

Town of Canton Planning Board

Meeting Minutes

June 5, 2023

Municipal Boardroom - 60 Main Street, Canton

6:00pm

Members Present

Chairperson Ian MacKellar, John Casserly, Betsy Hodge, William Myers, Sigie Barr (alternate)

Members Absent

Eric Barr, Dakota Casserly (alternate)

Others Present

Code Enforcement Officer Michael McQuade; Solar Lawyer Bill Buchan; Applicant Michael Fingar (Zoom); Applicant Counsel Ari Goldberg (Zoom); Resident Ruta Ozols (Zoom); Resident Michael Heaney; Resident Cathy Shrady; Resident Margaret Mauch; Resident Leslie Clark

Call to Order

The meeting was called to order at 6:01pm by chairperson Ian MacKellar. Alternate member Sigie Barr was designated full member of the Board for the purposes of this meeting only by chairperson MacKellar, as full member Eric Barr was unavailable.

Agenda Items

1. Old Business

a. Discussion of proposed solar project at 161 Meade Road, Canton - review of resolution revisions

Counsel for the project Ari Goldberg reviewed the changes proposed for the resolution:

- Conditions #4-6: After the last meeting these conditions continued to be reviewed through a number of internal meetings. Upon further discussion, the proposed changes to these conditions were removed and the conditions now reflect those of the original resolution which was passed by the Planning Board. These conditions are the same as those from other solar project approvals.
- Condition #12: One change was made to reflect the Permit 33 reference.
- Conditions #15-16: These conditions were changed to add the requirement of due process, and reference the original approval of the resolution.

It was noted that all changes have been previously discussed line-by-line in other meetings. Solar Attorney for the Town Bill Buchan noted that these changes resolve the differences originally indicated, and the revised resolution is solid. Action by the Planning Board at this meeting would be warranted. Although there is always a possibility of a legal challenge and revising the resolution opens the 30 day statute of limitations again, it is unlikely that this resolution will be challenged. Code Enforcement Officer Mike McQuade noted that he has no additional comments on the proposed changes and agrees with the updated resolution.

All changed items from the previously approved resolution were read for the record - a copy of the updated resolution is attached to these minutes.

A motion was made by John Casserly to approve the updated resolution as presented to the Planning Board at this meeting; the motion was seconded by William Myers. The approval was put to a roll call vote, and upon unanimous agreement the approval of the resolution carried.

Applicant Michael Fingar noted that he appreciated the Planning Board's time, and they look to beginning construction on the project as soon as possible.

The following individuals left the Zoom meeting at this time (6:15pm): Michael Fingar, Ari Goldberg, Bill Buchan.

2. New Business

a. Preliminary review of proposed project at 1734 State Highway 68, Canton (No Dogs Left Behind, Inc.)

An update on the proposed project was offered by Code Enforcement Officer (CEO) Michael McQuade:

- A copy of the two applications (original and revised) as presented to the CEO were provided to the Planning Board.
- CEO McQuade noted that the need for a SEQR for this project is unlikely, as these are generally only done when construction that creates ground disturbance is proposed. The application as presented indicates no planned expansion of the property at this time.
- It was noted that a number of concerns regarding the project have been raised by the public.

A motion was made by John Casserly to allow for public comment on the project at this time; the motion was seconded by Betsy Hodge and carried.

A number of concerns were brought before the board by members of the public, and discussed in depth by the Planning Board.

