

# Town of Canton

## Planning Board Meeting Minutes

December 15, 2020  
Zoom Virtual Meeting  
6:30pm

### Members Present

Chairperson Michael Morgan; Debra Backus; Sigie Barr-Sapp; John Casserly; Joel Howie  
Recording Secretary Jeni Reed

### Members Absent

None

### Others Present

Code Enforcement Officer Jeff Murray; Jim & Pam Rose; Edward Rider; Adam Atkinson; Emma Paolino (US Light Energy); Mark Richardson (US Light Energy); William Sparkman (Chazen Companies)

### Call to Order

The meeting of the Town Planning Board was called to order at 6:34 pm by Chairperson Michael Morgan.

### Approval of Minutes

A motion was made by Debra Backus to approve the minutes from the November 17, 2020 Town Planning Board Meeting. The motion was seconded by Joel Howie and carried.

### Agenda Items

#### 1. Discussion of proposed Solar Project at 161 Meade Road, Canton

Chairman Morgan indicated that since the last meeting he has heard from Mr. & Mrs. Rose and the Developer. Both have addressed many points.

Mark Richardson (CEO of US Light Energy on behalf of Mike Fingar, COO) was invited by the Chairman to speak first; Mr. Richardson passed the floor to William Sparkman to review the site plans and changes to date along with some additional issues to address.

William Sparkman from Chazen Companies shared his screen to the Board with the updated plans He stated that the company took the comments from the last meeting and their discussion with Mr. & Mrs. Rose and tried to craft a revision that addresses a lot of the concerns.

- A survey of the property has been completed and the site layout was revised with respect to the neighboring property owned by the Roses.

- All of the proposed site plan will be outside the required 100 foot setback.
- The gravel road will be extended into the site and will make a turn outside of the setback; the only thing that will be along the border of the neighboring property is the gravel access road.
- They have identified the location of poles and interconnect and site screening along the residential border using a species of Arborvitae and Northern Bayberry
- Added a table to address several of the questions provided by the board.
- The developers feel that a majority of the issues regarding the site plan have now been addressed.
- Mr. Sparkman indicated that the developers wanted to focus on how they were interacting with the neighbors and remove things from them as much as possible.
- They were aware there was some ambiguity on the access road but now the proposal has been adjusted.

Questions were asked by the Board at this time:

- Mike Morgan: Has the easement/ownership of the access to the property been settled?
  - A memo was just sent to Chairman Morgan regarding this question. Board has not had time to review.
  - Deeds have been researched as far back as possible: the road used to be “Janes Road: and extended across multiple properties. The road is now considered abandoned.
  - The access to the property in question has historically been along the abandoned road
  - The memo summarizes that access is provided to Meade Road.
  - Memo shared at this time with the board.
- Joel Howie: The company has decided on using Northern Bayberry for screening, but he has found this plant only gets to about nine feet tall; will this be tall enough to block the view from the Roses’ property?
  - William Sparkman indicated they have had a lot of success with these plants on the projects they have done.
  - They will be providing these right along the property line - the point of greatest efficiency for screening.
  - The tallest point of the solar panels would be 12 feet.
  - The company is willing to discuss alternatives.
  - Debra Backus indicated that the Arborvitae should be provided all the way around for screening, as this plant grows to 12-15 feet.
  - Sigie Barr-Sapp stated that Pam Rose indicated the land slopes upward away from the Roses’ property, so what is the height that will actually need to be screened?
  - Mark Richardson stated that the Northern Bayberry would “max out” at about 12 feet. He also stated that on these projects the developers try to choose vegetative screening that will avoid shading the panels while still screening properly. Arborvitae is a potential for this use. They are also willing to provide a rendering including a grading view; the concern is to screen from the proper viewpoint and with the proper heights of vegetation. The developers can potentially also provide a rendering of the proposed screening at various stages (e.g. year one, year five, year ten).
- Debra Backus: previously it was discussed that approximately two acres of trees would be removed from the site; how would trees be saved or restored? Would it only be with the new plantings?
  - William Sparkman indicated that the trees will not be saved and will only be replaced by screening plantings. So only a few of the trees will be replaced
  - The proposed treeline will only have the dense tree coverage that already exists.
- Debra Backus: requested that they review the interconnection cable set up - are any above ground?
  - William Sparkman: The above ground portion will be from the existing pole on the Roses’ property to where the developer’s series of regular utility poles begins, and this will all be above ground. From the final pole the line will then run underground.

