

WAYNE COUNTY PLANNING BOARD

MINUTES

February 24, 2021

Mert Bartels called the February 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, Kenneth Conklin, Steve Guthrie, Bob Hutteman, Matt Krolak, Larry Lockwood, Bob Milliman, Bert Peters, Larry Ruth, Ron Thorn, Jim Wedman

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

JANUARY 2021 MINUTES

Action – Approve

Motion – Mr. Guthrie

Second – Mr. Hutteman

Abstention – Mr. Lockwood

Motion carried

ZONING AND SUBDIVISION REFERRALS

The following 8 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. Wedman

Opposed – Mr. Guthrie

Abstention –

Motion carried

Brick Corner Estates, 167 Glasgow Street, V. Clyde

Final Site Plan, Tax Map Ref. No. 74112-14-419462

Construct 2-store, 4-unit townhouse on non-conforming building lot.

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, building/property maintenance, fencing, berms, landscaping, 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 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 Dezens Street and minimize the need for backing out onto the street,
- 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),
- 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, NYS Department of Health) and
- 6) 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.

Go Green Recycling, 1944 Route 104, T. Ontario
Special Permit, Tax Map Ref. No. 63117-10-256660
Operate redemption facility.

Comments:

- 1) any/all applicable NYS Department of Transportation approvals/recommendations must be obtained/followed (e.g. no development should take place in the highway/road right-of-way, there should be no need for parking on the shoulder of NYS Rt. 104, highway design/maintenance provisions should be met, etc.),
- 2) 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, driveway location(s), building area, stormwater management area and associated parking area 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 and no on-site development should impede available sight distances,
- 3) planned traffic patterns should be defined with visual markers such as in/out signs - if applicable,
- 4) development/maintenance should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing (from all applicable directions) through use of items such as building/property maintenance, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled NYS Rt. 104 and also near existing residential and commercial uses,
- 5) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses (i.e. mitigate visual and noise impacts between this proposal and adjacent residential uses – this comment relates to “protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas”),
- 6) 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),
- 7) snow maintenance/removal plans should be considered,
- 8) future plans (if any) for the total acreage should be considered and
- 9) all necessary local, federal and state recommendations/regulations and approvals/permits must be followed/obtained (e.g. NYS Department of Health – water and sanitary sewer, NYS Uniform Fire Prevention and Building Codes, NYS Department of Health, etc.).

Bruce Gerber Subdivision, 228 Ridge Road, T. Ontario
Preliminary/Final Subdivision Plan, Tax Map Ref. No. 61117-00-021204
2 lot subdivision.

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) all necessary “cross-lot easements“ should be in place to ensure that existing and potential future developments can maintain their function and compatibility (e.g. access/driveway, parking, stormwater management, utility, etc. easements),
- 4) emergency service vehicle access should be provided for,
- 5) future plans (if any) for the total acreage should be considered,
- 6) 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,

- 7) 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
- 8) the property owner(s) should also be aware that portions of the “parent parcel” appear to may contain (or be near) National wetland area, as well as NYSDEC 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.

Paddy Lane Property Subdivision, Paddy Lane / 1816 Ridge Road, T. Ontario

Preliminary/Final Site Plan / Preliminary/Final Subdivision Plan, Tax Map Ref. No. 63117-00-072030, 63117-00-086314

8 lot subdivision for 7 new single family residential lots.

Comments:

- 1) the proposed lots should be configured with enough area for each lot to contain an existing and/or construct a new septic system (or connection to municipal sewer) that will meet local and/or NYS regulations/codes (e.g. Department of Health, Uniform Fire Prevention and Building Codes),
- 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) the proposed lots should meet zoning regulations for lot size, potential building setbacks etc.,
- 4) 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),
- 5) future plans (if any) for the total acreage should be considered,
- 6) 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), including driveway design that includes provision for emergency service vehicle access (if applicable),
- 7) emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, law enforcement and fire),
- 8) 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
- 9) 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 <http://www.dec.ny.gov/gis/erm/>), as well as 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.

