

**WAYNE COUNTY PLANNING BOARD**

**MINUTES**

January 27, 2021

Mert Bartels called the January meeting of the Wayne County Planning Board to order at 7:00 p.m. This meeting was held via Zoom video/call conferencing.

Board Present: Ron Baker, Mert Bartels, Rob Burns, Steve Guthrie, Bob Hutteman, Matt Krolak, Bob Milliman, Bert Peters, Larry Ruth, Ron Thorn, Jim Wedman

Staff: Bret DeRoo, Tracy Lambie, Thomas Lyon, Brian Pincelli

**DECEMBER 2020 MINUTES**

**Action** – Approve

**Motion** – Mr. Guthrie

**Second** – Mr. Baker

**Abstention** –

**Motion carried**

**ZONING AND SUBDIVISION REFERRALS**

**The following 5 referrals were reviewed and determined to be of no intermunicipal or countywide impact:**

**Action** – Return these referrals to the Towns/Villages to be handled as local matters

**Motion** – Mr. Ruth

**Second** – Mr. Peters

**Opposed** –

**Abstention** –

**Motion carried**

**Autos sales, repair, collision – Chad Henry, 310 Route 104, T. Ontario**

**Use Variance, Tax Map Ref. No. 61117-09-212596**

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Auto sales, repair and collision not currently permitted in B district.

**Comments:**

- 1) the hardship criteria (rules/test) that are required to grant the use variance must be substantiated at the local level and
- 2) the minimum variance necessary should be considered.

For reference, the NYS Department of State has a useful reference document available, “**Zoning Board of Appeals**”, on their website @ [https://www.dos.ny.gov/lg/publications/Zoning\\_Board\\_of\\_Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf).

Details regarding each of the variance “hardship rules/test” can be found in this document.

In regard to “essential character of neighborhood” impacts the proposal may have, application materials indicate there is an auto repair business adjacent to the parcel as well as several auto dealers and repair and collision shops near the site. During the comprehensive plan update process, the town may wish to re-examine current zoning regulations for this area and “Business zone” to determine if they still meet municipal objectives. If they do not, consideration could be given to potentially modifying regulations to help them align with updated comprehensive plans and minimize the need for similar variance requests.

Should the use variance be approved at the local level, the following comments are offered regarding the proposed business (some of which may not apply to this application, but are being provide in an attempt to provide consistent comments regarding similar proposals):

- 1) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building areas, parking areas, driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, building areas and associated parking/storage areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to NYS Rt. 104,
- 2) displayed vehicles should not impede available sight distance,
- 3) painted striping should be added/used on the site to clearly identify parking areas/stalls and desired traffic flow, security measures should be intact (e.g. the site should be lighted),
- 4) emergency service vehicle access should be provided for,
- 5) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building/property maintenance, construction materials, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled NYS Rt. 104,
- 6) outside storage should be limited (e.g. equipment/items in disrepair should not be permitted to accumulate),
- 7) “operational noises” should be mitigated (i.e. noise generated by business activity should not impact nearby residential uses),
- 8) any /all hazardous/toxic materials must be properly stored, handled and disposed of,
- 9) the building/garage must meet applicable NYS Uniform Fire Prevention and Building Codes given the proposed use and
- 10) all necessary local and state approvals/permits/recommendations must be followed/obtained (e.g. NYS Department of Environmental Conservation and NYS Department of Motor Vehicle - auto repair/service work related, NYS Department of Transportation - driveway related - if applicable).

**Christopher Lyon, Newark Marion Road, T. Palmyra**

Preliminary/Final Subdivision Plan, Tax Map Ref. No. 66113-00-178192

Subdivide 30 acres to be conveyed.

**Comments:**

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) future plans (if any) for the total acreage should be considered,
- 4) development, including water and wastewater treatment/sanitary service, and driveway design that includes provision for emergency service vehicle access (if applicable) must meet all local, federal and NYS codes/regulations (e.g. Department of Health, Uniform Fire Prevention and Building Codes, Department of Environmental Conservation - Phase II Stormwater Management and Erosion and Sediment Control regulations, etc.) - if applicable,
- 5) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc. - if applicable and
- 6) the property owner(s) should be aware that portions of the “parent parcel” appear to contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>), as well as FEMA flood zone (approximate mapping available online at <https://msc.fema.gov/portal>) and any planning/development should be done in accordance with applicable regulations.

**Harry Hansen, Route 31, T. Palmyra**

Preliminary/Final Subdivision Plan, Tax Map Ref. No. 66111-13-241285

3 lot subdivision, 2 pieces to be conveyed.