- It was noted that the County Planning Board will be reviewing the proposed project at their next meeting on Thursday, June 8. The panel of 14 members will review the proposal and offer their recommendation - the Town Planning Board does have the authority to supersede any recommendations with a majority-plus-one vote.
- A detailed timeline of the project to date was offered by members of the public, noting that several small structures have already gone up on the site.
- The public voiced the following specific concerns:
 - Regarding the initial application and their inconsistencies, and their inadequacy regarding the project.
 - The number of dogs proposed to be located on-site; this number has been fluid and difficult to pinpoint.
 - The responsibility of monitoring of the project - specifically who will be responsible for making sure all concerns are being addressed and any conditions are being met.
 - Appropriate facilities should be provided for the dogs ensuring their welfare and proper care. They must be properly caged and the property secured.
 - The barking and noise coming from the facility is a major concern and has posed significant difficulties for the neighboring properties.
 - Tickets have been issued by the Dog Control Officer for the Town, and a court appearance is scheduled for June 26 at Canton Town Court.
 - A zoning complaint regarding the barking has also been placed by a resident.

- There are significant concerns regarding potential environmental issues and lack of planning on the part of the project applicant; specifically the handling of dog waste, and the potential for groundwater contamination issues.
 - Additional concerns regarding a lack of appropriate veterinary care in the area and who would be affected by this were also raised.
- Questions were posed regarding the lease arrangement and liability - it was noted by Counsel Bill Buchan that the Town Planning Board can request a copy of the lease as part of their review.
- CEO McQuade noted that the project did not originally have the proper registration; however this has been resolved and a registration to operate a shelter was approved by the Department of Agriculture and Markets on May 23. He also indicated that there doesn't appear to be any specific oversight for this type of project as the Department of Agriculture and Markets does not regulate the types of concerns being brought to the Town and has no jurisdiction once the certificate is issued.
- Chairperson MacKellar (a retired veterinarian) noted that he would be in contact with Agriculture & Markets and local veterinarians regarding the care of the animals at the facility.
- It was noted that when the public hearing is held for this project, some of these issues can be addressed and any appropriate conditions can be placed in the resolution if the project is approved.
 - In addition, some of these concerns, while valid, do not apply to the Planning Board and the process of special use permit approval.
 - The Planning Board was reminded that although the concerns may be valid, they can not be arbitrary and capricious in their decisions and can only base their decisions on the process of enforcing the code as written.

b. Other

- As mentioned in an email from Planning Board member Dakota Casserly, updates regarding the Rich Road solar project were provided:
 - The project was submitted to ORES and returned as incomplete - a 46 page report was generated by ORES noting all issues with the application. This was expected by the project applicant as well as the Town.
 - A tour of a sheep grazing operation within a solar project has been scheduled for June 29 from 9am-12pm in Arnprior, Canada for those interested in learning more about this process.
 - A webinar is being offered by EDF Renewables (project applicant) tomorrow (June 6) to present their progress to date - the link is available on the Town website.
- CEO McQuade indicated the possibility of an additional community solar project application that may be sent to the Planning Board; however no application or plans have been received at this time. It was noted that the applicant has been made aware of potential capacity issues.
- The Town is reviewing their new Zoning regulations on Wednesday, June 14 and may vote to accept or table them for further review.
 - It was noted that regulations for anaerobic digesters will be part of this discussion.

Next Meetings

Upcoming meetings of the Town Planning Board are tentatively scheduled as follows:

- July 10, 2023 at 6:00pm

This meeting will be held in the courtroom of the municipal building at 60 Main Street, Canton. The option to participate remotely will be made possible by way of Zoom Virtual Meeting.

Adjournment

A motion was made to adjourn the meeting by John Casserly; the motion was seconded by Betsy Hodge and carried. The meeting was adjourned at 7:48pm.

