2020

CALL TO ORDER

Chairman Bruce Haeussler called the meeting to order at the Coxsackie Town Office Building at 7:00 PM followed by the Pledge of Allegiance.

ROLL CALL

The following members were in attendance: Chairman Bruce Haeussler, Vice Chairman, Frank Gerrain, William Whitbeck, JoAnne Conway, Linda Deubert, Hal Beaumont, Joe Garland, Attorney Tal Rappleyea and Secretary, Patty McIntyre. A quorum was declared. Also in attendance were Kevin Schwenzfeier, representing Delaware Engineering; Russell Barnes representing the Grange event venue; Ron Rabasco and Laurel Wolfe representing Stone Ledge Enterprises and Sleepy Hollow Lake; Harry and Susan Albright, Heather Vaillant, Jacqui Murray, Peter Ford, and Reed Willis representing Freepoint Solar. David and Helen Meier, Robert Ihlenburg, representing Carol Keinath, Mary Garvey, Dianne Fausel, Gary and Donna Bartlett, Gordon Carmichael, Kevin Perry, Diane Carman, Steve Ritter, Jeffrey Evans, Iris Rivera, and James Gallagher.

MINUTES

A motion was made by Bill Whitbeck and seconded by Frank Gerrain to accept the minutes of the meetings of July 9, 2020 and July 16, 2020 as written. The motion was unanimously approved.

FREEPOINT SOLAR – discussion/public input and vote

The meeting began with a recap/discussion of the application of Freepoint Solar for their 9.66-acre solar project to be erected at 70.00-4-10 located on NYS Rte. 9W in the Town of Coxsackie. Chairman Haeussler asked Attorney Kevin Schwenzfeier from Delaware Engineering if he was satisfied that the applicant met all the necessary requirements. Mr. Schwenzfeier responded that he was. Mr. Whitbeck asked about whether a decision had been made as to the color of the fence and was told that it would be vinyl black and only in the front. Chairman Haeussler said that the owners of Pegasus were very happy with the project. The PILOT is still under negotiations with the IDA currently. JoAnne Conway asked the applicants to address the maintenance on the project. A vegetation maintenance plan was submitted in March. They have agreed to a long-term maintenance bond as well as a decommissioning bond (an escalation clause was included at 3% per year for 25 years) and a construction bond. A contact person will be supplied to the Town to ensure this is adhered to. The developer is in the process of looking for local landscaping contractors. Linda Deubert was confused as to the different names (Freepoint vs. Standard Solar). She asked if the Town was protected no matter who owns the project and was told that it would be, and that the Town is named as a beneficiary. Freepoint will be donating to the fire department and spending time with them to train for these types of facilities. Ms. Deubert was told by a Standard Solar representative, Mr. Benson, at the last meeting that there was no maximum number of subscribers in Coxsackie that would receive the 15% discount, which was contrary to what was presented at previous meetings (first come-first

served). The Planning Board has no authority to make a judgement on the company's business model. This is more of an issue for the Public Service Commission if the public is being misled. Frank Gerrain asked for an explanation of how a member of the public can apply to participate in the program. A contact person will be provided to the Planning Board, which in turn will be forwarded to the Town Board to be posted on the website. Tal Rappleyea drafted a 35-page resolution, which basically states that Freepoint has met all the requirements under the site plan review and special use permit, and that the Planning Board hereby votes to approve it. He read the conditions of approval aloud (attached). JoAnne Conway asked for an explanation of condition #3. This addresses the SDS (Safety Data sheets). She was concerned about what would happen if in the future something were to be found to be hazardous. Ms. Murray assured the Board that it would be a matter of regulatory compliance and would come under the jurisdiction of DEC or a Federal Agency. Chairman Haeussler asked that #6 be reworded to include that the landscaping being done prior to or in conjunction with the construction of the panels. Stamped plans were provided, and a copy will be given to Ed Pebler, Kevin Schwenzfeier and kept in our file. After all conditions were read, Chairman Haeussler thanked the Board for all their work on this project, as well as the people from Freepoint Solar. A motion to vote on the acceptance of the applications was made by Hal Beaumont and seconded by Bill Whitbeck. Each member voted yes to accept the application. Chairman Haeussler stated that the vote was so carried. JoAnne Conway motioned to close the hearing, seconded by Frank Gerrain.

PROJECTS REVIEW

The Grange

Russell Barnes spoke regarding his proposal for an event venue to be located at 2551 Rt 385, Cossackie. Chairman Haeussler had requested a series of specific items to be included in the plans; Sanitation, evacuation procedures, potable water solution, site lighting, garbage disposable, and catering options were among the requests. Mr. Barnes had forwarded this to the Board. The parking will be off Adams Road. Hal Beaumont had a concern of what would happen if the party went on longer than expected, how will this be enforced? Mr. Barnes assured the Board that it will be included in the contract with the Bride and Groom. Also, the speakers will be facing Rte. 385, and in between the wedding event and Rte. 385, there is a dairy barn, a chicken coop, the main house, as well as some tree cover. On the other side it is vacant land. Currently the closest house is 700 to 800 feet away. Chairman Haeussler asked that they be responsible for notifying the New York State Police when there is an event taking place. Also, Mr. Russell will be supplying the amplifier and speaker unit to the correct decibel level. This will be brought up to the public at the Public Hearing, and we can see what the neighbors are looking for. Bill Whitbeck made a motion to hold a public hearing on September 3, 2020 and Hal Beaumont seconded it. All were in favor. The applicants will send out notification to all neighbors by return receipt within 500 feet, and send to Secretary McIntyre.

