

Town of Harpersfield Planning Board

Meeting: March 27,2024

Present: D. Darling, W. Keller, F. Ciulla, A. Gallagher and D. King

Also present: L. Page, N. Brower, R. McKertich, Adam Yagelski, Sean Murphy, Robert, Queirolo, Vicky Klukkert, Kaitlyn Grott, Damian Hill, Steven C. Sibburn, Amy Waltz, Lana More, Camberly VanValkenburg, Sophia Picco , Robert Prush and Kieth McLean, who did no sign in. Allyson Phillips arrived later.

D. Darling announced there were two public hearings prior to the regular meeting.

He read the public hearing notice that was published in the Daily Star for the Damian Hill subdivision off state Route 23 at the intersection of Truesdell and Shaver Road. The affidavit is available at the town clerk's office. The survey maps were presented and it was presented to the county planning board which approved the subdivision. He presented the notices and a mini map he had included in the notification to adjacent landowners. He said he would also apply for a boundary line adjustment in the future with a difference of a quarter of an acre. The reason is to place the boundary along an existing fenceline, since designating points on the deed no longer exist. When the deed was created on the old Truesdell farm, it referenced trees, etc. that are now gone. They will adjust the line to become a clearcut fence line with the More property.

No one from the public spoke and on a motion by D. King, with a second by W. Keller, the public hearing was closed at 7:19 p.m.. Motion carried 5-0.

D. Darling then read the public hearing notice published in the Daily Star for the Arif Ahan Topcu subdivision at 24479 state Route 23. The affidavit is available at the town clerk's office. N. Brower said he did not have all the information needed to present it to the county board in March and it will be presented at the April meeting.

A motion was made by D. King, with a second by F. Ciulla, to adjourn the public hearing until April when all the paperwork is complete and it has been before the county planning board. It was adjourned at 7:25 p.m. Motion carried 5-0

D. Darling then called the regular meeting to order and the March 27, 2024 minutes were approved as presented with a correction to the address of the Arif Ahan Topcu subdivision from 244425 to 24479. Motion was made by W. Keller, with a second by D. King. Motion carried 5-0.

Damian Hill presented the postal receipts, percolation test results and notice of approval from the county planning department at its March 6 meeting. He will pay the \$100 application fee to the town clerk as D. Darling did not want to handle the cash.

The Arif Ahan Topcu subdivision can not be finalized until the April meeting. A motion was made by W. Keller, with a second by A. Gallagher to table the decision until the April meeting after it has been to the county planning board. Motion carried 5-0.

Steve Sibburn paid the application fee by check. He also presented the engineering reports and mail receipts.

Sean Murphy and Robert Queirolo were present regarding the Blue Wave Solar Project C, the third solar array proposed off Bruce Hill Road.

They responded to comments received by the planning board to date and they were sent electronically a little late for review prior to the meeting. Sean Murphy said he would walk the planning board through it. It discussed the roadway and garbage on the roadway being a concern. Conversations with the landowner were made to see it cleaned up and no longer used for waste management.

There were also concerns about the amount of use of the access, including farm equipment mingling with construction equipment.

S. Murphy indicated it was addressed with the landowner in detail. The entrance to the access road will be widened. There will also be a pull off area to allow equipment to pass and he said they could do a traffic simulation. The entrance will be paved and the gravel areas resurfaced as necessary during construction to maintain the roadway. The roadway is part of the Storm Water Pollution Prevention Plan (SWPPP), access road is in the lease, but the disposal area is not. It may be a nuisance, but they will have no direct control over it.

R. McKertich said he would like input from the fire department for access of emergency vehicles.

D. King asked if the capacity of the project has been verified. It is available and they have agreed to utilize the capacity. They are in the queue with enough capacity remaining for this project. There is a high level of confidence they will have the capacity.

There was discussion about a certificate that will be needed, so that it doesn't get to the point NYSEG will be required to make an upgrade. Something needs to be in writing.

A. Yagelski reviewed the comments between the state Department of Environmental Conservation (DEC) and the New York City Department of Environmental Protection (DEP). The project is claiming a redevelopment credit for stormwater. He asked how gravel from the site can be exempted from water treatment that could be added.

W. Keller said there were a couple of things he really didn't like. He said we are in a new century with cold water for fish. He is concerned about the groundwater recharge. Cold is the key and he asked if they could get something in the acceptance that addresses groundwater recharge. He is asking the water runoff from the solar panels to be the same as before the panels were there. He would like to see a condition that further modifies the SWPPP. He would like to see less runoff. He believes holding ponds discharge warmer water and gets into the trout streams. He would like to modify the SWPPP so there is less runoff from solar farms. He would like to see them utilize contour plowing or ditching. He contends a four foot square ditch filled with gravel holds the water and percolates less water. He said it is easily dealt with.

The engineers are concerned about meeting the DEC regulations and S. Murphy said he has attempted to reach out to DEC for the previous two projects regarding W. Keller's concerns..

