

Present: Jim Hoag, Joe MacDonald, Andy Beaty, Jerry McAulliffie and Attorney Mark McQuerrey

The meeting was called to order at 7 P.M. with the Pledge of Allegiance.

This meeting of the Board to hold a public hearings on the application of Karen Blanchfield for a show dog training and care business on Marker Road in the Town and the applications of Nextra Energy Resources for Larry Bugbee and for Waloomsac Recycling (Brownell), seeking approval of solar power generation projects at two locations in the Town.

Public Hearing for Blanchfield:

The applicant provided a brief description of the project.

Board members asked a series of questions of the applicant to clarify the present and potential future scope and nature of the buisness.

Applicant indicated that she currently had 21 dogs living at her residence and proposed allowed expansion up to 33 dogs, that the dogs were housed in crates located in the basement of her residence and that the dogs were allowed outside for exercise in groups of up to 12 dogs at a time for periods throughout each day. Someone is always present at the business.

The applicant stated that she had started her business in about 2009, at which time she had 8-9 dogs present at her residence including her personal pets. The business expanded to its current level over the intervening years.

The applicant described her efforts to mitigate the dog noise by installing fencing and by locating the outside pens on the property so as to be blocked by buildings.

Comments were received from neighbors of the project, Jim Gallagher and Jamie Ziehm.

Mr. Gallagher described his experience of daily dog noise at his residence, located less than 100 feet from applicant's residence/business. He observed that, particularly since 2014, significant dog noise occurred when the dogs were outside during multi-hour segments of time throughout each day. He acknowledged that the noise was not present when the dogs were inside. Mr. Gallagher observed that the dogs barked incessantly, without regard to passing vehicles or pedestrians, though it became much worse with such passings. He stated that, despite certain of the dog pens' location behind buildings and fencing, the noise was not significantly deminished. Mr. Gallagher played a CD that he had recorded of the dog noise he had recently experienced in his home and on his property. He indicated this was his experience every day.

Ms. Ziehm, who resides at and owns and operates a horse training and boarding business about 500 feet from applicant's residence, agreed with Mr. Gallagher's description, adding that certain of her clients had expressed their concern with the persistent dog noise from applicant's business, as it interfered with their expectation of a tranquil, rural experience when they came to ride and participate in the training their horses. Ms. Ziehm stated that, even at the distance she was from the dogs, the noise was a significant nuisance and was negatively impacting her business. Ms. Ziehm provided copies of emails from clients and acquaintances expressing their observations about the nuisance created by the dog noise.

Both commentators indicated their belief that the dog business negatively impacted their property values. Mr. Gallagher stated that the dog noise had been cited by prospective purchasers of his residence which he had been attempting to sell, as reason not to buy.

Ms. Ziehm confirmed that she had not received written notice of the hearing in this matter, Mr. Gallagher having estimated her property to have been less than 500 feet from the applicant's property. The Land Use Law requires notice to all landowners within 500 feet of the applicant's property lines. The applicant stated that she had relied upon the

calculations of the Town Assessor, to determine to whom notices were to be sent, which is accepted procedure by the Board.

The applicant indicated that the noise experienced by the commentors would have been no worse than the noise of packs of "coy-dogs" observed to be occasionally present in the area.

Motion to close public hearing by Joe MacDonald, second Gerry McAulliffe, affirmed unanimously.

During the course of the Board's preliminary review of this project, the applicant suggested that the main cause of barking was due to the dogs seeing cars and people passing on the road in front of the residence. In response to the Board's requests, the applicant propose mitigating measures to address the dog noise by installation of additional stockade or other fencing to block the noise and the ability of the dogs to see cars and people passing on the road.

The Board completed the SEQR Act review, determining the noise impact from applicant's business as proposed was a major environmental impact, was in material conflict with the Town's land use plan and zoning regulations and would impair the character and quality of the existing community. The project was determined to result in large and significant adverse impacts.

The letter from the County Planning Commission was placed in the record.

Chairman Hoag, Joe MacDonald, Andy Beaty and Jerry McAulliffe each indicated their respective opposition to the project, due to the current and foreseeable impact of dog noise on the neighbors. Chairman Hoag stated the it was clear from the beginning that the dog noise from the business was a major issue, and that the business had been established and substantially expanded in violation of the Town's Land Use Law and, therefore, was illegal. Andy Beaty referenced the tax and other documents provided by the applicant, evidencing the establishment of the business without the required permits. All members indicated their agreement that the applicant had not offered measures that would sufficiently mitigate the dog noise impact from the business.

Motion to deny the application by Joe MacDonald, second by Gerry McAulliffe, affirmed unanimously.

Applicant was advised that she was not allowed to continue the business, that she would be subject to potential fines if she continued operation, and that the matter would be referred to the Town Building Inspector, who would be responsible for ensuring that the business was discontinued.

Public Hearing for Nextra/Bugbee

Representative for the applicant provided a brief description of the project. Larry Bugbee and his representatives responded to various questions regarding the specific design and operation of the project, including questions about the location, aesthetic impacts, fencing and potential hazards of the project.

Comments were received from neighbors of the project, Jeff Delurey, Elizabeth and Ken Sprega, Mel and Stacey Kenny Parker, Leona Kenny, Bill Jacobsen and Andrea Beal. Issues were raised, including the aesthetic impact of the project on their views of the natural environment and upon the value of their residences. Certain commentors suggested that there were better locations for the project, including land owned by the applicant on Clay Hill. Commentors stated that they were already negatively impacted by the solar array being illegally constructed on the nearby Village landfill; the proposed project resulting in their being surrounded by solar panels.