Ziebart, 1760 Route 104, T. Ontario

Preliminary/Final Site Plan, Tax Map Ref. No. 63117-09-026643

Construct 2,806.72 sq. ft. addition to existing bldg. for commercial garage.

Comments:

- 1) any/all applicable NYS Department of Transportation approvals/recommendations must be obtained/followed (e.g. no development should take place in the highway/road right-of-way, there should be no need for parking on the shoulder of NYS Rt. 104, highway design/maintenance provisions should be met, etc.),
- 2) 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, driveway location(s), building area, stormwater management area and associated parking area 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 and no on-site development should impede available sight distances,

- 3) development should be done in a manner that helps it remain compatible with surrounding land uses and is also aesthetically pleasing (from all applicable directions) through use of items such as building design/materials, property maintenance, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled NYS Rt. 104 and also near existing residential and commercial uses,
- 4) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses (i.e. mitigate visual and noise impacts between this proposal and adjacent residential uses – this comment relates to “protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas”),
- 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) snow maintenance/removal plans should be considered,
- 7) future plans (if any) for the total acreage should be considered and
- 8) all necessary local, federal and state recommendations/regulations and approvals/permits must be followed/obtained (e.g. NYS Department of Health – water and sanitary sewer, NYS Department of Environmental Conservation-Phase II Stormwater Management and Erosion and Sediment Control Plans as well as NYS Uniform Fire Prevention and Building Codes, NYS Department of Health, etc.).

Greg Bell/BME Associates, State Route 21N, T. Palmyra
Preliminary/Final Subdivision Plan Tax Map Ref. No. 65112-00-283557
 2 lot reconfiguration.

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

Public trail/parking, 9887 Glenmark Road, T. Rose
Special Permit, Tax Map Ref. No. 73115-00-226382

Comments:

- 1) 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, property maintenance, fencing, berms, landscaping, etc.,
- 2) 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, driveway location(s), building area, and associated parking area should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Glenmark Rd. and no on-site development should impede available sight distances,

- 3) proposed on-site traffic circulation, parking area(s), and total number of available parking spaces should be confirmed and be compatible with existing on-site uses and contained on site,
- 4) emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, law enforcement and fire),
- 5) the Town 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/>), 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,
- 6) park rules/hours should be established and clearly posted and
- 7) the park boundaries should be clearly delineated.

Cadbury Schweppes, 4363 Route 104, T. Williamson

Area Variance, Tax Map Ref. No. 66118-00-200084

6' chain link fence 615lf along west side of Pound Road.

Comments:

- 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 (e.g. minimum fence height needed).

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.

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

K&M Garden Center. 85 Mill Street, V. Clyde

Special Permit, Tax Map Ref. No. 74112-18-260136

Use pre-existing, vacant building for garden center. Johnathan Murray presented.

Action – Approve with Comments

Motion – Mr. Guthrie

Second – Mr. Ruth

Opposed –

Abstention –

Motion carried

Comments:

- 1) development should be done in a manner that helps it remain compatible with surrounding land uses (“protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas”),
- 2) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses (i.e. mitigate aesthetic, noise and dust impacts – use fencing/berms to help reduce noise impacts from use of equipment, pave driveway to reduce dust impacts, etc.),
- 3) the site should be developed/maintained in an aesthetically pleasing manner (i.e. through use of items such as landscaping, screening, property maintenance etc.) as the parcel is located on the highly traveled Mill Street (NYS Rt. 414),
- 4) traffic generating characteristics of the proposal should be considered, including, but not limited to the following: driveway location(s), building areas, display 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, display/storage 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 Mill Street (NYS Rt. 414),
- 5) the scaled plot plan should be updated to delineate features such as parcel boundaries, existing and proposed structure(s), utility infrastructure details (e.g. wastewater system), parking area(s) and driveway

