

Town Of Hamilton Planning Board Public Hearing Tuesday, July 12, 2016 at 7:00 pm

Poolville Community Center
Willey Road, Poolville, NY

Board Members Present: Darrell Griff- Chairperson, Bill Nolan, Bettyann Miller, Elaine Hughes (arrived at 7:10), Mary Galvez. Also in Attendance: Town Clerk- Sue Reymers, Deputy Clerk- Elisa Robertson, Codes Enforcement Officer Don Forth, Town Attorney Steve Jones

Others in Attendance: Justin Williams, Neill Joy, Enrique Galvez, DW Keefe, Patrice Carey, Michael Zahn, Steven Skollar, Kurt Reymers, William K. Kopp, Mary Jane Miner, Nancy Miner, Renee Misch, Sharon Fox, Chris Larkin, Terri Larkin, Jerrine Smith, Mary Lee Dinski, Peter Darby, Mary Todd, Mary Joy, John Ayers, Beverlee and Mike Capetto, Rachel Amann-Burns, Jamie Wilson, Eve Ann Shwartz, Harmon Hoff, Lydia Slater, Will Fisher, Pat Polisssi, Don and Laura DuBois.

Chairman Griff calls the meeting to order at 7:06 p.m.

Resolution 2016-25: Approve Planning Board Meeting Minutes from June 7, 2016

Motion Bettyann Miller

Second: Mary Galvez

Vote: Aye-4 Nay-0

Elaine Hughes absent for vote

ADOPTED

Resolution 2016-26: Open Public Hearing on CNYSOLAR, Deborah Zahn; 1374 Gorton Road, Hamilton, NY; Tax Map #184.-1-14, Special Use Permit

Motion: Bettyann Miller

Second: Bill Nolan

Vote: Aye- 4 Nay- 0

Elaine Hughes absent for vote

ADOPTED

Chairperson Griff welcomes everyone to the meeting and asks that everyone direct their comments to the board and that this will be fairly informal, that if you wish to speak to this proposal to please raise your hand and be recognized.

David Keefe speaks regarding the solar panels. He is asked to come forward so that he can be heard more clearly. Mr. Keefe gives a short personal history. He earned an engineering degree from University of Pittsburg and a Masters in Business Administration from NYU. Mentions the history of wind farms, and the subsidies provided for them. He discusses some of the disadvantages of wind farms. He goes on to relate some of the same issues facing solar panels, including the average days in a year of sunshine in Central New York. He continues by relating his opinion on green energy and the theory of climate change.

Chairman Griff reminds him that there is a three minute time limit for comments as was stated on the sign-up sheet. He leaves a copy of his letter with the Deputy Clerk and it is date stamped and entered into the record. (See letter)

Justin Williams from CNYSolar asks if he may explain the project. He is invited to do so. They were hired to install 90 solar panels on the Zahn's property. He points out its location on the map for the audience. He explains that next to the house was not a good location and therefore this was the best placement for the panels. The power will be made at the panels and then sent to the Zahn's through the utility lines to their house. This is a ground mounted system that doesn't disturb the ground, they set on top.

Speaker 1 (unknown): So, is this just for the Zahn's? No power is going to be sold to the electric company?

Chairman Griff answers. Yes. No, it isn't being sold.

Speaker 1: What are the sizes of the grids? I see there are 9 of them, tucked nicely into the hill. It looks like they are trying to make it very nice...

Justin Williams: Just for one? The sizes are 4 inches by 65 inches by one pound. That system is just for them so the only benefit of the power being generated is for one customer.

Chairman Griff: Any other comments or questions?

Speaker 2 (unknown): Sir, will it affect the wildlife in the area?

Justin Williams: It's much like a greenhouse. It's just a bunch of glass sitting on a hill; it is like putting a greenhouse out there.

Speaker 2: You said that it would run across the ground.

JW: One conduit, like the power going to your house.