**Comments:**

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) future plans (if any) for the total acreage should be considered,
- 4) development, including water and wastewater treatment/sanitary service, and driveway design that includes provision for emergency service vehicle access (if applicable) must meet all local, federal and NYS codes/regulations (e.g. Department of Health, Uniform Fire Prevention and Building Codes, Department of Environmental Conservation - Phase II Stormwater Management and Erosion and Sediment Control regulations, etc.) - if applicable,
- 5) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc. - if applicable and
- 6) the property owner(s) should be aware that portions of the “parent parcel” appear to contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>), as well as FEMA flood zone (approximate mapping available online at <https://msc.fema.gov/portal>) and any planning/development should be done in accordance with applicable regulations.

**R. L. Breen Subdivision, 1200 Wiley Road, T. Savannah**

Final Subdivision Plan, Tax Map Ref. No. 77111-00-206280

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2 lot subdivision, 5.7 acres with residence, 19.1 acres undeveloped.

**Comments:**

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) future plans for the total acreage should be considered,
- 4) all applicable/necessary easements (“cross-lot” included) should be in place to ensure that the development/subdivision maintains function and compatibility (e.g. access/driveway, parking, stormwater management, utility, etc. easements),
- 5) development, including water and wastewater treatment/sanitary service, and driveway design that includes provision for emergency service vehicle access (if applicable) must meet all local, federal and NYS codes/regulations (e.g. Department of Health, Uniform Fire Prevention and Building Codes, Department of Environmental Conservation - Phase II Stormwater Management and Erosion and Sediment Control regulations, etc.) - if applicable,
- 6) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc. - if applicable and
- 7) the property owner(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area (approximate mapping available online at <https://gisservices.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations.

**Kevin Adriaansen, 5589 Ridge Chapel Road, T. Williamson**

Final Subdivision Plan, Tax Map Ref. No. 64116-00-809788

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Subdivide 5.851 acres for future single family home.

**Comments:**

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new wastewater treatment system (or connection to municipal sewer) that will meet local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 2) the proposed lots should be configured with enough area for each lot to have a driveway that meets AASHTO (American Association of State Highway and Transportation Officials) recommendations for sight distance,
- 3) future plans for the total acreage should be considered (if any),
- 4) development, including water and wastewater treatment/sanitary service, and driveway design that includes provision for emergency service vehicle access (if applicable) must meet all local, federal and NYS codes/regulations (e.g. Department of Health, Uniform Fire Prevention and Building Codes, Department of Environmental Conservation - Phase II Stormwater Management and Erosion and Sediment Control regulations - if applicable, etc.),
- 5) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc.,
- 6) the property owner(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area (approximate mapping available online at <https://gisservices.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations.

**Retail Store, 5095 Westbury Road, T. Butler**

Special Permit, Tax Map Ref. No. 78116-00-588146

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40'x60' pole barn to house retail grocery store.

**Action** – Approve with comments

**Motion** – Mr. Peters

**Second** – Mr. Wedman

**Opposed** –

**Abstention** –

**Motion carried**

**Due to technical difficulties, Mr. Guthrie did not vote.**

**Comments:**

- 1) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building area(s), parking area(s), driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, building areas and associated parking areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Westbury Road. This information could be useful for emergency service providers to review and know also,
- 2) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/ materials, building/property maintenance, fencing, berms, landscaping, etc.,
- 3) screening (e.g. fence, berm, landscaping, etc.) should be considered/used to help the proposed development remain compatible with surrounding land uses,
- 4) a driveway permit will be required from the Wayne County Highway Department,
- 5) emergency service vehicle access should be provided and local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire),
- 6) all necessary local, federal and state recommendations/regulations and approvals/permits must be obtained/complied with (e.g. NYS Uniform Fire Prevention and Building Codes, NYS Department of Health, etc.),
- 7) future plans (if any) for the total acreage should be considered and
- 8) the property owner(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations.

**South Wayne Solar, LLC, 4326 Wolcott Spring Lake Road, T. Butler**

**Special Permit/Final Site Plan, Tax Map Ref. No. 77115-00-863110**

5.0 MW-AC +/- 27 acres solar photovoltaic array system with 15 MWh battery energy storage system. Kevin Ertz of Community Energy presented. Jesse Cutaia of Community Energy was also available.

The Board questioned whether Butler had a comprehensive plan that addressed solar, does solar fit the Butler comprehensive plan and if solar is addressed in Butler's Farmland Protection Plan. Bret DeRoo said he would look into it.

The Board also asked if the County has or could have a plan (or map) for small solar arrays for the next 10 years. Where are the substations and where would it be beneficial to have small solar systems? Brian Pincelli stated that he and Thomas Lyon have spoken on this recently and an analysis of the County and priority sites for solar development is currently underway.

