

Town Of Hamilton Planning Board Meeting  
Tuesday, June 7, 2016 at 7:00 pm  
Held at Town Office, 16 Broad Street, Hamilton, NY

**Board Members Present:** Darrell Griff- Chairperson, Bill Nolan, Bettyann Miller, Elaine Hughes, Mary Galvez. Also in Attendance: Town Clerk- Sue Reymers, Deputy Clerk- Elisa Robertson, Codes Enforcement Officer Don Forth, Town Attorney Steve Jones

**Also Present:** R.G. Johnson, Justin Williams, Penny Strong-Collins, Roger Foster, Charles Wilburn, Deborah Zahn, Michael Sheridan, Eve Ann Shwartz,

Meeting called to order by Chairman Darrell Griff at 6:58 p.m.

**Deborah Zahn and Justin Williams (CNYSolar): 1374 Gorton Road, Hamilton, NY; Tax map # 184.-1-14, Special Use Permit**

Chairman Griff asks if there is any information that the board may need to know from Codes Enforcement Officer Don Forth. There is a question about the SEQRA form, specifically number nine, it is marked as "YES", but there is no comment and there should be. CEO Forth states that the answer should be "No". Justin Williams from CNYSOLAR looks at the SEQRA and notes that there is no building; since this is a free standing solar panels the answer should be no. Town Attorney Steve Jones asks if the town has adopted the Uniform Standard for Solar, CEO Forth says yes, however it was before his time as Codes Officer. Town Attorney Jones asks if this meets the requirements and CEO Forth says yes. Justin Williams verbally agrees that number nine should be and is changed to "No". This shall be made known in the public record.

Chair Griff has some questions about how the power is directed. Mr. Williams explains that with this installation all the power goes straight back into the grid, it does not go into the Zahn's house first. It is all going back into net metering. This is a slightly different arrangement, most times the power goes into the house first and then on to the grid. This is a full net metering project. Mr. Williams explains that if a site or location isn't suitable for the panel location, say next to the home, you can put it on a piece of property where you can send it to their home so it is full net meter going directly to her home but not physically into her home.

Chairman Griff asks, "On the net metering, if that electric is not being used by the homeowner or a business directly doesn't the net metering become a commercial venture?" Ms. Zahn states that she is not selling it. Justin Williams states that it is still her line and that any credits it makes goes directly to her. Chair Griff inquires about any power that goes beyond her usage, is it sold? Mr. Williams states that it can be banked for future use but that the utility will not buy power from an individual. It can be banked for 12 months, the key is to not oversize the panels so that you do not have any power left over after 12 months.

Chair Griff recalls that according to the Uniform Agreement that the town passed on solar power stated that it could not be more than 12 kilowatts. There is some concern over the fact that this project is for more than double the kilowatts (27.9). That is why this is a Special Use Permit Application.

The following questions are posed. What about the angle of these panels, where is the glare? It is explained that the panels would be facing the silos. Will there be any chance of glare during the winter months? They are set at 30 degrees. Are there any homes that the glare may affect? There are no neighbors, Ms. Zahn states that she was very careful when she selected the site that no other homeowner, including her mother across the valley would have to see them. Board has no more inquiries.

CEO is satisfied that the requirements are met. There is some question as to whether this needs to go to Madison County. CEO Forth refers to number 22 on the use table in the back of the Zoning Law booklet that states that all free standing solar equipment requires a Special Use Permit. Town Attorney refers to page 57 of the Town Zoning Law.

### **8.3-5 Referral to County Planning Board**

***A. Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Madison County Planning Department or Board any application for a Special Permit affecting real property within 500 feet of the boundary of the Town of Hamilton, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239l and 239m, as amended.***

Discussion as to whether the property is within 500 feet of an agricultural district. It is determined that it is outside of the 500 foot range.

Board reviews the procedure for the application process and checks for the items that need to be completed before application can move forward. One question was left blank on the Agricultural Data Statement letter G needs to be answered as "No". No part of the project site is currently being farmed. Deputy Clerk Robertson asks that Justin Williams please initial all changes made to these original documents and that they be left with her after the meeting so as to record them in the minutes. Application is deemed complete. Chairman Griff states that this project will be sent to The Madison County Planning Department for review and that a legal notice of a public hearing will be made and that the date for the public hearing will be set. Board member Galvez asks if this can all be done concurrently and is told yes. Ms. Zahn inquires about the procedure for Special Use Permits, and is informed that all Special Use Permit applications must be sent to the County and a public hearing scheduled. The second part of the SEQRA form goes to the board to be filled out -Parts two and three. Chairman Griff reads out

each individual question for the board to answer. Parts two and three of the SEQRA form are completed. All questions in part two are answered "No," therefore section three does not apply.