- location(s), proposed on-site traffic circulation and storage/display areas – some, but not all, of these features were illustrated on the provided plot plan,
- 6) all applicable NYS Department of Transportation permits/recommendations must be obtained/followed (e.g. no development should take place in the NYS Department of Transportation right-of-way, there should be no parking on the shoulder of Mill Street/NYS Rt. 414, etc.),
 - 7) 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,
 - 8) all necessary local, federal and state recommendations and approvals/permits must be followed/obtained (e.g. NYS Department of Health, NYS Uniform Fire Prevention and Building Codes, NYS Department of Environmental Conservation – if applicable),
 - 9) there should be a Reduced Pressure Zone Assembly/RPZ Valve (backflow preventer device) on the water supply line,
 - 10) all toxic/hazardous materials that may be associated with any on-site activity should be properly stored, handled and disposed of,
 - 11) all requirements should be met (e.g. licensing) that apply to the proposed sale of pesticides and fertilizers,
 - 12) 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),
 - 13) security measures should be intact (e.g. the site should be lighted),
 - 14) outside storage should be limited (e.g. items in disrepair should not be permitted to accumulate) and
 - 15) future plans for the total acreage should be considered.

Charlotte Crego Lodging House, 68 Phelps Street, T. Lyons
Special Permit, Tax Map Ref. No. 71111-05-179878

7 unit lodging house. Charlotte Crego presented.

Action – Disapprove with comments

Motion – Mr. Guthrie

Second – Mr. Ruth

Opposed –

Abstention – Mr. Wedman

Motion carried

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. There were specific concerns and questions 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, Section 239-1.2(b). The Board did not have site plan information available for review that could be used to help provide details regarding items such as:

-the number of parking spaces that are available on-site and whether an option such as on-street parking is allowed near this parcel

-the total number of lodgers/guests and associated vehicles that would be expected, given proposed occupancy and

-expected on-site traffic circulation given the site/driveway layout

The Board also discussed/questioned the compatibility the proposed lodging house would have with surrounding land uses and wanted to confirm that all applicable building codes could be met given the proposed use.

For reference, the following are comments that the board offered for local consideration:

- 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.,

- 2) 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 area(s) should be designed/developed in a manner that will provide safe pedestrian and vehicular interaction between those items as well as access to Phelps Street (NYS Rt. 14). The need to back out onto the street should be minimized and parking should be contained on-site,
- 3) emergency service vehicle access should be provided for and local emergency service providers should review plans to ensure that proposed development can be accessed and served (e.g. ambulance, police and fire)
- 4) 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 Health) and
- 5) future plans (if any) for the property should be considered.

Patriot Corner Apartments, North Expansion, 1249 Ridge Road, T. Ontario

Preliminary Site Plan, Tax Map Ref. No. 62117-10-385558

Construct 3,900 sq. ft., 8 unit apartment building. John Graziose of Gerber Homes presented.

Action – Approve with comments

Motion – Mr. Guthrie

Second – Mr. Ruth

Opposed –

Abstention –

Motion carried

Due to technical difficulties, Mr. Burns and Mr. Hutteman did not vote

Comments:

- 1) any planning/development should be done in accordance with applicable FEMA flood zone regulations. As you are aware, both the site plan (dated February 2, 2021) and FEMA flood zone mapping (available online at <https://msc.fema.gov/portal>) appear to indicate that the parcel/proposed project area contains flood zone,
- 2) 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 Ridge Road,
- 3) 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, law enforcement and fire),
- 4) providing a second access to the site should be considered,
- 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, fencing, berms, landscaping, etc., particularly given that the parcel is located on the highly traveled Ridge Road,
- 6) screening (e.g. fence, berm, landscaping, etc.) should be used to help the proposed development remain compatible with surrounding land uses,
- 7) 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, NYS Department of Environmental Conservation-Phase II Stormwater Management and Erosion and Sediment Control Plans),
- 8) 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) and
- 9) future plans (if any) for the total acreage should be considered.