**Action** – Approve with comments but **motion did not carry**

**Motion** – Mr. Guthrie

**Second** – Mr. Ruth

**Ayes** – Mr. Bartels, Mr. Burns

**Opposed** – Mr. Baker, Mr. Krolak, Mr. Milliman, Mr. Peters, Mr. Thorn, Mr. Wedman

**Abstention** –

**Motion did not carry**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**No additional motion was made.**

**Comments:**

For reference, the information found below was either available for consideration and/or discussed at the meeting and this is the first application the WCPB has reviewed that proposes an on-site **“battery energy storage system”**.

Additionally, according to application documents, within one mile of the project parcel is a documented nesting location of Bald Eagle - applicable NYS and federal regulations need to be applied.

Comments below are generally divided into two categories: I. **“WCPB - Standard photovoltaic (PV) system comments”** and II. **“New comments to consider”**. The new comments relate to *municipal comprehensive planning* and *battery energy storage systems* and were copied from a December 2020 New York State Energy Research and Development Authority (NYSERDA) reference document, “New York Battery Energy Storage System Guidebook for Local Governments”. This document is available online at <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Siting/Battery-Energy-Storage-Guidebook> and cites, “The Battery Energy Storage System Guidebook contains information, tools, and step-by-step instructions to support local governments managing battery energy storage system development in their communities. The Guidebook provides local officials in-depth details about the permitting and inspection process to ensure efficiency, transparency, and safety in their communities”.

**I. “WCPB - Standard photovoltaic (PV) system comments”** follow (some of which have been addressed in the application materials, but are still being included in an effort to provide consistent comments when reviewing similar applications from municipalities across the county):

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as system design/materials, fencing, berms, landscaping, etc.,
- 2) it should be confirmed that the solar panels will not produce a glare (possibly impacting neighboring property owners, motorists, etc.),
- 3) a photovoltaic system decommissioning plan should be intact,
- 4) the access driveway should have sight distances available that meet AASHTO (American Association of State Highway and Transportation Officials) recommendations,
- 5) all necessary local, federal and state recommendations and approvals/permits must be followed/obtained (e.g. NYS Uniform Fire Prevention and Building Codes, NYS Department of Environmental Conservation

- Phase II stormwater management and erosion and sediment control regulations, NYS Department of Agriculture and Markets - “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands (Revision 10/18/2019)”, NYS Office of Parks, Recreation and Historic Preservation/SHPO, US Army Corps of Engineers and US Fish and Wildlife Service regulations- including , but not limited to, those relating to eagles),
- 6) the property owner(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations and
- 7) future plans (if any) for the total acreage should be considered.

For reference, the following are items that the Board feels could be considered when reviewing PV system applications (Source: NYS Department of State, Division of Local Government Services, “Solar Energy Regulation” presentation):

**Compatibility with neighborhood character:**

1. Do not negatively impact adjacent uses
2. Visually compatible
  - a. For example, potential impact includes glare or reflection, which might be nuisance to other property owner or impair visibility of motor vehicle drivers
3. Use sensitivity especially in areas containing unique architectural styles or historic structures

**Review elements:**

- 1) Access to solar energy
- 2) Casting shadows
- 3) Blocking view sheds
- 4) Causing glare
- 5) Rain run-off

**Decommissioning provisions:**

- Some municipalities address abandonment, decommissioning or “cessation of activity” within their regulations
- For example, “Must ensure site will be restored to useful, nonhazardous condition, including completion time frame for complete removal of collectors, mounts and other associated equipment and facilities”
- Some require decommissioning plans, especially for commercial scale projects

Additional comments related to decommissioning requirements:

- **Term:** A surety bond may be required by the Obligee and may be a decommissioning requirement. A solar system surety bond may be required for multiple years (sometimes up to **20 years or longer**) and ensures finances are available for the removal of the equipment and the restoration of the land.
- **Costs:** Given the potential costs of decommissioning and land reclamation, it is reasonable for landowners and local governments to proactively consider system removal guarantees. A licensed professional engineer, preferably with solar development experience, can estimate decommissioning costs, which vary across the United States. Decommissioning costs will vary depending upon project size, location, and complexity. Estimated costs for decommissioning a 2MW solar panel system are approximately \$100,000 (*Decommissioning Solar Panel Systems- NYSERDA* <https://www.nyserda.ny.gov/-/media/NYSun/files/Decommissioning-Solar-Systems.pdf>)

Also for reference, the Board continues to seek additional information to help them assess/consider the relationship between items such as agricultural and farmland protection efforts (with particular consideration given to farmland that is classified as “prime” and/or of “statewide importance”), NYS clean energy goals, comprehensive plans/local zoning regulations and details regarding the proposed photovoltaic (PV) system development. Since late 2016, the WCPB has now reviewed over ten (10) similarly sized PV systems (2 - 4 megawatt) from municipalities across the county. In their review, the Board has noticed that several, but not all, of the proposals were for systems that would be sited on active farmland. They understand some municipalities, such as Butler, potentially permit solar developments on farmland, but they are still interested in continuing to explore development options that would help minimize farmland impacts. As a note, both the NYS Department of Agriculture and Markets as well as the American Farmland Trust offer guidance documents regarding ways to protect farmland while permitting solar development.

