

# Town of Canton

## Planning Board Meeting Minutes

January 19, 2021  
Zoom Virtual Meeting  
6:30pm

### Members Present

Chairperson Michael Morgan; Debra Backus; Sigie Barr-Sapp; John Casserly; Betsy Hodge; William Myers (1st Alternate); Nicki Hayes (2nd Alternate)  
Recording Secretary Jeni Reed

### Members Absent

None

### Others Present

Code Enforcement Officer Jeff Murray; Bob Washo; Jim & Pam Rose; Edward Rider; Mark Richardson (US Light Energy); William Sparkman (Chazen Companies); Ellis Giacomelli; Eric Gustafson; Mary Ann Ashley; William Dailey; Dan Huntley

### Call to Order

The meeting of the Town Planning Board was called to order at 6:31 pm by Chairperson Michael Morgan.

### Approval of Minutes

A motion was made by Debra Backus to approve the minutes from the December 15, 2020 Town Planning Board Meeting. The motion was seconded by John Casserly and carried.

### Agenda Items

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

The meeting began with an overview of the solar project review process to date to allow new planning board members an opportunity to catch up and ask questions.

Chairperson Michael Morgan referenced a discussion held yesterday between him and the Town Attorney Eric Gustafson regarding the legal issues surrounding the proposed project:

- The existence of a right of way access to the parcel proposed to be used for the project, leased from the owner to US Light Energy, is still in question and under research by the attorney. Per Mr. Gustafson, although the right of way does appear to exist, this is not yet conclusive and he will be reviewing various abstracts and titles in an effort to confirm.

- It is the opinion of the planning board that the project should not be approved without having this clarified.

The Town Board will be retaining the services of an Engineering consultant to assist with the review of the SEQR.

- At this time one firm has submitted a proposal.
- The Town will be looking to hire a firm as soon as possible, but are waiting on the finalization of the application fee which was to be submitted to the Town by US Light Energy (the developers). Securing these funds will allow the process to move forward.
- All information from the Engineering consultant will be sent back to the planning board and attorney for review.
- A public hearing will need to take place regarding the overall project, but this will not happen until the SEQR review has been completed.
- It was recognized that a lead agency must be officially declared for the SEQR and per Mr. Gustafson there are procedural steps that need to take place. However he felt upon review of the regulations that the Town Planning Board is the appropriate party to declare as lead agency.

At this time, the planning board reviewed a proposed resolution prepared by Town Attorney Eric Gustafson (utilizing the Zoom Virtual Meeting screen share function). Upon review, a motion was made by Debra Backus to adopt the resolution as written. Sigie Barr-Sapp seconded the motion, and it carried unanimously. The resolution will be signed by recording secretary Jeni Reed and sent to all appropriate parties.

Several additional issues were discussed pertaining to the proposed solar project:

- Jim Rose - why was the collection of the application fee from the developer delayed? Chairman Morgan clarified that the attorney is addressing this matter, and that there was simply a confusion in the function and mechanism for collection of this fee as this is the first solar project of this type to come before the Town.
- It was noted that all documents pertaining to the project are available to the planning board members within a Google Drive folder, which will provide a complete history of the project for new members and review for any members needing to refresh on anything.
- Both the Roses and the developers were reminded that should anything need to be reviewed by the planning board prior to a meeting, it should be provided with at least 2 business days lead time for appropriate review. For a Tuesday night meeting this would mean no later than Friday prior.
- Jim Rose - brought up several concerns regarding the developer and inconsistencies in discussions. Chairman Morgan noted that per the limited scope of the planning board in this manner, it is important that these discussions be resolved between the developer and the owners of neighboring properties (including the Roses). However, they were reminded that the planning board is available to help whenever possible or necessary.
- The meeting attendees were reminded that Code Enforcement Officer Jeff Murray would be having his final full-time day for the Town on Friday of this week; however he will still be doing some part time work for the Town and will be happy to pass along information and communications as appropriate via email.
- Chairman Morgan indicated that all the latest site plans have been shared with the Board to date. At this time the remaining issues are:
  - Establishing the right of way and its appropriate usage.
  - Getting “professional eyes” (an Engineering consultant) to review the SEQR.

Discussion ensued regarding the scheduling of another status meeting in February to keep things on track. This meeting was agreed upon for February 25th at 6:30pm. Attorney Eric Gustafson will not be available at that time,

but will confer with Chairman Morgan ahead of time to confirm progress and updates. It was also noted that should nothing transpire by the Monday of that week, the meeting would be cancelled as unnecessary.