For reference, the following comments were made by Wayne County Planning Board at their June 24, 2009 meeting, when they reviewed the project for Preliminary Site Plan and Area Variance(s) applications:

- 1) less area should be used for building footprints by removing a building, thereby eliminating the need for area variances, increasing open space area and reducing the impacts on a FEMA flood zone
- 2) the FEMA flood zone area should be clearly delineated on the plans and any necessary flood zone mitigation must meet applicable local, federal and state requirements. The Board would like to ensure that development would not create any flooding problems for the proposed development or any other potentially affected property
- 3) stormwater and erosion and sediment control measures must meet Phase II NYSDEC regulations,
- 4) a Wayne County Highway driveway permit must be obtained, thereby giving an opportunity to verify satisfactory driveway slope, sight distance, etc.,
- 5) a second access should be considered onto Slocum Road to reduce traffic demands on Ridge Road
- 6) the development should incorporate open space area as defined in Town Code for use by the tenants.

Local Law 1 of 2021, T. Rose

Amend Text

Annul Town of Rose Solar Energy Systems Law and Amend Town of Rose Zoning Law to add regulations for Solar Farms and Battery Energy Storage Systems. Town Attorney Dwight Kanyuck and Councilman Paul Wilson presented. Town of Rose Supervisor Richard Lasher and Code Officer Christine Abrams were also available.

Action – Approve with comments

Motion – Mr. Ruth

Second – Mr. Milliman

Opposed – Mr. Burns

Abstention – Mr. Baker, Mr. Guthrie

Motion carried

Due to technical difficulties, Mr. Wedman did not vote

Comments:

- 1) the proposed zoning update should be undertaken “in accord with a well-considered plan” or “in accordance with a comprehensive plan”, as referenced in the James A. Coon Local Government Technical Series, “**Zoning and the Comprehensive Plan**” (available online @ https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf) and
- 2) the Town attorney should review and approve the proposed amendments (this is included in an effort to provide consistent comments regarding proposed zoning code updates, but it is understood that the town attorney has reviewed this application).

For reference, the following documents and web link may contain useful information and are available from the NYS Department of State and NYSERDA on their websites as follows:

1. “**Creating the Community You Want: Municipal Options for Land Use Control**” @ https://www.dos.ny.gov/lg/publications/Creating_the_Community_You_Want.pdf

2. “**Questions for the Analysis and Evaluation of Existing Zoning Regulations**” @ https://www.dos.ny.gov/lg/publications/Evaluating_Zoning.pdf

3. “**Local Laws and Agricultural Districts: How Do They Relate?**” @ https://www.dos.ny.gov/lg/publications/Local_Laws_and_Agricultural_Districts.pdf

4. “**Guidebook for Local Governments**” @ <https://www.nyserda.ny.gov/All-Programs/Programs/NY-Sun/Communities-and-Local-Governments/Solar-Guidebook-for-Local-Governments>

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”.

For reference, the Board often tries to provide “standard comments” for consideration when photovoltaic system applications are reviewed. They understand that many of the following items (Source: NYS Department of State, Division of Local Government Services, “Solar Energy Regulation” presentation) are addressed in the proposed local law but to be consistent, still felt they should be included in the letter:

I. “WCPB - Standard photovoltaic (PV) system comments” follow:

- 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 – if applicable),
- 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.

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.nysesda.ny.gov/-/media/NYSun/files/Decommissioning-Solar-Systems.pdf>)

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.

As a note, the WCPB has reviewed over ten (10) similarly sized photovoltaic (PV) systems, 2 - 4 megawatt system capacity, from municipalities across the county since late 2016. They have also recently reviewed two (2) applications for proposed Battery Energy Storage Systems. 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 that some municipalities permit solar developments on farmland, but they are still interested in continuing to explore development options that would help minimize farmland impacts. 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. The Board, as well as our department, received information that seemed appropriate to share should you wish to research this subject further. The web links found below will lead to information that has been made available by the American Farmland Trust, NYSERDA and New York State Office of the Governor.