Given discussion with PV system developers, there are site-specific design requirements and therefore certain parcels/sites have attributes that are better suited for development than others. Attributes that have been referenced include, but are not necessarily limited to, proximity to three-phase electric power as well as utility company substations. The substations then need to have the capacity to handle the generated power. Reportedly, an agency such as NYSERDA, and possibly the applicable utility company, may be able to offer guidance regarding where PV systems can “tie into the grid”. If so, it could be beneficial to contact a representative from NYSERDA and/or NYSEG / RG&E to help determine where PV systems are feasible in the town and ultimately determine how much acreage/farmland will potentially be used for PV development.

## **II. “New comments to consider”:**

1. NYSERDA guidance documents suggest that municipalities should update comprehensive plans and then zoning to address land use items related to alternative energy.
2. Special Use Permit Standards (for “Tier 2” Battery Energy Storage Systems - “Tier 2” systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area):
  - a) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
  - b) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
  - c) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a [7-foot-high] fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
  - d) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

## **Some of the other resources made available from the New York State Energy Research and Development Authority (NYSERDA) - all links active as of 1/27/2021:**

- **Clean Energy Siting for Local Governments:** <https://www.nysERDA.ny.gov/All-Programs/Programs/Clean-Energy-Siting>
- **Clean Energy Standard:** <https://www.nysERDA.ny.gov/All-Programs/Programs/Clean-Energy-Standard>
- **Guidebook for Local Governments:** <https://www.nysERDA.ny.gov/All-Programs/Programs/NY-Sun/Communities-and-Local-Governments/Solar-Guidebook-for-Local-Governments>
- **New York State Energy Storage:** <https://www.nysERDA.ny.gov/All-Programs/Programs/Energy-Storage>
- **Solarize Your Community:** <https://www.nysERDA.ny.gov/All-Programs/Programs/NY-Sun/Communities-and-Local-Governments/Solarize>
- **Technical Assistance and Workshops:** <https://www.nysERDA.ny.gov/All-Programs/Programs/Clean-Energy-Siting/Technical-Assistance-and-workshops>

Board would like more education on solar. Brian Pincelli will have discussion with planning department staff to get more information to board via webinar or workshop and to bring the right people to the table to inform board on solar.

**South Butler Solar, LLC, Route 89, T. Butler**

Special Permit/Final Site Plan, Tax Map Ref. No. 77114-00-079876, 76114-00-999898 (76114-00-986875)

4.8 MW-AC +/- 34 acres solar photovoltaic array system with 15 MWh battery energy storage system. Jesse Cutaia of Community Energy was also available.

**Action** – Approve with comments but **motion did not carry**

**Motion** – Mr. Guthrie

**Second** – Mr. Burns

**Ayes** – Mr. Bartels, Mr. Ruth

**Opposed** – Mr. Baker, Mr. Krolak, Mr. Milliman, Mr. Peters, Mr. Thorn, Mr. Wedman

**Abstention** –

**Motion did not carry**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**No additional motion was made.**

**Comments:**

For reference, the information found below was either available for consideration and/or discussed at the meeting and this is the first application the WCPB has reviewed that proposes an on-site “**battery energy storage system**”.

Comments below are generally divided into two categories: I. “**WCPB - Standard photovoltaic (PV) system comments**” and II. “**New comments to consider**”. The new comments relate to *municipal comprehensive planning* and *battery energy storage systems* and were copied from a December 2020 New York State Energy Research and Development Authority (NYSERDA) reference document, “New York Battery Energy Storage System Guidebook for Local Governments”. This document is available online at <https://www.nyserda.ny.gov/All-Programs/Programs/Clean-Energy-Siting/Battery-Energy-Storage-Guidebook> and cites, “The Battery Energy Storage System Guidebook contains information, tools, and step-by-step instructions to support local governments managing battery energy storage system development in their communities. The Guidebook provides local officials in-depth details about the permitting and inspection process to ensure efficiency, transparency, and safety in their communities”.