Some additional comments were made at this time:

- Mark Richardson - indicated that he received some information today from the Roses, but is still waiting on comments regarding their updated proposal. It was asked if documents sent to the planning board from January 12th were shared with the Roses; Chairman Morgan indicated that they had not. Generally it is beyond the scope of the board to share information outside of the board and all discussions regarding shared materials happen at their meetings which are open to the public; however the developers are permitted and encouraged to share information with the Roses at any time.
- Dan Huntley - asked about any updates on the status of the right of way as he is still concerned about this detail. It was indicated that Jim & Pam Rose have documented that they have the right of way, and it was assumed that the current owner of the parcel in question also has a right of way as obtained from the previous owner. The Town Attorney continues to review county records and deeds of neighboring properties.
  - A complication in this process is that the right of way (which may or may not exist) follows the footprint of a previously abandoned road. Research into this in the Town archives is ongoing. It is believed that abandonment occurred far prior to the purchase of the property. Mr. Huntley also indicated that there is State documentation on the definition of abandonment which may play a role in this research.
  - The Town Attorney is reviewing this but does not yet have enough information to make a final conclusion.
  - There is strong concern from the planning board members that they get this right.
- William Sparkman - clarification on what documents will need to be shared with the Engineer, as some of the original documents submitted to the board will now need updating due to adjustments in the proposed project.
  - Chairman Morgan indicated that he believes everything needed is in hand and if anything else is required the planning board will reach out to the developers.
  - Mr. Sparkman reminded the planning board that plans are still interim at this time, and the submitted EIF was prepared based on the original design. Updated documents will be needed, and although the layout is not expected to change too much they will be providing a new EIF based on the updated site plan.
  - Chairman Morgan indicated that the contract with the Engineer will be executed as soon as the escrow account with the application fees is ready, so all new documents should be submitted as soon as possible. The Google Drive will be cleaned up to prevent any confusion for the Engineer.
  - Bob Washo - noted that nothing should be sent to the County or the Engineer prior to finalization of the documentation as they do not want to provide premature materials.
  - Mark Richardson - indicated that they will provide finalized materials and are not expecting substantial changes but will confirm that all numbers are correct and match across documents.
- Jim Rose - shared concern that the Town Attorney would not be available for the next meeting in February and asked if it should be rescheduled. Mr. Gustafson indicated that the February meeting should be nothing more than a status update and the planning board would not be in any position to make any determinations so him not being there should not pose any problems. It was also noted that everything would be subject to a public hearing prior to any determinations.
- Chairman Morgan indicated that the Roses should be working to discuss the project with the developer as soon as possible. Some adjustments have been made and an updated proposal shared with the Roses and they should be submitting their comments to the developer.
  - Chairman Morgan felt that the sound issue had been appropriately addressed; however this should be reviewed by the Roses in case they had any questions.

- It was noted that some of the solar arrays had been moved from the initial site plan to improve sight lines.
- Jim Rose - the developers looked at moving the solar array outside of the wetland to avoid disturbance but did indicate that downsizing the project would not be feasible. Instead they are looking to remove additional trees which he feels is significant. They will need to review the new suggestions further.
- Pam Rose - asked if the site plans shared with the Roses were a smaller version with some details missing? She felt more information had been provided to the planning board than provided to them and was concerned that some details had not been addressed. She asked if the points asked by the planning board last month had been addressed.
  - Mark Richardson - felt that all the information provided to the Roses was complete and not missing any of the details as requested; for example the renderings show the use of multiple vegetation species, and shows the panels extending up the entire hill which was disputed by Mrs. Rose. Mr. Richardson indicated that all information had been provided to the board but at this time the developers can not put more time into developing anything additional without any comments on the draft layout provided.
  - The planning board requested that the Roses provide their comments on information sent to them as soon as possible.
  - Jim Rose - agreed that they can continue to move forward but is concerned that without the resolution of the right of way there is the concern that they may be wasting a lot of time.
    - Chairman Morgan - this is true and a risk taken by the planning board with all projects; however it is the duty of the planning board to keep moving a project forward unless they hit a point where it is no longer possible or feasible.
- Betsy Hodge - is the right of way issue resolved within the deed of the land? Chairman Morgan indicated that Attorney Gustafson is working on resolving this with a detailed look at deeds and abstracts.

At this time there were no additional questions or comments and this portion of the meeting was closed out.

## 2. Initial review of proposed Solar Project at 6404 US Highway 11

Chairman Morgan stated that at this time the developer has approached him but is not yet ready to make any presentations to the board. John Casserly asked where the proposed project will be located, and it was indicated that this would be roughly across Route 11 from Route 11 Trucking, behind the railroad tracks.

## Other Items

No additional items.

## Adjournment

A motion to adjourn was made by John Casserly, seconded by Debra Backus, and carried. The meeting was adjourned at 7:13 pm.

## Next Meeting

The next meeting of the Town Planning Board will be held on February 25, 2021 at 6:30pm via Zoom virtual meeting.