

**MINUTES OF THE TOWN OF FORT EDWARD PLANNING BOARD MEETING
HELD ON WEDNESDAY, NOVEMBER 10, 2021 AT TOWN HALL COMMENING AT
7:00 P.M.**

Chairman Belden called the meeting to order at 7:02pm

Pledge of Allegiance

PRESENT: Chairman Belden
Valerie Ingersoll
Donald Sanders, Jr.
Max Fruchter
Zachary Middleton
Joseph McMurray
Dolores Cogan (Alt.)

ABSENT: Frank Wells

OTHERS PRESENT: Katie DeGroot, Leslie Ryan, Supervisor Tim Fisher, Councilman Terry Middleton, Matt Tripoli (+1), Town Engineer Chris Koenig, Town Attorney Brian Reichenbach and Planning Board Clerk Aimee Mahoney

APPROVAL OF MINUTES: MOTION by Max Fruchter, Seconded by Zack Middleton to approve the minutes of the public hearing and regular meeting of October 27, 2021 **ALL AYES**

BUSINESS:

**Virginia Mickel
Minor Subdivision
103 County Route 46
Presenter: Leslie Ryan**

Leslie Ryan: I am the Attorney for Virginia Mickel; Virginia owns and resides on 21 acres on County Rte. 46 and has owned the property for about 20 years. She is asking for a minor subdivision to make the 1 lot into 2 lots with the second lot being 10 acres. I believe the intent is for someone to build a 1 family home on it at some point. I have included maps for everyone to see what the intention is.

BOARD COMMENTS:

Max Fruchter: Shouldn't there be a house next to the pool on the map?

Chairman Belden: Because it's a 10 acre lot does the Board want to ask for a house, well and septic location which would mean we would have to know where the well and septic was on the other lot or because it's a 10 acre lot that they are not actively developing at this time are we not going to ask for it?

Max Fruchter: The reason I ask is because the lands of Amanda Pettys and the one next to it there is now development on that lot; one of 2 lots that used to be Gary Stine's.

Chairman Belden: The property that you are talking about development on is a little farther up County Rte. 46 where he has the RV's?

Max Fruchter: No, actually they split that lot which is my question because I don't ever remember them coming before the Board.

Chairman Belden: We subdivided that for Kelby Truax a few years ago.

- Board is not requiring house, septic and well location on the map

Valerie Ingersoll:

- Total acreage of the parcel should be 20.44 instead of 21. – **Changed and initialed by applicant**
- Bulk Requirements are blank – **Filled in and initialed by applicant**

Chris Koenig: My comments have all been covered. R-ag District meets the zoning, there is a question regarding whether an Ag Data Statement is required because it is within 500' of an Ag-District but it's not within 500' of a farming operation in an Ag-District which is how it's defined so I would say it's not required.

MOTION by Zack Middleton, Seconded by Valerie Ingersoll to set a public hearing for December 8, 2021 at 7:05pm **ALL AYES**

CS Energy Dolan Solar Project

- **Chairman Belden recused himself and Zachary Middleton is Acting Chairman**

Matt Tripoli: We had a comment letter from the Engineer before the last meeting and there is stuff in this submission directly related to those comments. We wanted to bring a few other things forward as well to make it part of the record. We have a slight addition to the Site Plan due to one of Chris's comments about the electrical system linking all the different solar panels together not being fully defined so the intent with this is to make that complete. We did revise the Decommissioning Cost Estimate slightly, we took some of Zack's comments from the last meeting that it was a little difficult to read those tables and Tetrattech, the consultant that prepared the plan put in a summary table at the front end of the estimate to try and make it a little easier to read. We did find one error in the last submission they didn't include the cost to remove a battery system. We have included the Decommissioning Form that we entered into with Easton, I thought the Town's Attorney may want to take a look at that and provide comment. The very last page of the packet is some conditions for approval based on having to get permits

in the future. We have been working with our insurance broker on the NYS Labor Law 240 that Max brought up at the last meeting but it did not make it into this submission.

Chris Koenig: I have been adamant from the start about having the Town Board not the Planning Board enter into the Decommissioning Agreement as representatives of the tax payers of the Town it is a financial decision. The Planning Board's charge per the Town Code is to come up with an amount for decommissioning as an estimate and then the type of surety that they can then pass up to the Town Board who will then work with applicant to craft an agreement that works. That is when you start to get into bond structure or certain years when you want to come in and re-up the plan or update the plan; I think that is something I would like to see in the Decommissioning Plan even if there is some type of bond agreement I think we would like to have the opportunity even every 5 years to go back and look at the plan and re-evaluate if things change. Maybe it doesn't need to be updated, maybe it does. I don't think the Planning Board needs to get into that depth but certainly we can come to a point where we can agree on a number to refer to the Town Board. The plan elements themselves are pretty good, there are a few things I would like to see added. Looking at the decommissioning estimate itself I think the format they submitted has improved and the summary table provides backup for the sheets they provided at the last meeting. They show a net cost to decommission at \$650,613.10 and that takes into consideration a scrap metal credit of \$327,600.00 so the net cost is the \$650,613.10 and that is the number they would put their surety at. If you use the \$650,613.10 figure that puts it at \$32,530.00/MWac to decommission; other comparable projects I've seen in this area of the State not considering the scrap credit has been \$31,635.00 so it's really between \$30,000.00 and \$40,000.00/MWac to decommission. Other Town's that I have seen haven't considered the scrap credit in the surety at all and have said the scrap credit will be determined when decommissioned if that ever needs to happen by the Town and you would use market rate then.