Some of the resources made available from the American Farmland Trust (AFT):

- Link to the “Where Does New York Stand? Findings from AFT's "Farms Under Threat: The State of the States" presentation @ https://www.youtube.com/watch?v=-UDdEQ83_WE&list=PL6kH004Kij1KZWxLCeBdX_u5z6b0adeR1&index=3
- Link to Farms Under Threat Report (<https://farmland.org/project/farms-under-threat/>)
- Link to the “Smart Solar Siting in New York” resources @ <https://farmland.org/smart-solar-siting-in-new-york/>. Learn how to design Solar Land Use Laws that permit solar, support farm businesses, and protect productive, versatile, resilient farmland in your community
- Additional compendium of Solar Siting Resources (<https://www.farmlandinfo.org/special-collections/4718>) from the Farmland Information Center
- Link to the Farmington, NY: Solar Photovoltaic Systems Siting Ordinance (<https://www.farmlandinfo.org/farmington-ny-solar-photovoltaic-systems-siting-ordinance>) available from the Farmland Information Center

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

Some of the news made available from the New York State Office of the Governor “Pressroom” webpage:

The [Climate Leadership and Community Protection Act \(CLCPA\)](#) was signed by Governor Cuomo on July 18, 2019. Information regarding New York State’s comprehensive climate and clean energy legislation can be found by accessing the “Climate” webpage @ <https://climate.ny.gov/> and the following link that was listed on the Governor’s Pressroom webpage @ <https://www.governor.ny.gov/news/governor-cuomo-executes-nations-largest-offshore-wind-agreement-and-signs-historic-climate>. The following items were copied from a pressroom document:

Historic Climate Leadership and Community Protection Act

The CLCPA requires the State to achieve a carbon free electricity system by 2040 and reduce greenhouse gas emissions 85% below 1990 levels by 2050, setting a new standard for states and the nation to expedite the transition to a clean energy economy. The new law will drive investment in clean energy solutions such as wind, solar, energy efficiency and energy storage. Importantly, implementation of the CLCPA will target investments to benefit disadvantaged communities, create tens of thousands of new jobs, improve public health and quality of life and provide all New Yorkers with more robust clean energy choices.

Highlights of the new law include:

Putting New York on Road to Economy-Wide Carbon Neutrality: *The New York State Department of Environmental Conservation (DEC) will, through the adoption of regulations, drive an 85% reduction in greenhouse gas emissions by 2050, with an interim mandate of 40% reduction in emissions by 2030 (both relative to 1990 levels). The Climate Action Council will develop a plan to offset remaining emissions through carbon capture or other technologies, resulting in a carbon-neutral economy.*

70% Renewable Energy by 2030 and Zero-Carbon Emission Electric Sector by 2040: *The CLCPA codifies Governor Cuomo's nation-leading goals as called for under his Green New Deal, mandating that at least 70% of New York's electricity come from renewable energy sources such as wind and solar by 2030, and that the state's power system is 100% carbon neutral by 2040.*

Nation-Leading Clean Energy Investments: The CLCPA also codifies Governor Cuomo's nation-leading commitments to install 9,000 megawatts of offshore wind by 2035; 6,000 megawatts of distributed solar by 2025; and 3,000 megawatts of energy storage by 2030.

Climate Action Council and Policy Roadmap: Expert heads of relevant state agencies and legislative appointees will craft the roadmap of policies needed to achieve the law's mandates. The Council, co-chaired by the New York State Energy Research and Development Agency (NYSERDA) and DEC will establish sector specific working groups to make sure experts and stakeholders inform all policies developed under the CLCPA. Planned working groups include a just transition working group, as well as working groups on transportation, agriculture, energy-intensive and trade-exposed industries, land use and energy efficiency.

Landmark Investments in Environmental Justice and Just Transition: Relevant state agencies will invest 35% of clean energy program resources to benefit disadvantaged communities, and will aim to invest 40%. Additionally, the just transition working group will work to ensure that individuals working in conventional energy industries are provided with training and opportunities in the growing clean energy economy.

Other Business:

Mr. Guthrie made a motion to adjourn the meeting, seconded by Mr. Baker. There being no further business, the meeting was adjourned at 8:20 PM.

Respectfully submitted,
Tracy Lambie, Secretary