**I. “WCPB - Standard photovoltaic (PV) system comments”** follow (some of which have been addressed in the application materials, but are still being included in an effort to provide consistent comments when reviewing similar applications from municipalities across the county):

- 8) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as system design/materials, fencing, berms, landscaping, etc.,
- 9) it should be confirmed that the solar panels will not produce a glare (possibly impacting neighboring property owners, motorists, etc.),
- 10) a photovoltaic system decommissioning plan should be intact,
- 11) the access driveway should have sight distances available that meet AASHTO (American Association of State Highway and Transportation Officials) recommendations,
- 12) all necessary local, federal and state recommendations and approvals/permits must be followed/obtained (e.g. NYS Uniform Fire Prevention and Building Codes, NYS Department of Environmental Conservation – Phase II stormwater management and erosion and sediment control regulations, NYS Department of Agriculture and Markets - “Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands (Revision 10/18/2019)”, NYS Office of Parks, Recreation and Historic Preservation/SHPO, US Army Corps of Engineers and US Fish and Wildlife Service regulations- including, but not limited to, those relating to eagles – if applicable),
- 13) the property owner(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping



available for both online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations and

14) future plans (if any) for the total acreage should be considered.

For reference, the following are items that the Board feels could be considered when reviewing PV system applications (Source: NYS Department of State, Division of Local Government Services, “Solar Energy Regulation” presentation):

**Compatibility with neighborhood character:**

4. Do not negatively impact adjacent uses
5. Visually compatible
  - a. For example, potential impact includes glare or reflection, which might be nuisance to other property owner or impair visibility of motor vehicle drivers
6. Use sensitivity especially in areas containing unique architectural styles or historic structures

**Review elements:**

- 6) Access to solar energy
- 7) Casting shadows
- 8) Blocking view sheds
- 9) Causing glare
- 10) Rain run-off

**Decommissioning provisions:**

- Some municipalities address abandonment, decommissioning or “cessation of activity” within their regulations
- For example, “Must ensure site will be restored to useful, nonhazardous condition, including completion time frame for complete removal of collectors, mounts and other associated equipment and facilities”
- Some require decommissioning plans, especially for commercial scale projects

Additional comments related to decommissioning requirements:

- **Term:** A surety bond may be required by the Obligee and may be a decommissioning requirement. A solar system surety bond may be required for multiple years (sometimes up to **20 years or longer**) and ensures finances are available for the removal of the equipment and the restoration of the land.
- **Costs:** Given the potential costs of decommissioning and land reclamation, it is reasonable for landowners and local governments to proactively consider system removal guarantees. A licensed professional engineer, preferably with solar development experience, can estimate decommissioning costs, which vary across the United States. Decommissioning costs will vary depending upon project size, location, and complexity. Estimated costs for decommissioning a 2MW solar panel system are approximately \$100,000 (*Decommissioning Solar Panel Systems-NYSERDA* <https://www.nyserda.ny.gov/-/media/NYSun/files/Decommissioning-Solar-Systems.pdf>)

Also for reference, the Board continues to seek additional information to help them assess/consider the relationship between items such as agricultural and farmland protection efforts (with particular consideration given to farmland that is classified as “prime” and/or of “statewide importance”), NYS clean energy goals, comprehensive plans/local zoning regulations and details regarding the proposed photovoltaic (PV) system development. Since late 2016, the WCPB has now reviewed over ten (10) similarly sized PV systems (2 - 4 megawatt) from municipalities across the county. In their review, the Board has noticed that several, but not all, of the proposals were for systems that would be sited on active farmland. They understand some municipalities, such as Butler, potentially permit solar

developments on farmland, but they are still interested in continuing to explore development options that would help minimize farmland impacts. As a note, both the NYS Department of Agriculture and Markets as well as the American Farmland Trust offer guidance documents regarding ways to protect farmland while permitting solar development.

Given discussion with PV system developers, there are site-specific design requirements and therefore certain parcels/sites have attributes that are better suited for development than others. Attributes that have been referenced include, but are not necessarily limited to, proximity to three-phase electric power as well as utility company substations. The substations then need to have the capacity to handle the generated power. Reportedly, an agency such as NYSERDA, and possibly the applicable utility company, may be able to offer guidance regarding where PV systems can “tie into the grid”. If so, it could be beneficial to contact a representative from NYSERDA and/or NYSEG / RG&E to help determine where PV systems are feasible in the town and ultimately determine how much acreage/farmland will potentially be used for PV development.