While acknowledging the rightful concern of neighbors to the proposed project, Andrea Beal commented regarding the benefit of solar energy to the larger community, including the environmental and economic benefits.

It was observed that the legal notices of the project stated that it was located in a Residential/Agricultural zoning district. The Board advised that in fact, the proposed site of the project was located in a Light Industrial/Commercial district.

A question was raised about the potential health hazards from the operation of the solar array.

A question was raised regarding the benefit of the project to Town residents.

A question was raised regarding the impact of the project on wetlands in the area.

Finally, concerns were expressed regarding the use of agricultural land for this purpose.

The applicant indicated that the notices for the hearing were approved by the Board. The Board Attorney indicated that the error of district identification was not of a nature to interfere with the purpose of the public notices, thereby not necessitating renote.

The applicant advised that there were no health hazards from the project, other than those associated with management of electricity, akin to that associated with other electric facilities.

The applicant described the financial benefits to New York taxpayers, due to the reduction of energy expenses to SUNY Technical Institute, and the positive value of energy derived from a source that does not generate greenhouse gases that would contribute to harmful climate change.

Regarding the wetlands in the project area, the applicant indicated that it had significantly modified the project to relocate activities away from identified wetland areas on the site, and, as a result, the Army Corp of Engineers office would be issuing a "no jurisdiction" letter. The Board Attorney advised of his conversation with the Army Corp of Engineers office confirming this.

Chairman Hoag describe the process that the Town Board was undertaking, establishing a committee to study the apparent growing demand for development of solar arrays, such as those under consideration, including evaluation of the potential impacts of such projects on the agricultural, aesthetic, economic, environmental and other assets of the Town.

Motion to close public hearing by Joe MacDonald, second Gerry McAulliffe. Affirmed unanimously.

The letter from the County Planning Commission was placed in the record.

The Board completed review of the SEQR short environment assessment. A motion was made by Joe MacDonald that the project would not result in any significant adverse environmental impacts, second Andy Beaty. Affirmed unanimously.

A motion was made by Joe MacDonald, second by Andy Beaty that the Chairman issue a resolution granting the special permit and site plan approval with following conditions:

1. The applicant submit a landscaping plan to the Board at its next meeting, for the south and west faces of the 6 foot fence surrounding the solar array.
2. Signage shall be limited to placement on the fencing only.
3. Upon completion of construction, the permittee shall provide to the Board final electrical inspection documentation by a third party licensed electrical engineer, including certification that the project meets all NEC and other applicable codes and that, upon completion of construction, the permittee shall provide to the Board a certification that the project was constructed in accordance with the approved application and these conditions, including compliance with the vegetative landscaping provisions therein.

A motion was affirmed unanimously.

Public Hearing for Nextra/Waloomsac-Brownell

Representative for the applicant provided a brief description of the project. Mr. Brownell and his representatives responded to various questions regarding the specific design and operation of the project, including questions about the location, fencing and potential hazards of the project.

Comments were received from neighbors of the project, Patrick Bakaitus and Chuck Krawczyk.

Mr. Bakaitus expressed concern about the adequacy of the width access road from Cottrell Road to the project site and that, if that route was not adequate, that access would be sought through his property west of the project site. He also expressed concern about possible injury to kids who might climb over the fence around the project site. Finally, Mr. Bakaitus expressed concern regarding the use of agricultural land for this purpose.

Mr. Krawczyk expressed concern regarding the visual impact of the project from the road adjacent to the project. He also stated that the project could be impacted from auto accidents when drivers accidentally drove off the road at the corner, as has happened in the past.

The applicant indicate that it would be using the access alternative to cross the railroad tracks adjacent to the site, rather than relying on the access road from Cottrell Road.

Motion to close public hearing by Joe MacDonald, second Gerry McAulliffe. Affirmed unanimously.

The letter from the County Planning Commission was placed in the record.

The Board completed review of the SEQR short environment assessment. A motion was made by Joe MacDonald that the project would not result in any significant adverse environmental impacts, second Andy Beaty. Affirmed unanimously.

A motion was made by Joe MacDonald, second by Andy Beaty that the Chairman issue a resolution granting the special permit and site plan approval with following conditions:

1. The surrounding fence at the site will be 6 feet in height with a smooth bar on the top.
2. Signage shall be limited to placement on the fencing only.
3. Upon completion of construction, the permittee shall provide to the Board final electrical inspection documentation by a third party licensed electrical engineer, including certification that the project meets all NEC and other applicable codes and that, upon completion of construction, the permittee shall provide to the Board a certification that the project was constructed in accordance with the approved application and these conditions.

A motion was affirmed unanimously.

Other business.

In relation to the auto display site on Route 22 in North Hoosick, illegally operated by Irv Cross, the Board determined that, due to the applicant's failure to pursue his application with due diligence, the Chairman should notify the Building Inspector to consider enforcement action to order that Mr. Cross cease and desist continued operation.

The Board evaluated the application of Mr. Luciano for a area variance relating to a subdivision at his property off Route 22, which would result in the location of exisiting buildings being closer to the new property line than allowed by the Land Use Law.

SEQR review commenced, to be completed after the public hearing.

Motion by Joe McDonald to deem application complete and schedule a public hearing; second by Andy Beaty. Affirmed unanimously.

Motion by Gerry McAulliffe to adjourn, second Andy Beaty. Affirmed unanimously.

J. Mark McQuerrey
Zoning Board Attorney

Minutes approved by Zoning Board