Matt Tripoli: A good example of the scrap metal credit is our 2 projects in Easton where the scrap metal credit was under \$150,000.00. Our project in the Mechanicville/Stillwater area posted about \$350,000.00 in total for their decommissioning estimate, the recently approved project in Ticonderoga was about \$460,000.00. There are 2 in Montgomery County and the total for those are \$850,000.00.

Chris Koenig: It's challenging to estimate the scrap metal credit in 25 years. Would surety be possible without the scrap metal credit?

Matt Tripoli: What we might propose as an alternative would be some contingency on the cost estimate and also potentially setting aside some money when we apply for a building permit that would sit in escrow with the Town and a third party could be hired every 5 years or so to reassess the estimate and determine how it may change. It's in our interest to try and make the value as realistic as possible. There is a lot of steel, a lot of copper, stuff that has a lot of value that probably should be accounted for in some way.

Chris Koenig: Overall I am comfortable with the estimate itself it's just figuring out the details and what the Town Board is comfortable with as far as the terms of this agreement go. I will pass that along to the Board and if they want to discuss that actual number it is a good starting point and something we could refer to the Town Board and allow C.T. Male to review it in a little bit

more depth as well as the Attorney with the Town Board. I would like to reserve the right to do that prior to any building permit being issued.

Max Fruchter: I believe this is the Town Board's responsibility and we do not have fiduciary responsibility at this stage for the Planning Board.

Chris Koenig: I would suggest then making it a part of a conditional approval and make a referral to the Town Board to evaluate the decommissioning plan, decommissioning estimate after this level of analysis.

Zack Middleton: Do we have anything else outstanding?

Chris Koenig: Yes, the stormwater is outstanding but that is something that the Town of Fort Edward as an MS4 community needs to review and approve so C.T. Male as the Town's Engineer will review the final stormwater plan and design and then the Town as an MS4 has the authority to approve that plan prior to them getting their SPDES permit from the State.

Matt Tripoli: We are working with the Army Corp. of Engineers on a few things for the project and we like to try to leave some of that design until we get their feedback but it is also important for us to have a buy in on what the site is going to look like from the local Planning Board because if we have to move 10 acres of panels it might mess up something with the Army Corp. so it's important for us to have this review process, all in all stormwater is a very important issue with these projects.

MOTION by Max Fruchter, Seconded by Dolores Cogan to approve the Dolan Solar Site Plan contingent on the following list of conditions:

1. Prior to commencing construction of any structural or electrical components of the project, the Applicant shall apply for and receive a building permit from the Town of Fort Edward Code Enforcement Officer.
2. Prior to issuance of a building permit, the Applicant shall demonstrate coverage under any applicable United States Army Corp. of Engineers (USACE) Nationwide Permits for any and all proposed impacts to USACE jurisdictional wetlands or Waters of the United States.
3. Prior to the issuance of a building permit, the Applicant shall demonstrate that the NY State Historic Preservation Office (SHPO) is satisfied that the project will not have any significant adverse impacts on archeological resources, or that any such impacts are being appropriately mitigated, by providing a letter of no effect, or other satisfactory correspondence from SHPO.
4. Prior to the issuance of a building permit, the Applicant shall demonstrate that the NY State Department of Environmental Conservation (NYSDEC) and the U.S Fish and Wildlife Service (USFWS) are satisfied that the project will not have any significant adverse impacts on endangered or threatened species or their habitats, or that any such impacts are being appropriately mitigated, by providing an incidental take permit, or other satisfactory correspondence from DEC.

5. Prior to the issuance of a building permit, the Applicant shall demonstrate coverage under the applicable NY State Pollutant Discharge Elimination System (SPDES) Construction General Permit.
6. Prior to the issuance of a building permit, the Applicant shall provide a final Stormwater Pollution Prevention Plan (SWPPP) stamped by a NYS Licensed Professional Engineer.
7. Prior to the issuance of a building permit, the Applicant shall provide a final Issued for Construction site plan, stamped by a NYS Licensed Professional Engineer, which plan shall include depictions of Sediment and Erosion controls in accordance with the SWPPP. The SWPPP and the associated Issued for Construction site plans shall be accepted by the Town of Fort Edward, acting in their capacity as the MS4 administrator.
8. Prior to the issuance of a building permit, the Town Board of Fort Edward shall accept the decommissioning plan and form of financial surety by executing a decommissioning agreement.
9. As a condition of the site plan approval, the applicant and landowner shall agree in writing to allow the Town entry to remove an abandoned installation in accordance with the decommissioning agreement.
10. Prior to the issuance of a building permit, the Applicant shall hold a meeting with the Fort Edward Fire District, to approve an overview of the Project and construction plans, and to verify emergency contact information.
11. Prior to the project entering commercial operation, the Applicant shall hold a meeting with the Fort Edward Fire District, to provide training for the major equipment installed and review procedures to address an emergency at the Project site.
12. Payment of fees

ADJOURNMENT:

MOTION by Max Fruchter, Seconded by Valerie Ingersoll to adjourn the meeting at 7:49pm
ALL AYES

Dated: November 15, 2021

Aimee Mahoney, Clerk