## **II. “New comments to consider”:**

2. NYSERDA guidance documents suggest that municipalities should update comprehensive plans and then zoning to address land use items related to alternative energy.
2. Special Use Permit Standards (for “Tier 2” Battery Energy Storage Systems - “Tier 2” systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area):
  - a) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.
  - b) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
  - c) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a [7-foot-high] fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
  - d) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

## **Some of the other resources made available from the New York State Energy Research and Development Authority (NYSERDA) - all links active as of 1/27/2021:**

- **Clean Energy Siting for Local Governments:** <https://www.nyserdera.ny.gov/All-Programs/Programs/Clean-Energy-Siting>
- **Clean Energy Standard:** <https://www.nyserdera.ny.gov/All-Programs/Programs/Clean-Energy-Standard>
- **Guidebook for Local Governments:** <https://www.nyserdera.ny.gov/All-Programs/Programs/NY-Sun/Communities-and-Local-Governments/Solar-Guidebook-for-Local-Governments>
- **New York State Energy Storage:** <https://www.nyserdera.ny.gov/All-Programs/Programs/Energy-Storage>
- **Solarize Your Community:** <https://www.nyserdera.ny.gov/All-Programs/Programs/NY-Sun/Communities-and-Local-Governments/Solarize>
- **Technical Assistance and Workshops:** <https://www.nyserdera.ny.gov/All-Programs/Programs/Clean-Energy-Siting/Technical-Assistance-and-workshops>

**Due to technical difficulties, Mr. Thorn left the meeting.**

**Shady Brook Holdings, LLC, 4500 Route 414, T. Rose**  
**Special Permit, Tax Map Ref. No. 74115-00-176411**

Bldgs 600, 700, 800 to be used for service/retail of storage of vehicles inside. Mr. Cecil Martin was available for questions.

**Action** – Approve with comments

**Motion** – Mr. Ruth

**Second** – Mr. Baker

**Opposed** –

**Abstention** – Mr. Guthrie

**Motion carried**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**Comments:**

Based on the number and types of businesses that could potentially occupy this site, the Board felt it would be helpful to have a scaled and updated site plan (i.e. as on-site uses progress) that illustrates building locations and floor plans, associated businesses, respective parking areas and on-site traffic circulation. The information could be useful for emergency service providers to review and know also. The Board would ultimately like to ensure that all on-site businesses, as well as surrounding land uses, are compatible and safe.

The following are the comments:

- 1) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway locations, building area(s), parking area(s), driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, driveway locations, building area, display area – if applicable, and associated parking areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to NYS Rt. 414 and no on-site development should impede available sight distances,
- 2) emergency service vehicle access should be provided for and emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, fire and law enforcement),
- 3) the total number of available/required parking spaces should be confirmed,
- 4) painted striping should be added/used on the site to clearly identify parking areas/stalls and desired traffic flow. All parking should be on-site (i.e. there should be no need to park in the NYS DOT right of way) and fire lanes should remain open,
- 5) development should proceed in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building and property maintenance, screening (e.g. fencing and berms) landscaping, etc., particularly given that the parcel is located on the highly traveled NYS Route 414,
- 6) security measures should be intact (e.g. the site should be lighted),
- 7) outside storage should be limited, particularly items in poor repair (if ever applicable),
- 8) “operational noises” should be mitigated (i.e. noise generated by proposed business activity, such as auto repair work, should not impact nearby land uses),
- 9) toxic/hazardous materials should be properly stored, handled and disposed of (if ever applicable) and
- 10) all necessary local and state recommendations and approvals/permits must be followed/obtained (e.g. NYS Uniform Fire Prevention and Building Codes and NYS Department of Health regulations - building and sanitary sewer related).

**Villas by Barone, Phase 2, Villa Fina Drive, T. Ontario**

Preliminary/Final Subdivision Plan / Preliminary/Final Site Plan, Tax Map Ref. No. 61117-00-430341

23 lot subdivision to construct 11 single family patio homes and 12 single family townhouse units. Mike Ritchie of Costich Engineering presented.

**Action** – Approve with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Ruth

**Opposed** –

**Abstention** –

**Motion carries**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**Comments:**

- 1) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway locations, building areas, parking areas, driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations), on-site traffic circulation and provision for emergency service vehicle access. Proposed on-site traffic circulation, driveway locations, building areas and associated parking areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to the internal subdivision streets and Ridge Road and no on-site development should impede available sight distances,
- 2) consideration should be given to the overall traffic impacts this and adjoining subdivision(s) will have on Ridge Road, particularly given the existing and proposed number of building lots, phasing/timing of development and proposed internal access between subdivisions. It is the Board's understanding that Villa Fina is planned to link to the Southbrook Estates Subdivision (and potentially to the Hidden Pines Subdivision) and also have access to Ridge Road,
- 3) emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire),
- 4) development should be done in a manner that keeps it compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc.,
- 5) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses,
- 6) the proposed sanitary sewer systems must meet applicable local and/or New York State (e.g. Department of Health, Uniform Fire Prevention and Building Code) codes/regulations,
- 7) the proposed lots/development must meet applicable local, federal and New York State (e.g. Department of Health, Uniform Fire Prevention and Building Codes, NYSDEC – Phase II stormwater management and erosion and sediment control plans) codes/regulations,
- 8) the proposed lots should meet zoning regulations for lot size, potential building setbacks etc.,
- 9) all necessary "cross-lot easements" should be in place, if applicable, to ensure that existing and potential future developments can maintain their function and compatibility (e.g. access/driveway, parking, stormwater management, utility, etc. easements),
- 10) the property owner(s) should be aware that portions of the parcel may contain (or be near) both NYS Department of Environmental Conservation wetland area and National wetland area (approximate mapping available online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations and
- 11) future plans (if any) regarding the total acreage should be considered.