subdivision – Jessica Camley

Carol Matter and daughter, Jessica Camley would like to subdivide a 32.5-acre lot. Five acres out of the corner of Ms. Matter's property would go to Ms. Camley. Ms. Camley was unable to attend the meeting due to a death in the family, but she requested that the requirement to supply two surveys be waived since a full survey of the land (1997) already exists. The Board discussed waiving the requirement. At first it seemed that both would have to be done, but Attorney Rappleyea found that

Sections 174-75 and 174-76 allow for the Board to waive strict compliance with the Code. The concern was for the tax-map compliance. Mr. Beaumont reminded the Board that if there is an existing map of the full survey, a line can be drawn. When filed with the County Clerk it will be forwarded to Real Property Tax, and then they will give each one of the parcels a tax map number. So, if the Board chooses, they can waive the full survey, and require just a survey of the subdivision with some of the whole lot surrounding it, and then it will be sent on to Real Property Tax where it will be assigned a tax map number. A public hearing will be waived because it is between family. Linda Deubert made a motion to accept a resurvey of the new segregation, only (5 acres). JoAnne Conway seconded the motion. The motion passed unanimously.

Sleepy Hollow Lake sign permit

StoneLedge Enterprises presented an application for a new sign at the entrance of Sleepy Hollow Lake on Rte. 385 at last month's meeting. Ron Rabasco and Laurel Wolfe were in attendance and gave the Board the updates requested. A referral to the County is not necessary. A letter of consent for the CEO to enter the premises was provided, along with an updated picture including measurements. Frank Gerrain asked how far back from the road it would be and was told 38 feet. It was not in a DOT right-away, so a letter from them was not required. The sign will be back-lit so that it will be visible at night, and there are lights on the side pillars. It is only the Logo, no messages. A motion to accept the application was made by Joe Garland and seconded by Frank Gerrain. All were in favor.

NEW BUSINESS

Carol Keinath lot line adjustment

Bob Ihlenburg, surveyor representing the Carol Keinath property located at 11335 Rt. 9W in Coxsackie presented the requested lot line adjustment. The hope is to move the existing line 7 feet to the right and create a line to go around the existing house. A Notice of Action and Resolution from the Town of Coxsackie Zoning Board of Appeals for an area variance was provided to the Planning Board. Chairman Haeussler is still requesting a letter from DOT to make sure they would accept the placement of the new driveway at the turn in the road and would like to wait for DOT's letter. The Board was not willing to move forward until there is a letter of approval. Mr. Ihlenburg will let Secretary McIntyre know as soon as he has acquired such letter, and then will be put on the agenda again for review.

PUBLIC DISCUSSION

Town resident Gary Bartlett approached the Planning Board to discuss what he feels to be an environmental problem with the Earlton Fish and Game Club. He stated that he had spoken to the Code Enforcement Officer, Ed Pebler two years ago and was told that the Game Club is grandfathered in. The Game Club property is contiguous to Mr. Bartlett's. They have built a pistol range right behind the Bartlett property that is for their steel challenge matches. The noise, when there is a match, is like "being in a fire fight in Afghanistan". They have lived there for 36 years and have never had a problem with it. Three years ago, while they were away, the range was redone, and was now pointing at their house. Mr. Whitbeck asked how far from the property the range was, and Donna Bartlett

replied that it was under 500 feet. Mr. Bartlett gave the Board copies of communications that he has had with the Earlton Fish and Game Club and the Town Board. JoAnne Conway asked if it was a conflict of interest for Mr. Pebler to make decisions because he is a member of the Fish and Game Club. Chairman Haeussler stated that it is not up to the Planning Board to make that determination. Mr. Bartlett contends that this was done without permits or coming before the Planning Board. Ms. Bartlett is concerned that the bullets are coming onto her property. JoAnne Conway asked why this situation would be any different than when the Planning Board worked with Shane Pilato in getting permits to operate his range. Chairman Haeussler stated that the difference is that CEO Pebler had written a letter of violation first. With a letter from Mr. Pebler, then it could come to the Planning Board. Attorney Rappleyea advised that the complainants first go to Mr. Pebler. If he makes a determination that they are not happy with, then they could appeal his decision to the Zoning Board of Appeals. The Zoning Board will issue an interpretation saying whether Mr. Pebler's decision is good or bad. If it is good, then the complainants can sue the Town and ask a judge to say that we are not acting appropriately. If the Zoning Board says that Mr. Pebler's determination was incorrect, then they will be sent back to Mr. Pebler and must fill out a site plan application to come before the Planning Board and get it approved. If there is a conflict of interest for Mr. Pebler, then he will recuse himself. JoAnne Conway stated as the owner of Heartland Realty that this couple has lost offers on their house because of the proximity of the range. Neighbor, Steve Ritter stated that he has lived in the neighborhood for 40 years, and that with the addition of this new range it is like night and day. The Bartlett's have retained a lawyer who advised them to come before the Planning Board to present their case. Attorney Rappleyea asked them to have their attorney contact him. The Planning Board has no enforcement power. Another neighbor, Iris Rivera asked for the contact information for the Zoning and Town Boards. She was told to contact Zoning Board Secretary Patty McIntyre to get an application for the Zoning Board of Appeals, and to contact Bambi Hotaling and Rick Hanse (Supervisor) for the Town of Cocksackie Board. Mr. Rappleyea reminded them that the appeal to the Zoning Board must be made within 60 days of the response from Mr. Pebler.