Speaker 2: The power going to my house doesn't go on the ground

JW: In most new homes, they go underground in a plastic conduit. So it will be one conduit that goes from the pole to here, just like in new construction. Our power is the same 120/240 just like a regular house, nothing extra going into the ground than that single power line.

Speaker 2: I misunderstood you I thought you said that you weren't putting anything in the ground.

JW: Nothing for where the solar is; not concrete, or putting anything in, all of it sits on top of the ground, with one conduit running from there to the utility pole.

Chairman Griff asks the speaker for her name. It is Mary Jane Miner.

Speaker 3: If the installation turns out to be nonviable economically, who removes the panels?

JW: If it was not viable, the customer would not have done it. It would be their system, they are purchasing the system; so, after it is installed they own the system.

Speaker 3: There is no provision for removing it if doesn't turn out to be a viable property.

JW: Not with us? No, because it is not like a power purchase agreement where at the end we remove it 20 years from now. They are purchasing the system it is theirs.

Chairman Griff asks if there are any more questions or comments. There are none.

Resolution 2016-27: Close Public Hearing on CNYSOLAR, Deborah Zahn; 1374 Gorton Road, Hamilton, NY; Tax Map #184.-1-14, Special Use Permit

Motion: Bill Nolan

Second: Bettyann Miller

Vote: Aye: 5 Nay: 0

ADOPTED

There is some discussion by the board as to whether to make decision tonight on this application. Steve Jones points out that there was a letter received by Carol Smith. Chairman Griff mentions part of the letter that inquires about the decommissioning of the solar array when it becomes un-viable or dated. He feels that the board should take this issue into consideration with this project. He asks about provisions this board could make regarding decommissioning. There is ongoing discussion about lifespan of panels, what they are made of, and what will happen to the actual structure of the panels, etc. This is the first time our town is dealing with this and Chairman Griff would like to "have an eye to the future" and do this right. He is concerned with setting a precedent for the decommissioning of panels such as these in the future. The concern is that they will be left or abandoned after their usefulness is over.

Board member Elaine Hughes asks about the life span of the panels. Mr. Williams says over 30 years. He suggests that the board, while considering decommissioning, that it be at the time that they break ties with the utility and they stop having power sent to their home. If that ever goes away then it is a useless system; that in essence, would be the end of the life because no power would be going through there.

The main concern is that after 25-30 years that they will be left, abandoned.

EH: What do you do then? Has that ever happened?

JW: No, but you would have to take it all apart and recycle it, it is all metal, aluminum, and glass. It is all recyclable.

Mr. Zahn states that they, "would have no reason to keep it if it became nonfunctional, the purpose is for them to use the power. We are paying for this upfront instead of paying the utility company for their power. You can put something in the permit that says it needs to be disposed of. I am not opposed to that at all." He goes on to say that if you ask any of their neighbors about their projects in the past; that they leave things far better than they found them. "We do not always do things based on economics, sometimes we do things that cost more because we think it is better, or better for the community, or more aesthetic, so we are not going to leave something up that's going to be an eyesore; at least while Debby and I are alive and I am pretty sure our son wouldn't. When he sold the property, I think it would be an asset to have that. But, I am not opposed to making some sort of provision for it has to be removed if it is no longer working."

Town Attorney Steve Jones asks CEO Forth about the Solar Procedure (called streamline) for smaller systems adopted by the town, and if there is, any provision for decommissioning them? And does it apply here? How much larger is this than those systems?

The streamline is up to 12 kilo watts and this one is 27.9.

It is double the smaller systems.

It is also different that it is free standing and not a roof mount system. Attorney Jones thought it may help the board make a decision, and continues on to site section 8.3-9 of the Town

Zoning Law:

B. In granting a Special Permit, the Planning Board may impose conditions that it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this law and the Town of Hamilton Zoning Law. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

He then informs the board that they can put conditions on the approval of the Special Use Permit. Conditions could be; a time requirement to review it again and removal if it is non-functioning system. There is discussion of how to enforce these provisions. There is nothing in Hamilton's Zoning Law that refers to the decommissioning of solar panels or any other energy source.