**Resolution 2016-16: Town of Hamilton to be Lead Agency**

Town of Hamilton Planning Board will be the lead agency for the CNYSolar project for Deborah Zahn; Located at 1374 Gorton Road, Hamilton, Ny; Tax map# 184.12-1-14.

Motion: Bill Nolan

Second: Elaine Hughes

Vote:                   Aye: 5                   Nay: 0

ADOPTED

Town Clerk Reymers and Deputy Clerk Robertson will fill out forms, gather materials needed, and send this application to the Madison County Planning Department. The applicant asks about the time line for the feedback from Madison County. Public hearing is scheduled for the same day as the next planning board meeting July 12, 2016 (moved from regular meeting day of July 5<sup>th</sup> due to holiday).

**2-6 East Main Partnership, Roger Foster and Charles Wilburn: 1245 Earlville Road, Poolville, NY; Tax Map # 199.12-1-12, Special Use Permit**

Madison County Planning Department has returned its findings on the Partners project thus far, though application is still considered not fully complete but substantially complete. The Madison County Planning Department has many of the same concerns as this board. Applicants are given an opportunity to read the findings. The following issues are raised with responses to follow. Town Attorney Steve Jones reads the report out loud and lists the Madison County Planning Department's concerns. The list is as follows:

**1. The Donovan Property:** Madison County could not find documentation that he Donovan Property had been deeded to the partners. *Mr. Foster states that they get the tax bill. Later in the Meeting Clerk Reymers finds 2-6 East Main Partnership is named as the owner on record through the parcel search. Deputy Clerk Robertson will follow up.*

Based on the Town of Hamilton's use table the County believes that he most appropriate category of use for this project is indoor Entertainment/Recreation. *This is the same as conclusion as the Town of Hamilton.*

**2. Lack of a Narrative:** Town Office submitted Minutes from previous Planning Board Meetings to fill this gap. *This can be easily remedied.*

**3. Noise Concerns-** getting an expert opinion. There is some discussion about whether the board is going to have a reasonable expectation of a noise control. Mike Sheridan suggests that there really should be an idea of what the noise parameters should be before the public hearing.

**4. Establishing a baseline of what the noise level is now.** *Mike Sheridan suggests that the Board may want to contact the Town of Vernon, they passed a noise ordinance ten years ago for Vernon Downs special events.*

*Someone would need to contact Geoff Snyder at the Madison County Health Department for to get measurement equipment set up to establish a noise baseline.*

**Resolution 2016-17: Request to Establish a Noise Baseline for the 2-6 East Main Partnership's application for a Special Use Permit**

Town of Hamilton Planning Board will request that the Madison County Health Department do a noise study to establish a baseline for ambient noise at the 2-6 East Main Partnership's property for their proposed Wedding Venue located at 1237 Earlville Road Earlville, NY, 13332; Tax map #199.12-1-13.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: Aye: 4                      Nay: 0

ADOPTED

Mary Galvez –recused

5. Establishing an acceptable noise level for the property. *Examples are given such as 75 db.*
6. Parking is beyond 300 feet. *This board does not have the authority to grant a variance for the "300 feet" rule it would have to go to the Zoning Board of Appeals.*
7. No continuous guarantee of parking availability. Proposed plan is that it is leased for 5 years however what if Dubois decide to sell or not renew the lease. *There is still the issue of continuous use, however we could tie any Special Permit we grant to the availability of parking as approved and if there is any change in the parking they will have to come back for a revision. It can be part of the conditions that they come back every five years.*
8. Walkers and Sidewalks: Only remains of derelict sidewalks exist, however they end abruptly. Concern about the fact the people may end up walking in the dark. *A safe pedestrian pathway needs to be considered. It is not unreasonable for the Town to require or work with the applicant to provide a path.*
9. Is parking an allowed use in the Hamlet? *Unsure if it's legality, since it is not on the Use chart in the Zoning regulations. Does there need to be a separate entrance? The applicants comment that they do not understand; it is already a parking lot. Chairman Griff explains that is a gravel site, not a parking lot. It does have a shared driveway with a rental property but it is located on a county road so Madison County may have some say about the design and or requirements for this plot. Right now the plot is used for storage and some parking, it has been used for years in this manner; may be classified as mixed use. It is inside the hamlet boundaries.*
10. Site plan for parking should be included. *A rough drawing will be available for the public hearing.*
11. Privacy fence around Ms. Strong-Collins property is not on the site plan. *It will be put on the plans it was part of the agreement for buying the property.*
- 12: SPDES – Storm water Run-off plan. Madison County believes that the parking lot needs to be added as part of the project because it is an integral part of the business. *Chairman Griff addresses this issue, Sheridan states the Madison County Planning Department has left it up to this board to determine whether one should be done or not. Mr. Sheridan says that there needs to be a layout of the parking area on the Dubois*