Date: June 29, 2023

Jeni Reed
Recording Secretary

TOWN OF CANTON, NY PLANNING BOARD

Resolution # 1 of ~~2022~~2023

Resolution Approving Readopting the Site Plan Approval and Special Use Permit for the Solar Power Generating Facility at 161 Meade Road Solar Project

Dated: 6-6-2023

WHEREAS, NY USLE Canton Meade, LLC (“Applicant”) proposes to construct a 6.739 megawatt direct current (5 megawatt alternating current) solar power generation facility (“Facility”) on 25.1 acres of a 54.8-acre lot owned by Brian L. Brewer (“Owner”), located at 161 Meade Rd, Canton, New York (Tax ID: 89.003-1-59.11) (“Property”); and

WHEREAS, the proposed Facility will be operated by ~~NY USLE Canton Meade, LLC~~ (“Operator”) the Applicant who will enter into lease with the Owner for use of the Property as a solar facility;

WHEREAS, pursuant to the Town of Canton Local Law # 3 of 2019 (“Zoning Law”) the proposed Facility is considered a Major Solar Collection System and is permitted through the issuance of a special use permit in Commercial and Rural zoning districts subject to site plan review and approval by the Town of Canton Planning Board (“Planning Board”); and

WHEREAS, pursuant to the Zoning Law the proposed Facility also requires issuance of a Special Use Permit from the Planning Board; and

WHEREAS, in October 2020, the Applicant submitted an application to the Planning Board seeking site plan approval and a special use permit for the Facility; and

WHEREAS, the documents submitted by the Applicant as part of its initial application submission and numerous subsequent submissions consisted of, among other things, (1) an application; (2) a Full Environmental Assessment Form (“~~EAF~~FEAF”); (3) site plans; (4) the requisite filing fee and escrow amount for the application; and (5) a variety of additional documents (collectively, the “Application”); and

WHEREAS, the Planning Board, with the assistance of its technical and legal consultants, engaged in a detailed review of the Application materials; and

WHEREAS, on November 28th, 2022, the Planning Board held a public hearing for the Facility to gather comments and consider the verbal and written comments submitted by the public; and

WHEREAS, pursuant to the Town of Canton Zoning Law, the Planning Board has taken into consideration the location, arrangement, size, design, and general compatibility of the Facility to surrounding uses; the potential glare and noise impacts; the adequacy of stormwater and drainage facilities; the adequacy of landscaping affecting visual and noise buffers; and the overall impact on the neighborhood; and

WHEREAS, the Application is considered a Type I action under the New York State Environmental Quality Review Act ("SEQRA");

WHEREAS, the Planning Board declared its intent to be lead agency and conducted a coordinated review of its establishment of lead agency and of the Application pursuant to SEQRA, and circulated said intent to all involved and interested agencies;

WHEREAS, a full statement of the proposed action was referred to all involved and interested agencies, who either consented to the Planning Board being lead agency or allowed the thirty (30) day period to lapse, and the Planning Board as lead agency conducted a thorough review of Project carefully examining all of the potential impacts of the proposed project;

WHEREAS, the Planning Board has thoroughly reviewed Part 2 and Part 3 of the ~~EAF~~FEAF and has been assisted in the review of the SEQRA documents and the application by its consulting engineers Barton and Loguidice, D.P.C. ("B&L");

WHEREAS, a full statement of the application proposed action was referred to the St. Lawrence County Planning Agency and the Planning Agency disapproved the Project in their letter dated November 13th, 2020, and referred back to the Town Planning Board for consideration Planning Board for consideration, and the Town Planning Board further confirmed that no additional referral is required since the initial referral to the County. The Planning Board has ultimate decision power in this case and can overrule the County Planning Agency's referral with a majority plus one vote;

WHEREAS, on November 28th, 2022, the Planning Board approved Parts 2 and 3 of the ~~EAF~~FEAF and issued a SEQRA Negative Declaration for the Project as set forth on the ~~EAF~~FEAF Part 3 as a written, well-reasoned statement which concludes that the Facility will not create any significant adverse environmental impacts and that a Draft Environmental Impact Statement ("DEIS") will not be prepared;

WHEREAS, on November 28th, 2022, the Planning Board adopted Resolution # 14 of 2022 approving the Site Plan and issuing the Special Use Permit for the Facility; and

WHEREAS, on March 22-2023, the Applicant submitted a revised Site Plan altering the location of the Facility access road in coordination with the New York State Department of Transportation; and