CEO Forth refers to Property Maintenance Code that New York State requires that to maintain a system it has to stay operational or it must be removed.

Board Member Mary Galvez asks how would the board know that it was no longer a functioning system? CEO Forth says that he guesses the codes officer would have to observe its disrepair.

Town Attorney helps the Board to come up with the wording of the conditions to be placed on this application.

Resolution 2016-28: Approve CNYSOLAR, Deborah Zahn; 1374 Gorton Road, Hamilton, NY; Tax Map #184.-1-14, Special Use Permit. With the following conditions:

- The applicants come before the Planning Board to be reviewed every five (5) years.
- That if and when the solar panels become non- functioning, after a period of more than 6 months, they are to be dismantled and disposed of. The cost of which will be borne by the landowner.

Motion: Bill Nolan

Second Elaine Hughes

Vote: Aye: 5 Nay: 0

ADOPTED

Resolution 2016-29: Open Public Hearing, 2-6 East Main Partnership, Roger Foster and Charles Wilburn: 1245 Earlville Road, Poolville, NY; Tax Map # 199.12-1-12, Special Use Permit.

Motion: Elaine Hughes

Second: Bill Nolan

Vote: Aye:

Vote: Aye: 4 Nay: 0

ADOPTED

Mary Galvez recused

Chairman Griff asks if the applicants would like to present their information. Mary Galvez states that she has formally recused herself from these proceedings because she owns property directly across the street from the proposed venue. While they prepare, Chairman Griff enters into the record the names of individuals who have given letters to the Board. They are as follows: Carol Smith, Sue Reymers, Kurt Reymers, Neill Joy.

Mike Sheridan, engineer for Meid Construction, gives a brief overview of the project. Giving the basics: single story, 3500 square foot, banquet facility (refers to site plan), onsite parking is limited to employees, valet parking with limousines for guests, parking will be off site and that they already have a variance in place. The intent is that the activities take place inside.

Chairman Griff points out that they do not have a variance in place for the parking that they have a request for a variance. Mr. Sheridan corrects himself, and continues on to say that they have an application for a variance and that the Zoning Board of Appeals meets next week. He references the non-conforming lots and explains that the back portion (referring to map) would be joined with the other properties to make a contiguous parcel. They also have an application in on that.

Chairman opens up comments to the floor and reminds everyone of the 3 minute time limit as well as the fact that all comments should be made to the board.

Mr. Neill Joy (see letter) resident since 1963. He and Mary live diagonal to the Poolville Country Store. He sees this venue as a conflict of interest between, a business enterprise and a community at large, and the property owners in the community. He expresses support for the restaurant and adds that they have always been good neighbors, but the size and scope of this project is too large for the area.

Mr. William Kopp gives some personal history. He compliments the partners on the Country Store and its success. He explains that he has one main concern, speeding. He doesn't want to stand in the way of progress but is concerned about the noise level and alcohol use at the venue. He wants regulations to be so that it doesn't become a nuisance to the neighborhood. He is concerned about the safety of the children of the area.

Ms. Mary Jane Miner, a summer resident, chooses to make comment. She reminds everyone that Poolville wasn't always a quiet town, it was a thriving busy community at one time. She feels that business should be supported in this town. She states her main concern is about

water and whether or not the underground water sources can support a facility like this. Her worry is that with increased usage that area wells will be may be affected. She restates that she feels the town should be in support of growing local businesses.

Mr. Kurt Reymers, grew up in Earlville, went to Buffalo for College, moved back to Earlville, and then moved to Poolville in 2005. He moved back to get away from city life. He has dined at the restaurant and appreciates its owners keeping to the character of the surrounding community. His concerns include noise pollution and traffic concerns (see letter). He admits that he hadn't considered the water situation and that this now also a concern for him as well. He continues to mainly discuss noise, referring the Madison County's GML report that suggests doing a longitudinal noise study. He also refers to the situation that has come about in Cazenovia, NY regarding the Owera Winery. He has included maps that show the proximity of residences to the proposed facility as compared to those residences in Cazenovia near Owera.