*property; that is already graveled and that there is no intention of regrading, and recreating the parking area. The intention is that people will come and park their cars and Roger and Charles will get them over to the venue. Town Supervisor Eve Ann Shwartz inquires about flooding in the area of the Dubois property; it is clarified that the back portion not the grassy portion will be used and that it is not prone to flooding like the grassy area is.*

Chair Darrell Griff asks if it is possible to have a “work session” on the remaining issues with this project.

Town Attorney Steve Jones states that there cannot be a work session about these issues; that all discussion about this project needs to take place during board meetings that are open to the public. He continues on to remind everyone there are actually three parties involved in every meeting: the Planning Board, who are just trying to do the right thing; the Applicant, who just want to have a business; and the Public. Eventually, the public will be asking the board why they did or did not do certain things. That is why most of this should be discussed beforehand, so that there can be answers for those questions.

Supervisor Shwartz makes mention to the Ower facility in Cazenovia and a recent Article 78 judgment that was handed down by Judge McDermott of the Madison County Supreme Court that has similarities to the issue facing our board with this project. It is recommended that the board and the applicants get a copy of this decision and read it. Though the applicants claim that their establishment will not be the same as Ower it is recommended that they read the document and note that the facilities have/had similar issues. Mr. Foster states that Ower let their patrons “party all night” and that the people in Cazenovia pay high taxes and that is why there was conflict. Supervisor Shwartz replies that there are tax-paying citizens in Poolville as well. Mr. Foster replies that they do not want to make enemies and Supervisor Shwartz assures them that everyone knows that. Mr. Wilburn says that they are investing a million dollars into this community. Supervisor Shwartz replies that the citizens of Poolville have invested their life savings into their houses, so we cannot forget about them. Mr. Foster expresses some frustration that other applicants were sent to the county and a public hearing was scheduled at the same meeting. Why haven’t they gone to public hearing and hear what people have to say, while they seem to be covering the same issues time and again. Town Attorney and Chairman Griff reply that that is something that can be done and that as a board they have had the same consideration. Mr. Jones asks if that is something that they want to do, hear from the public sooner rather than later? Mr. Sheridan says that he believes that that is what the applicants want. It may alleviate some of the issues. Mr. Foster feels that the board is over analyzing everything and that the community knows them and that they will not mistreat it. Mr. Sheridan expresses that the reason the partners want to build there is because it is a small rural hamlet and that they want to keep that character intact. That is going to be the appeal of this venue.

There is discussion about whether this could be informational meeting or if it needs to be a public hearing, leading to discussion about whether their application is actually complete; the county says no. Usually, an application has to be complete before it goes to the County. This one was sent as substantially complete to get Madison County Planning Department’s feedback thus far on the project and to move the project along in the process; which was a good suggestion for this project. According

to Madison County it is incomplete because of the issues of noise, parking, and the subdivision of Ms. Strong-Collins property.

Mr. Sheridan points out that the county has returned the application stating that it is up to this board to make a determination. The biggest question is will the parking be an allowed use? He also brings up the question of sound mitigation, how can we observe and monitor sound if there is no ordinance in place?

Supervisor Shwartz recognizes the fact the Planning Board needs to take some time and educate themselves as to what other Boards have done in similar situations regarding noise and traffic and parking.

There is some discussion of the Village of Hamilton's sound ordinance. It may also be beneficial for the board to have a reference sheet of everyday sounds and their decibel levels. Discussion of getting a baseline for ambient noise and having a public hearing to hear what the public has to say and possibly alleviate some of these issues. Several board members feel that having a public hearing may be helpful.

There is discussion as to whether it should be a public hearing or informational session. Hearing can be held and suspended and reconvene it after we have more answers.