In an effort to be consistent, the Board included the following comments/questions in this letter that were also made during their January 29, 2020 review of the nearby Hidden Pines subdivision and their October 28, 2020 review of Southbrook Estates, Section 3 subdivision:

- They questioned how that proposal compares to the development pattern the town has planned for in this area, particularly when considering items such as existing comprehensive plan recommendations, subdivision and zoning regulations and municipal infrastructure.
- The Board also questioned how the proposal relates to the applicant's overall plans for the area and whether there are future plans to link this subdivision with existing/ adjacent subdivisions.
- They questioned the design of the private driveways and proposed water and sewer infrastructure services.
- The Board noted the importance of understanding the level of consideration that has been given to the comprehensive impacts this subdivision will have regarding items such as compatibility of various land uses with one another, traffic generating characteristics, "protection of community character", drainage, community facilities, open space preservation and emergency services.
- The Board felt that it was necessary to document and require construction of another access road to the Villas Subdivision before another Certificate of Occupancy is granted for an additional home in Southbrook Estates. The Board wanted to ensure that the access road(s) meet local and NYS Uniform Fire Prevention and Building Code requirements, including but not necessarily limited to, Appendix D Fire

It is anticipated there will be an opportunity to address many of the above items as the town proceeds with their comprehensive plan update and discusses overall development plans with the property owner(s).

**Rick Damico, 19 East Genesee Street, V. Clyde**  
Special Permit, Tax Map Ref. No. 74112-14-395359

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Convert existing vacant, non-conforming single family dwelling into 4 unit apartment.

**Action** – Disapprove with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Krolak

**Opposed** –

**Abstention** –

**Motion carried**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**Comments:**

The Board felt they lacked information that is needed to help them assess some of the items they are charged to consider by General Municipal Law (GML), Section 239-1. Unfortunately, no site plan or floor plan information was available for review and no one participated in the meeting to represent the application and help discuss the proposal.

In regard to items that are related to: “*compatibility of various land uses with one another*”, “*protection of community character as regards predominant land uses, population density, “and the relation between residential and nonresidential areas”*” (per GML), the Board questioned how many occupants there would be on-site. They understood that 4 apartment units are proposed, but did not have information pertaining to how many bedrooms and/or people the square footage of the units/building would compensate. They felt this information would be helpful to have when assessing the above items.

In regard to items that are related to: “*traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities*” (per GML), the Board questioned the number of parking spaces that are available on-site and how that compares to items such as the number of vehicles that would be expected, given proposed occupancy, and the driveway layout.

For reference, the following are comments that the board has made regarding prior review of similar applications:

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building/property maintenance, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled East Genesee Street (NYS Rt. 31 - Erie Canalway National Heritage Corridor),
- 2) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses,
- 3) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building area(s), parking area(s), driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, building areas and associated parking areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to East Genesee Street (NYS Rt. 31). The information could be useful for emergency service providers to review and know also,
- 4) emergency service vehicle access should be provided and local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire) and
- 5) all necessary local, federal and state recommendations/regulations and approvals/permits must be obtained/complied with (e.g. NYS Uniform Fire Prevention and Building Codes).

Construct 16'x40' post-framed addition to east end.

**Action** – Disapprove with comments

**Motion** – Mr. Guthrie

**Second** – Mr. Ruth

**Opposed** –

**Abstention** –

**Motion carried**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**Comments:**

The Board felt they lacked information that is needed to help them assess some of the items they are charged to consider by General Municipal Law (GML), Section 239-1 (e.g. compatibility the proposal would have with surrounding land uses /"character of neighborhood" impacts). Unfortunately, there was little information available for review and no one participated in the meeting to represent the application and help discuss the proposal.

The Board had the following comments regarding the area variance application:

- 1) the hardship criteria (rules/test) that are required to grant the area variance must be substantiated at the local level and
- 2) the minimum variance necessary should be considered.

For reference, the NYS Department of State has a useful reference document available, "**Zoning Board of Appeals**", on their website @ [https://www.dos.ny.gov/lg/publications/Zoning\\_Board\\_of\\_Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf).

Details regarding each of the variance "hardship rules/test" can be found in this document.