Ms. Rachael Amann-Burns, Poolville resident with 3 small children, her main concerns are noise and traffic. She wants her children to be safe and comments that she appreciates the applicants and their business but would like to find a way to have this expansion that would be in keeping with the neighborhood (see letter). As the project is it seems to be contrary to what she would like to see in this community.

Mr. Harmon Hoff, nearby resident and sits on the Zoning Board of Appeals; he has a question for Planning Board as to why this is an allowed use; and asks what the total square footage is when you add the footage of the new facility and the old facility (which is integral for its operation). He asks that the board consider the size and whether or not it is a permitted use.

Mr. Travis DuBois, Poolville resident, grew up in Poolville and returned after college with his wife to raise their family. In 1999 they purchased the former Bryant residence and purchased the Jim Pounds property through tax sale a few years later. In support of proposed project (see letter), commenting that the applicants keep their property neat and tidy, are hard working and will create employment. He goes on to discuss specialty construction materials that they will use at a higher cost to address public concerns such as noise. He continues on by mentioning a few alternatives like, tent parties, which would be more chaotic for the community. Mr. DuBois also brings up the fact that they may consider packing up and moving; leaving the buildings they now own to be abandoned and left to become derelict. He is in support of the project.

Mr. Michael Capetto, resident since 1992, suggests that a water study to be done to investigate that issue. He feels that he partners are great neighbors and that they do a great job keeping up the property. His daughter was married there in a tent, parking was chaotic, and the band was very loud. He apologizes (laughter). He suggests that the Poolville residents and the Poolville Country Store meet together and work out any differences to satisfy the most people. He is concerned that his is the type of thing that can break a small community and divide it. He would like to see both parties come to an agreement to keep unity in the community.

Chairman Griff explains that this public hearing is a little out of order from the normal course of events. This was requested by the applicant's, primarily to get feedback from the local

community so that both they and the Board can hear any concerns and possibly work through them together. He asks if anyone else would like to speak about this proposal. He goes on to explain to the audience that they will not be closing the public hearing but suspending it so that that it may reconvene at another time, therefore it will not start the 60 day hearing process.

Town attorney Steve Jones explains that since the application is not entirely complete, but as the chairman mentioned, the applicants requested that we have the Public Hearing now so they can get the community input and so they can move forward with the application process, then we can reconvene the public hearing when the application is complete, and have the board then decide how to proceed.

Mr. Mike Sheridan says that here are a few things that came up that he would like to address. At this point the hours of operation would end at 10 pm and they have had multiple other conversations with the planning board. With the exception of concerns over water, all of these things that the residents have concerns about have been addressed and both sides are trying to work through them. "Not everyone is going to be perfectly happy, that's a difficult thing, but the character of the restaurant and the character of what we are trying to do is to maintain a little bit of that small town/country appeal." He goes on to say that the board and the partners have talked about noise, traffic, parking, etc. He explains that he partners want to mitigate all of these concerns the best that they can. He invites the public to please have a conversation with the partners to discuss it personally.

Resolution 2016-30: Suspend Public Hearing, 2-6 East Main Partnership, Roger Foster and Charles Wilburn: 1245 Earlville Road, Poolville, NY; Tax Map # 199.12-1-12, Special Use Permit.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: Aye: 4 Nay: 0

ADOPTED

Mary Galvez recused

There is nothing more on the agenda. He invites other business. There is none

Resolution 2016-31: Adjourn Planning Board Meeting

Motion: Mary Galvez

Second: Bill Nolan

Vote: Aye: 5 Nay: 0

ADOPTED

Meeting adjourned at 9:06 p.m.

Minutes respectfully submitted by:
Elisa E. Robertson, Deputy Clerk