WHEREAS, the Planning Board seeks to reaffirm its prior adopting resolution with revised conditions in response to the amended Site Plan and access road location;

NOW, THEREFORE BE IT RESOLVED, in accordance with the Town of Canton Zoning Law, the Planning Board hereby grants the Site Plan Approval requested by the Applicant and issues a Special Use Permit requested by the Applicant subject to the following conditions which must be satisfied (unless otherwise stated) prior to the stamping and signing of the site plans by the Planning Board Chairperson issuance of a building permit:

- (1) The Applicant shall enter into the Decommissioning Agreement which shall be approved by the Town of Canton Board ("Town Board") and the Town Attorney and signed by the Town Supervisor, by the Applicant, and by the property owner;

- (2) The Applicant shall issue a performance bond or other equivalent financial security for the decommissioning of the Facility, which shall be approved by the Town Board and the Town Attorney;
- (3) B&L has proposed to the Town Board to provide engineering services in the amount of \$15,000 and the Town Board shall enter into an engineering escrow agreement with the Applicant in which the Applicant will agree to fund the escrow amount of \$15,000 to compensate the Town of Canton for having B&L inspect and advise the Town and Planning Boards on the compliance of the construction with the approved drawings. The engineering escrow agreement must be approved by the Town Board and Town Attorney and signed by the Town Supervisor and by the Applicant;
- (4) The engineering escrow fund referenced above in section (3) will also be used to compensate B&L staff for the labor and expenses incurred in performing semi-annual site inspections of the Facility during the Spring (on or about April 15th) and Fall (on or about October 15th). After construction is complete and the above-referenced construction inspection is complete. B&L shall thereafter due semi-annual site inspections of the condition of the perimeter landscaping and site access road, and the overall condition of the site. On a yearly basis, the Applicant shall place \$2,500 in the Town's escrow account to cover the cost of the semi-annual site inspections. Following each semi-annual site inspection, B&L will provide a written update to the Town and Planning Boards. The semi-annual site inspections will be performed each year that the Facility is in operation;
- (5) The Applicant shall post a bond or other equivalent security for the operation and maintenance of the Facility, including the maintenance of the perimeter landscaping and the site access road at the sole expense of the Applicant. The bond or other equivalent security must be approved by the Town Board and the Town Attorney;
- (6) The Applicant shall have the landscaping inspected at its expense once a year for the first five (5) years of operation by a Registered Landscape Architect or Arborist, and the Applicant must submit a written report to the Town and Planning Boards identifying any areas of landscaping that have died or not thrived and will be replaced by the Applicant;
- (7) The Applicant shall provide the Town and Planning Boards with copies of a written agreement with the Owner of the Property demonstrating that the Applicant has the authority to construct the Facility on the Property;
- (8) The Applicant shall provide the Town and Planning Boards with a signed Notice of Intent ("NOI") and acknowledgment of receipt by the New York State Department of Environmental Conservation ("NYSDEC") of the NOI and the final Stormwater Pollution Prevention Plan ("SWPPP");