Public hearing can be opened, possibly with incomplete information like parking, traffic, and noise, and then be suspended. We can waive the fact that the application is not yet completed. Application is substantially completed enough to elicit public comment because the applicants have requested it. Discussion about the ability to satisfy the noise issue without a noise ordinance or allowed use for parking, so more information is needed by the Board; public input may help shape some of these issues are mitigated. Requirements need to be established to keep the facility in harmony with the community. Any special conditions would be part of the approval of the Special Use Permit.

CEO Forth asks about parking, and if this board is going to determine that there will need to be another Special Use Permit for the Dubois property? According to the Zoning Laws, whether grandfathered in or not, it was a nonconforming use. That use had been discontinued for at least a year so now it must come under current Zoning Law. There is heavy equipment currently parked there. Heavy equipment parking and passenger vehicle parking are considered to be different uses. It may be an appropriate space but it is a different type of usage.

Chairman Griff asks about a parking site plan, lighting, and etc. CEO Forth states that there are guidelines for certain aspects of parking but the board can require what they wish for a parking plan. Board member Bill Nolan asks if there will be an attendant, and it is commented that there would have to be someone there. Site is gravel therefore it will not be possible to put lines down for specific spaces. Discussion as to what the dimensions are for the lot. They are estimating 50 cars.

Clerk Reymers brings a picture of the area downloaded from Pictometry so that the board can see an aerial view and see the scope of the lot. There are no dimensions. The original plan for parking called for a retaining wall that would have been unreasonably expensive.

Supervisor Shwartz asks about the propriety of doing a traffic study. Can we ask the County to do a traffic study on that road? It is a highly travelled road. The clients of the venue will be coming from all different directions. Traffic in the Hamlet is also variable dependant on time of day week and year. The Board would like a baseline so that when the question comes up in public hearing it is known what the current traffic flow is. So we can put percentage of increase into perspective.

**Resolution 2016-18: Request for a Traffic Study for the 2-6 East Main Partnership's application for a Special Use Permit**

Town of Hamilton Planning Board will request that the Madison County Highway Department do a traffic study to establish a baseline for the volume of cars and traffic patterns at the 2-6 East Main Partnership's property for their proposed Wedding Venue located at 1245 Earlville Road Earlville, NY, 13332; Tax map #199.12-1-12.

Motion: Bill Nolan

Second: Bettyann Miller

Vote:           Aye: 4           Nay: 0

ADOPTED

Mary Galvez – recused

Board Member Bill Nolan makes an inquiry about Owera vineyards noise limitation and what it might be. He is informed that they do and that it is 55db at the property line and the house sound system has a Maximum level of 110db. The facility was built with noise mitigation in mind. They also have more limited hours than what the applicants have proposed. Town Attorney Steve Jones comments about the Owera decision and how detailed it is and encourages the applicants to read it.

No further action can be taken on the issue of noise until after a baseline is established. The Board will reach out to other communities to review their noise ordinances.

In the case of parking, some board members want public input before making any determination. Supervisor Shwartz asks if a drawing of the parking area would be helpful for the public hearing; just a basic drawing with the dimensions and where everything will be located. The Board is comfortable moving ahead with a public hearing.

**Resolution 2016-19: Referral for Public Hearing for the 2-6 East Main Partnership's application for a Special Use Permit**

At the request of the applicant, to have public input as soon as possible, the Town of Hamilton Planning Board, recognizing the status of their application and how much information we have in front of us, is willing to open a public hearing so that we can assess how the public feels about the project and what other issues need to be addressed. This Public Hearing will be held on July 12, 2016 at 7:00 pm at the Poolville Community Center.

Motion: Bettyann Miller

Second: Bill Nolan

Vote:           Aye: 4           Nay: 0

ADOPTED

Mary Galvez – recused

There is discussion of having the Public Hearing for this project the same night as the Zahn Project, where to have the meeting. The Poolville Community Center is suggested because it is a larger room and it is convenient for the people who are most affected by these projects.