Town resident Harry Albright inquired as to what would be required for him to add a boundary line to existing property at the last meeting. He would like to move the line so that he has a driveway. Because it is between family, the requirement for a public hearing will be waived. He was directed to get a survey with the new line and return to the Planning Board.

ADJOURNMENT

A motion was made by Frank Gerrain and seconded by Joe Garland to adjourn the meeting at 8:20pm. The motion was accepted unanimously.

RESPECTFULLY SUBMITTED,

Patricia McIntyre, Secretary

**EXHIBIT “E”
FREEPOINT SOLAR
LIST OF CONDITIONS OF APPROVAL**

1. No assignment of ownership, lease or other tenancy without town approval, which will not be unreasonably withheld, conditions or delayed, and providing new contact info, failure will result in revocation and town removal. All conditions, requirements or obligation of any sort herein shall run with the land and this approval and shall be binding all subsequent owners, operators, lessees or successors in interest
2. No building permit will be issued and no construction shall commence until applicant has been approved for connectivity by the utility by execution of an Interconnection Agreement with CHG&E
3. No building permit will be issued and no construction shall commence until applicant has provided SDS for actual materials to be used
4. No building permit will be issued and no construction shall commence until applicant has submitted safety plan
5. Storage of any materials on the site is prohibited except during construction or approved by Town CEO
6. Fencing and all landscaping shall be done in accordance with the Landscaping Maintenance Plan submitted by the applicant. All plantings associated therewith will be maintained with dead trees replaced as needed. A maintenance bond shall be submitted in an amount recommended by the Town Engineer. The landscaping and fencing shall be accomplished prior to or contemporaneously with and in conjunction with the construction of the panels and shall be completed together
7. Following completion of construction and planting, the Town CEO, engineer and PB chair or other appointed representative shall review visual impacts and determine if additional screening is necessary to comply with the approved Landscaping Plan. If such determination is made, the applicant shall install any further and additional screening reasonably needed
8. Provide information and training (if necessary) to the fire company for fire fighting
9. Provide key/access to the fire company
10. Follow all SWPPP requirements

11. No building permit will be issued and no construction shall commence until applicant has submitted and the Town has approved and received the decommissioning bond
12. Signs shall be in accordance with application materials. Additionally, signs will be posted in the standard hazardous materials usage/warning
13. No lighting will be permitted at the site, other than switch-activated lighting only to be used if maintenance or emergency work is needed at night
14. To prevent dirt from being tracked onto public highways or sediment run-off from entering the adjacent drainage way, the entrance way shall be gravel or pavement. The applicant shall thoroughly clean and sweep Route 9W and the project's entrance as often as necessary (or as requested by the Town) to prevent dust and dirt accumulation from the project during construction periods
15. If any term or condition of this special use permit is annulled by a court of law, then the PB shall retain the right to reconsider whether this Special Use Permit continues to meet the requirements for the granting of a special use permit in accordance with the standards of the Coxsackie Zoning Law
16. If any of the terms and conditions of this special use permit shall be violated, such violations shall be dealt with in accordance with the Town of Coxsackie Zoning Law including the possibility of termination of this Special Use Permit by the Court following an adjudication of the violation
17. The applicant shall allow representatives from the Town of Coxsackie to access the site, at reasonable times and upon reasonable notice, to determine if the terms and conditions of this special use permit are being complied with
18. The use and construction shall be conducted in accordance with the site plan, all engineers reports, and any other documents approved by the PB, including but not limited to, any and all plans appended to the SEQRA materials submitted by the applicant and recommendations made by Town Engineer throughout the review process
19. The Applicant shall submit proof of Commercial Liability naming the Town of Coxsackie as additional insured in the amount of \$3,000,000 aggregate/\$1,000,000 per occurrence and shall not be allowed to lapse at any time
20. The Applicant shall submit a Construction and Maintenance Security in an amount and form acceptable to the Town Engineer and the Attorney for the Town
21. The Applicant shall submit a Removal Security in an amount and form acceptable to the Town Engineer and the Attorney for the Town and in conjunction with the Decommissioning Budget dated 10/2/2019

22. The Applicant shall submit the final approved DEC Incidental Take Permit with respect to endangered species habitat mitigation