- Mark Richardson: The connection will run along the access road. All designs are subject to final approval from National Grid who will still need to do a site visit and approve the pole locations. These are not likely to change significantly but may move a few feet in either direction.
- Debra Backus: Feasibility study regarding under/over voltage - is there a possibility of too much voltage going through the array for example? The question is about how it is regulated coming from site to poles to interconnect and if it could ever overcharge?
  - Mark Richardson: The under/over voltage question is simply not possible. The Utility (National Grid) goes to great lengths to prevent this scenario. The approval which was completed by National Grid has already indicated this would not have an impact on the current electrical system. Very detailed studies have been done.
  - This also provides the reason for the multiple poles on the project; there are reclosers and air brakes, metering poles, transformers, etc. that prevent any impact on the Grid from the array. The Utility wants to make sure there are no negative impacts on the neighborhood or the system. Impossible to say there would be no impact ever but the system is very reliable.
- Debra Backus: has the Canton Fire Department reviewed the plan yet?
  - It is still too early in the process.
  - Mark Richardson indicated the developers would look for input from EMS, Fire, and other stakeholders once they are fairly confident that the plan is more or less finalized. They have not yet reached out to Fire/EMS on this specific project.
- Debra Backus - has a memo from the Army Corps of Engineers regarding the wetlands been received, and does the project require fish and wildlife approval?
  - The developers have gone through an endangered species checklist and that is negative.
  - With federally jurisdictional wetlands they just work with the Army Corps and they have never had an issue with fish and wildlife; this is not something they have ever experienced.
  - Bob Washo shared the clarification that the memo regarding the Army Corps of Engineers came from Chazen not from the Army Corps directly. He requested that clarification from the Army Corps should be offered at some point.
  - William Sparkman indicated that as consultants they interpret the codes as written and the development of a solar array such as this project is not considered a regulated activity per the codes of the Army Corps of Engineers; what is it that the board is looking for? The Corps would not issue this type of information most likely to indicate that something is NOT in their jurisdiction.
  - Mike Morgan indicated that the memo appears to provide the information needed. Mr. Sparkman added that the developers will be happy to answer any additional questions regarding their interpretation of the code.
- Mike Morgan: question regarding noise generation from this type of project?
  - Mark Richardson: the inverters are placed in the middle of the array and these are the only noise producing element of the project which creates a hum like a transformer; approximately 70 db at 10 feet. This is not very loud (not even as loud as a vacuum cleaner), and at 100 feet you are unlikely to hear it at all. The utility overhead lines may provide a low buzz such as any other utility, but you would have to be pretty close to hear these unless there is a malfunction. Under normal conditions there is a very low noise emittance. It was indicated that it is approximately 450 feet to the backyard of the Roses' property from the inverters.
- Debra Backus: questions regarding the decommissioning plan
  - Could the developers add photographs or images to the plan at pre-construction so there is a reference for the decommissioning process?
    - Mark Richardson: yes this can absolutely be done.

- Number three of the decommissioning plan requests 12 months for decommissioning, but the Town solar policy states 180 days for decommissioning.
  - It was determined that the 180 days comes in after a one year abandonment of the project so the 12 month proposal should meet this guideline. Upon cessation of active usage of the project, the decommissioning would be completed within 12 months. In the Board's opinion the decommissioning plan would meet that guideline.
- Mike Morgan: the decommission bond/financial surety must be put up before the building certificate is issued and must be settled with the Town Board.
  - Mark Richardson: this will not be an issue.
- Debra Backus: what is the plan for the return of topsoil to the site during decommissioning? Is that in the decommissioning plan?
  - Mark Richardson: They are aware it must be kept on site, and if this is not clear in the language of the plan they can add more information and clarify this in the decommissioning plan. It was agreed that this should be clarified.
- Debra Backus: would like to see more language about the signage; what it will look like and is it "within guidelines"; what will the dimensions be?
  - William Sparkman: clarified this signage is just to meet the NEC requirements and provides an emergency contact and warning signs. These are strictly informational and required. He agreed that the developers will add language to the plan regarding this. Mark Richardson indicated that the signage is not intended for advertising purposes of any kind.