- (9) The Applicant shall provide the Town and Planning Boards and B&L with a written proposed schedule for construction of the Facility;
- (10) Prior to commencing the operation of the Facility, the Applicant must meet with emergency responders at the site to discuss the procedures to be followed in the event of fire and other emergencies. Within five (5) days of the meeting, the Applicant must provide the Town Supervisor and Town and Planning Boards with hard copies of the meeting minutes. The meeting minutes must indicate the name and contact information for each of the attendees and provide a detailed description of the procedures that will be followed by the emergency responders in the event of a fire or other emergency.
- (11) The Applicant shall provide payment for all outstanding fees, including any invoices by Planning Board and/or Town Board consultants and attorneys;
- (12) The Applicant shall provide the Town and Planning Boards with copies of all other approvals issued for the Facility, including all Local and State Permits, as required, and sign offs by all Interested Parties and Involved Agencies, including but not limited to a Perm-33 COM from the New York State Department of Transportation together with any final access driveway drawings;
- (13) The Applicant has no present plans for additional expansion of the Facility;
- (14) The Applicant will notify in writing by US Postal Service, the Town and Planning Boards 30 days prior to the sale, assignment, LLC membership purchase agreement or transfer of the Facility to another entity. The new owner of the Facility must provide the Town and Planning Boards with their contact information, including mailing address, telephone number and email address, moreover, no sale, transfer or assignment may take place unless the new owner agrees in writing to comply with the conditions of approval;
- (15) In the event that the Town of Canton receives complaints regarding glare impacts from the Facility onto affected landowner properties and/or public roadways surrounding the project, and a code enforcement action is commenced in a court of competent jurisdiction against the Applicant on the basis of such complaints and a conviction or plea is obtained, the Applicant must identify the source of the glare impacts and implement immediate mitigation measures and notify the Town in writing of the mitigation measures undertaken;
- (16) In the event that the Town of Canton receives complaints regarding light and/or noise impacts from the Facility onto affected landowner properties, ~~the Applicant must immediately~~ and a code enforcement action is commenced in a court of competent jurisdiction against the Applicant on the basis of such complaints and a conviction or plea is obtained, the Applicant must identify the source of the light and/or noise impacts and implement appropriate mitigation measures and notify the Town in writing of the mitigation measures undertaken;

- (17) After completion of the Facility and prior to the commencement of operation, the Applicant shall retain the services of a New York State licensed professional engineer to provide post-construction certification that the Facility complies with applicable codes and industry practices, and has been constructed according to the approved design plans. The Applicant shall also provide certification from National Grid that the interconnection from the solar facility to the electric transmission line has been inspected and approved;
- (18) The Applicant, and any successor or assign must maintain commercially reasonable general liability insurance in an amount no less than 1 million dollars each occurrence and 2 million dollars general aggregate, and must name the Town of Canton as an additional insured on the policy and provide a waiver of subrogation to the Town;
- (19) ~~The~~ Upon the Applicant shall enter entering into thea Payment in Lieu of Taxes (PILOT) Agreement which shall be approved bywith the St. Lawrence County Industrial Development Agency, if applicable, the Applicant shall provide a copy to the Town of Canton Board ("Town Board") and the Town Attorney and signed by the Town Supervisor and the Applicant;
- (20) The Applicant shall enter into a Host Community Benefit Agreement with the Town as required by paragraph F(7) of the Zoning Law.

BE IT FURTHER RESOLVED, that the Planning Board hereby authorizes and directs the Planning Board Chairperson to stamp and sign the Site Plans upon the Applicant's satisfaction of all applicable conditions set forth above; and

BE IT FURTHER RESOLVED, that this Site Plan Approval shall be valid for a period of ~~one (1) year~~ eighteen (18) months from the date it is issued, unless the Applicant applies in writing to the Planning ~~Town~~ Board for a ~~one year~~ an extension at least thirty (30) days prior to as set forth in the initial expiration period Zoning Law; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of Canton Town Clerk within five (5) days of the date of this Resolution, and shall be mailed to the Applicant within the same five (5) day period.

The questions of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:


MEMBER <i>William A. Dwyer</i>	<u>YES</u> /NO
MEMBER <i>Steve Davis</i>	<u>YES</u> /NO
MEMBER <i>Betsy F. Hodge</i>	<u>YES</u> /NO
MEMBER <i>John Casserly</i>	<u>YES</u> /NO
CHAIR <i>Ian MacKellar</i>	<u>YES</u> /NO

[alt] MEMBER

[alt] MEMBER

DATE:

Town of Canton Planning Board


Chairperson _____

This Resolution was filed in the Town Clerk's
office on the 9th day of June, 20222023


_____, Town Clerk