The following is a list of additional comments to consider should the area variance be approved at the local level:

- 1) proposed development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, fencing, berms, landscaping, property maintenance, etc., particularly given that the parcel is located on the highly traveled Glasgow Street/NYS Rt. 414,
- 2) screening (e.g. fence, berm, landscaping, etc.) should be considered/used to help the proposed development remain compatible with surrounding land uses (i.e. mitigate visual and noise impacts between this proposal and adjacent land uses - if applicable),
- 3) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building area(s), parking area(s), driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, building area, associated parking area(s) and development plans should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Glasgow Street and Wayne Ave.,
- 4) emergency service vehicle access should be planned and provided for, including driveway design that meets NYS Uniform Fire Prevention and Building Codes (if applicable), and local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, fire, and law enforcement),
- 5) all necessary "cross-lot easements" should be in place to ensure that applicable existing and potential future development(s) can maintain their function and compatibility (e.g. access/driveway, street, parking, stormwater management, utility, etc. easements) – if applicable,
- 6) "operational noises" should be mitigated (i.e. noise generated by business activity should not impact other nearby uses - if applicable),
- 7) outside storage should be limited (e.g. items in disrepair should not be permitted to accumulate),
- 8) any toxic/hazardous materials should be properly stored, handled and disposed of,

- 9) development, including water and wastewater treatment/sanitary service, must meet all local, federal and NYS codes/regulations (Department of Environmental Conservation - Phase II Stormwater Management and Erosion and Sediment Control regulations and other applicable regulations, Department of Health, Uniform Fire Prevention and Building Codes, etc.),
- 10) the property owner(s) should be aware that the parcel appears to within (or be near) a FEMA flood zone area (approximate mapping available online at <https://msc.fema.gov/portal>) and any planning/development should be done in accordance with applicable regulations and
- 11) future plans (if any) for the total acreage should be considered.

**Ontario Industrial Park – Morelli Plumbing, 6453 Furnace Road, T. Ontario**

Preliminary/Final Subdivision Plan / Preliminary/Final Site Plan, Tax Map Ref. No. 63117-00-508915, 63117-00-456916

4 lot subdivision (3.881 acres, 2.107 acres, 1.013 acres, 7.773 acres) and site plan on 1.013 acres lot for 2,160 sq. ft. commercial building.

**Action** – Approve with comments

**Motion** – Mr. Ruth

**Second** – Mr. Wedman

**Opposed** – Mr. Guthrie

**Abstention** –

**Motion carried**

**Due to technical difficulties, Mr. Hutteman did not vote.**

**Comments:**

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing through use of items such as building design/materials, fencing, berms, landscaping, property maintenance etc., particularly given that the parcel is located on the highly traveled Furnace Rd.,
- 2) screening (e.g. fence, berm, landscaping, etc.) should be considered/used to help the proposed development remain compatible with surrounding land uses (i.e. mitigate visual and noise impacts between this proposal and adjacent land uses - if applicable),
- 3) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building areas, parking areas, driveway sight distances (i.e. they should meet American Association of State Highway and Transportation Officials - AASHTO recommendations) and on-site traffic circulation. Proposed on-site traffic circulation, building areas and associated parking/storage areas should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Furnace Rd.,
- 4) development must meet all local, federal and NYS codes/regulations (e.g. NYS Uniform Fire Prevention and Building Codes – including driveway design/construction, NYS DEC - Phase II stormwater management and erosion and sediment control regulations and petroleum product-related regulations - if applicable, NYS Department of Health - water and wastewater treatment/sanitary service related, etc.),
- 5) emergency service vehicle access should be provided and local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire),
- 6) outside storage be “limited” (e.g. items in disrepair should not be permitted to accumulate),
- 7) all toxic/hazardous materials that may be associated with any on-site business (if applicable) should be properly stored, handled and disposed of,
- 8) “operational noises” should be mitigated (i.e. noise generated by business activity should not impact other nearby uses - if applicable),
- 9) future plans (if any) for the total acreage should be considered,
- 10) all necessary “cross-lot easements” should be in place, if applicable, to ensure that existing and potential future developments can maintain their function and compatibility (e.g. ingress/egress - access/driveway, parking, utility, stormwater management, etc. easements) and
- 11) the property owner(s) should be aware that portions of the parcel appear to contain (or be near) National wetland area and NYS Department of Environmental Conservation wetland area (approximate mapping available for both online at <http://www.dec.ny.gov/gis/erm/>) and any planning/development should be done in accordance with applicable regulations.

**Other Business:**

Mr. Guthrie made a motion to adjourn the meeting, seconded by Mr. Krolak. There being no further business, the meeting was adjourned at 8:33 PM.

Respectfully submitted,  
Tracy Lambie, Secretary