**Resolution 2016-20: To hold the Public Hearing for Debby Zahns, CNYSolar project (7:00pm) and the 2-6 East Main Partnerships, Wedding Venue Project (7:15pm) at the Poolville Community Center on July 12, 2016 starting at 7 p.m.**

Motion: Bill Nolan

Second: Bettyann Miller

Vote:           Aye - 5           Nay – 0

Motion: Carries

Mr. Sheridan asks the Board about the process for the parking situation regarding; if a special application must be made? Would DuBois have to make application or could the partners make it on their behalf? Will the parking area be grandfathered in with the event center since they are part of the same project? What needs to be done to secure parking on that lot? The questions keep coming up and decisions need to be made. Town Attorney Steve Jones recommends that a Special permit be applied for. Darrell Griff states that the Planning Board would have to deny it and pass it on to the Zoning Board of Appeals because of the 300 feet. It would be better for the Dubois to make the application, because he is the tax payer, or he has to give them authorization to speak on his behalf. Another option is to tie the parking area to this project and also make it contingent on its approval. Some discussion ensues about the best way to connect the projects so that it can go to ZBA. The ZBA will determine the 300 foot rule and the use for parking. They can verbally amend their application now to save time. Mr. Foster states, "We amend our application now. " They have met the requirements to apply for the variance. The Zoning Board will have advance notice and come to the public hearing to hear the background information.

**Resolution 2016-21: Amended Application and Referral to the Zoning Board of Appeals**

The Town of Hamilton Planning Board has allowed the 2-6 East Main Partnership to amend their application for a Special Use Permit to include the proposed parking area located at 7542 Willey Road, Poolville, NY; Tax Parcel # 199.-1-49 and has since rejected this portion of the application and requests that they apply to the Zoning Board of Appeals for a variance regarding the parking being more than 300 feet from the venue.



Motion: Bill Nolan

Second: Elaine Hughes

Vote:           Aye: 4           Nay: 0

ADOPTED

Mary Galvez recused

**Penny Strong-Collins, 1233 Earlville Road, Poolville, NY; Tax Map # 199.12-1-14, Variance for Subdivision**

Ms. Strong-Collins asks what she needs to do in order to apply for a variance. She lists the paperwork that she brought with her. She states that she met with an attorney, and has decided to move forward with the application for a variance for a non-conforming lot. She sold the back portion of her property to the 2-6 East Main Partnership. The deed has been recorded (Dec. 27, 2014) but it has not been remapped as of yet. This deal has been done in reverse she should have applied for the variance first. No more action needed by this board. The Assessor will do reassessment once the remapping is done. Her attorney has recommended that she have a private assessment firm since she wants a real-time assessment instead of for what she purchased it. Supervisor Shwartz recommends that she see the town assessor and then decide to whether or not to hire an outside firm since the town is in the middle of a reassessment.

**Resolution 2016-22: Approval of Minutes from May 3, 2016:**

Be It Resolved that the minutes from the May 5, 2016 Planning Board Meeting be approved with no changes. A final copy will be circulated to the Board.

Motion: Bettyann Miller

Second: Mary Galvez

Vote:           Aye: 5           Nay: 0

ADOPTED

**Other Business to come before the Board**

CEO Forth wishes to readdress two things with the 2-6 East Main Partnership's application. They need to fill out an Application for a Variance and an Agricultural Data Statement because they are within 500 feet of an agricultural district. Chairman Griff states that it does not have to be done at this meeting. Deputy Clerk Robertson asks about the Storm Water Pollution Prevention Plan (SWPPP) to comply with the requirements of the DEC SPEDS Ms-4 Form. Boardmember Bettyann Miller says, "We decided that a long time ago." Chairman Griff replies, "We may have to readdress that again later because of the additional property being tied in with the other one."

Steve Jones asks if there are any special directions about who gets notice of the public hearing. The Town Clerk may want some direction as to who needs to be notified. As a general rule it is 500 feet but Clerk Reymers suggests that perhaps more need to be notified. Attorney Jones brings up the point that since the parking area is now considered part of the project; that 500 feet from that property needs to be considered as well. He also asks if those two "circles" meet and inquires how much of the hamlet is

covered. The Assessor can help with that and help determine the distances. The pleasure of the Board is that the entire Hamlet be notified. Page 58 1.1-7 B of Town Zoning Law gives guidelines for notifications.

**Resolution 2016 – 23: Notification of the Hamlet of Poolville about Public Hearing**

Recognizing that the parking area is now part of the project it is the pleasure of the Board is to notify the entire Hamlet of Poolville of the public hearing.

Motion: Bettyann Miller

Seconded: Bill Nolan

Vote:           Aye: 4           Nay: 0

ADOPTED

Mary Galvez recused

**Resolution 2016-24: Motion to adjourn the Town of Hamilton Planning Board Meeting**

Motion: Bill Nolan

Second: Elaine Hughes

Vote:           Aye: 5           Nay : 0

Adopted

Meeting adjourned

Respectfully submitted by  
Elisa E. Robertson  
Deputy Clerk