At this time the floor was offered to the Roses' for comment:

- Jim Rose: shared this is a lot to take in right now as the documents were all forwarded to him this morning; his last communication was with Mike Fingar who emailed him November 25 to discuss changes to be made and they have heard nothing until today when all the documents were sent, so this is his first time seeing it right now. It is hard to take it all in at this time.
- Many changes have been made but more are needed.
- The first plan indicated there would be no ambient noise from the project, but now the developer is indicating a 70 db noise and this needs to be clarified.
- It was indicated to the Roses' that the planting of screening trees would provide immediate screening and this needs to be readdressed. Feels a lot of things need to be addressed.
- Mike Morgan clarified that all information is available at the Code Enforcement office and is typically not sent out by the Board.
- Jim Rose continued that Mike Fingar was supposed to share everything with them and he feels there is some missing communication as there has been no contact. It was clarified that Mike has been on paternity leave since December 4th and unavailable; as such Mr. Richardson took responsibility for the lack of communication. He was just made aware as of today that he needs to take care of this and offered to set this up as soon as possible.
- Pam Rose: unfortunately, there has been a lack of communication throughout the entire project and this was not just a one time issue.
- Pam Rose: what about the use of the right-of-way, as this is established to be for ingress and egress only; do the developers have the right to place power poles on the Roses' property within the right-of-way?
- Mark Richardson: He is under the understanding that the power pole is owned by the utility even though the Roses' paid for its installation, and the utility has the right to issue this right-of-way access to the pole and installation of additional utility equipment. The developers would like to discuss the easement allocation with the Roses. Usage is intended to be only ingress and egress, and the installation of the power is governed by the public service commission and the utility.

- Mike Morgan: asked for clarification regarding any additional conversations with the developer. The Roses indicated that no conversation has been had since the last meeting. Mike Morgan indicated to the developer that this needs to be addressed immediately.
- Pam Rose: clarification on underground lines and additional poles?
  - Mark Richardson: One additional pole will be required on their property but the exact location will be determined by the utility company once the road is constructed. They would not anticipate the installation of any additional poles adjacent to the Roses' property.
  - Clarification was provided that the developers are not able to go underground with the power line from the first utility pole due to required safeguards. All equipment must be placed on aboveground poles.
  - Clarification that three phase poles are approximately 35 feet tall and they would be governed by the utility for height with no real leeway in designing the equipment;
  - Pam Rose indicated that the concern is the view.
  - Mark Richardson would suggest the effort is to block the view of the array itself not the utility pole or every piece of equipment. They would also not want to plant any trees that would grow so tall they would shade the array. The developers believe they have proposed a fair and useful screening tool, and the Solar Law does not require poles to be screened.
- Jim Rose: Regarding the communication, their concern is that they heard the same information last meeting and 30 days later they are still in the same boat. Lack of communication is a problem.
  - Mark Richardson: the Company is first trying to satisfy the needs of the Board and the Zoning Laws; this is the first effort. But he is interested in completing this communication.
- Pam Rose: is the addition of poles allowed on an easement that is indicated for ingress and egress only?
  - Mr. Brewer should have access to do the same that they would have access to do.
  - Through the lease of the property the rights have been granted to the developers. The memorandum that was provided to the Board addresses these issues.
- Pam Rose: according to the memo from Chazen Companies, grubbing of trees and shrubs is a regulated activity; the plantings for screening will be planted in a wet area so how do they grow and is this permitted?
  - William Sparkman: the developers can provide more information regarding the growth of this vegetation and its permitted usage.
- Pam Rose: height of the panels?
  - William Sparkman: 12 feet
- Pam Rose: how do they know who has access to the road/authority to do so? The Roses are currently maintaining the road.
  - Mark Richardson: post-construction, access will be limited to a few times per year with a pickup truck or similar for maintenance or issue troubleshooting; during construction the road will be improved and maintained; post-construction the developers will keep it in as good condition or better than current; winter maintenance will need to be worked out between the developers and the Roses.

Per Mike Morgan, the easement questions can be addressed by the Town Attorney upon review of the memo provided by Chazen Companies; the Board would want to confirm clean legal access to the road.

Mr. Edward Rider (potential full/partial owner, Boyden Brook Body Works) was acknowledged to speak:

- Environmental Assessment form - original assessment says the project will have no noise above ambient level, but at this time they are assuming there will be a noise emitted at around 70 db. Mr. Rider feels there is not enough information to confirm the amount of noise the project will emit.
- Army Corps of Engineering submittal says for construction only - what about during operation?