There is also a 5-acre waiver anticipated and A. Yagelski recommends they start the ball rolling because it takes time. He said he would entertain a conversation with DEC requirements in order to put the issue of impact during construction to bed.

R. Queirolo said they are not closed to anything with stormwater, but it must meet DEC standards and guidelines.

It was agreed to get the environmental engineers from both sides to look through the regulations and to provide a memo to the planning board indicating due diligence on behalf of the board. In order to allow the applicant to take the next step and proceed. It is worth investigating and a follow up with the planning board. W. Keller would like to see faster groundwater recharge relative to the site. A. Yagelski said it will be investigated. It will be discussed at a technical level with a report at the April meeting.

OF the eight comments received from DEP, seven are technical and will be addressed by the consulting engineer.

Shifting the project north was also discussed, but it is believed it will not significantly impact the views.

There was discussion about notifying the town and village of Stamford and invite their participation due to the close proximity to the town and village. S. Murphy said they want to have the location of the project firmed up before they reach out to them.

Maps of the views were presented. There is little impact from the Catskill Scenic Trail due to the steepness and the existing vegetation.

D. King mentioned the view from Mount Utsayantha. S. Murphy said they were not asked to do a simulation from that vantage point and it is outside the two-mile radius they must consider. D. King said they may want to consider it as it is a popular spot above the village of Stamford where people travel to see the views.

There was also discussion about the fencing, which will be box wire and will not be visible over much of the project and takes into account the presence of farm animals.

D. Darling said he is still concerned about the access road and that they will have to be diligent with the landowner to ensure they do what they say they are going to do.

R. McKertich asked about the decommissioning plan and asked if there would be an automatic escalator for the town and time frames for periodic review to ensure it is kept up to date with current costs. He would also like to see an itemized breakdown of those costs. He recommends the board get a detailed breakdown of those costs.

S. Murphy said they are based on a formula produced by NYSERDA. R. McKertich said that is a good starting point, but they are looking for a little more detail. He asks for a plan that shows exactly what it will look like after decommissioning, with a post decommission and restoration plan.

S. Murphy said they are reluctant to do more detailed engineering when they don't know how viable the project is yet and are unsure where they are in the process.

R. McKertich indicated that it is a process and the planning board can't pre-approve it. A. Yagelski said the decommissioning plan has to be carried out by someone and he wondered if there are some minor changes to the configuration of the site, does it make sense to schedule a public hearing.

D. King said they must talk to the town and village before any public hearing, to get them on board and aware of the project.

R. Queirolo said it is their objective to present the project to the town and village. D. King said they must inform the town and village of Stamford that it's going on.

They will keep in touch via email correspondence, including N. Brower.

Allison Phillips was present and D. Darling advised there is no public hearing regarding NYSafety Track until the issues are straightened out.

A. Phillips said the planning board is aware that since March, NYSafety Track has filed an Article 78 to compel the planning board to close the public hearing and make a decision on the proposed site plan or to tell them what information they need to supply to the planning board.

It is an Article 74 to compel them to take action. It was filed in March with a return date of May. SA. Phillips recapped everything that has transpired with the planning board, including considerable public comments and special meetings.

There have been numerous submissions and changes of which the planning board has been trying to make sense. There were numerous changes as to what the track was seeking approval for.

On Jan. 30, 2024, the planning board received information from the applicant which they did not have time to review prior to its meeting. Throughout this time period, the applicant was told they needed to replenish the escrow account. Checks were made out to the wrong parties and the escrow was never replenished. At the February meeting there was a brief update but they had still not done that. Now there is the Article 78 proceeding asking the planning board to close the public hearing and make a decision on the application.

A. Phillips said she would like to provide confidential legal advice to the planning board and to discuss the litigation and how they should proceed.

A motion was made by W. Keller, with a second by D. King to enter into executive session to discuss pending litigation and to receive legal advice from the planning board attorney. Motion carried 5-0 and they entered the session at 9:17 p.m..

A. Phillips will finish the minutes of the meeting following the executive session. L. Page and N. Brower left the meeting.

A motion was made by W. Keller, with as second by F. Ciulla to come out of the executive session at 10:08 p.m.. Motion carried 5-0.

They discussed the Article 78 that is before the planning board to compel the planning board to take action to close the public hearing and make a decision or to identify what else they must submit to the planning board.

The planning board has previous held and adjourned the public hearing while they were reviewing the SEQRA form.

A new submission was received from the applicant from the planning board's request asking them to clarify exactly what they were asking the planning board to consider. Members of the public have not yet had the opportunity to comment on that submission. Now there are new materials for the public to review

A motion to continue the public hearing on NY Safety Track was made F. Ciulla with a second by W. Keller, for 7 p.m. on April 24. Motion carried 5-0.

There was discussion of moving to a larger venue, however it was determined the town hall has been adequate previously.

A motion was made by D. King, with a second by W. Keller to make another referral to the Delaware County Planning Board in light of the additional submissions. Motion carried 5-0.

On a motion by D. King, with a second by, F. Ciulla, the meeting was adjourned.

Respectfully submitted,

Liz Page,

Recording secretary.