- Oil in transformers? Is a containment pit provided to deal with potential leaks? How much oil is going to be used?
  - Mark Richardson: the developers are happy to provide cut sheets for all materials going in, but this is normally provided during the building permit stage.
    - They are using oil filled transformers which are factory sealed items and not required to have containment or spill prevention plans.
    - The developers would be happy to share a typical specification sheet for a transformer but would need to dig it up.

Mike Morgan clarified that this level of detail is for the Code Enforcement officer to handle, and is not part of the Board's scope. Everything they address should meet the code. Everything else should be addressed at the building permit stage. The management of the utility lines is under the purview of National Grid during the approval and installation phase. The easement will be addressed by the Town Lawyer and reviewed by the Board to confirm that everyone has access to the property as needed. Jim Rose indicated that his lawyer has the paperwork regarding his easement.

Mike Morgan recommended that a discussion be had on the phone between the developer and the Roses as soon as possible.

John Casserly: Why does screening end where it does?

- William Sparkman: Screening is required for the residential property only and not commercial property.

At this time, the Board will be providing time for the Town Attorney to review the documentation for the site plan, including particularly the easement information and the SEQR. This will be the Board's first solar project so they want to do it right for the code, town, neighbors, developer, etc. and have all parties walk away happy.

Mike Morgan indicated that if anything transpires between the developer and the Roses, that information be submitted to the Board to be shared with the attorney as needed. It was determined that the Board is still a couple of meetings away from a public hearing at this point. The Board would be uneasy moving forward prior to the developer having any discussions with the Roses.

All documentation will be compiled within the Code Enforcement office.

The SEQR is a full SEQR and not a "short" one which is not familiar to the board.

At this time it is determined that another meeting needs to be scheduled.

Debra Backus: does this all need to go back to the County for review?

- Mike Morgan: does not go back to the county out of any obligation, although they may reach out to the county for opinions and comments once all data has been collected. All final decisions will rest with the Town Planning Board in this matter.
- The Board agrees that this is a good idea to share with the County.

Mark Richardson: who is the Lead Agency for the SEQR?

- The Town Planning Board will be the lead agency based on its jurisdiction according to the Canton Town Code. The project does not need to go to the Town Board.
- Looks forward to making progress and the Roses can expect to hear from the developers.

Debra Backus: Minor changes to decommissioning plan and information needed prior to next meeting.

Mike Morgan: Provide supporting documentation regarding the noise levels.

At this time Chairman Morgan closed out this portion of the meeting.

## Other Items

- John Casserly: requested clarification on the Solar Law application fee (1% of the cost of project) and when that is supposed to be received?
  - Mike Morgan: Town Board is in charge of this process.
  - Bob Washo: the Town attorney is in the process of drafting a letter to address this process; the law reads that upon application they are supposed to take care of this but this was an oversight as this was the first attempt at this project. This needs to be addressed and the developers should receive a letter this week.
  - Mark Richardson: the developers sent a communication with information regarding tax treatment, etc. so this will be addressed as well.
  - John Casserly: this fee looks like it covers many costs that may be incurred in researching an application and this should have been recognized earlier on
  - Bob Washo: correct - the intent of the fee is to help process the application and hire resources as needed (consultant, attorney, etc). This is intended to cover the investment of the Canton Tax Payer. The learning curve is steep and the Town is working to make their best decisions.
  - Mike Morgan: There is nothing preventing the Board from hiring anyone at this time. This option has always been available but not needed to this point.
  
- John Casserly: Jim Rose did a lot of research and put out a 6-7 page document regarding these concerns.
  - Mike Morgan: This should be addressed at the next meeting. They need time as a board to digest the information and would it be possible to discuss as a board. The hope is that many issues are addressed between them prior to the next meeting. Any unanswered questions could be discussed at a later time but must be held during a public meeting.
  
- Joel Howie will be stepping down from the board effective 12/31/20 and has chosen not to be reappointed; he has served 10 years on the board, but is currently running 2 businesses and one is looking to grow so he will be stepping down. Official thanks is sent to Joel Howie for his assistance and participation on the board.

## Adjournment

A motion to adjourn was made by Sigie Barr-Sapp, seconded by John Casserly, and carried. The meeting was adjourned at 8:08 pm.

## Next Meeting

The next meeting of the Town Planning Board will be held on January 19, 2020 at 6:30pm via Zoom virtual meeting.