MEMORANDUM

TO: Town of Hoosick Zoning Board of Appeals

CC: Andrew W. Gilchrist, Zoning Board of Appeals Attorney, Gilchrist Tingley, P.C.

Sage Ezell, Senior Project Developer, CS Energy

FROM: Kevin J. Schwenzfeier, Senior Planner, Laberge Group (TDE)

DATE: October 1, 2023

RE: Hawthorn Solar, LLC Special Use Permit & Area Variance Public Hearing Summary

**Public Comment Summary**

Mr. Gilchrist read the Notice of Public Hearing to the public. The public hearing was open for discussion and they were asked to keep it to 3 minutes each for comments. A motion was made by Mike Bailey to adjourn the public hearing on the Hawthorn Solar Array, seconded by Fred Pirie to hold the Public Hearing open for future comment.

The following is the summary of comments and questions from attendees. The applicant is asked to respond to all questions in writing.

Janice Cipperly-402 Spicer Road

Ms. Cipperly stated that she is against the project, she would be affected because her property is on the intersection of both Pine Valley Road and Fords Road and she would be able to see the panels. She also stated her brother Carl Cipperly, who could not attend, is also against the project. She asked if it is run by batteries and would there be a noise issue from the panels. Mitch Quine stated that there might be a small noise but the panels are not run by batteries. Janice stated that it impacts other than neighbors it also impacts others who travel daily on Pine Valley Road.

No Additional Questions

Ceilia Plasse- 28 Wagner Road

Ms. Plasse stated that she was against the project. She was concerned about Safety, stated there were a lot of woods and grass around and wanted to know if they would see the Solar from Pine Valley Road She inquired about the maintenance of the project and wanted to know if property owners benefit from the electricity and what the benefits are to the Town of Hoosick. She also wanted to know what kind of company CS Energy was and what happens to the land if the project is no longer there. Mitch Quine stated that CS Energy is a privately owned domestic company based in New Jersey. He stated there is not a power reduction on your current bills but residents could sign up to go off the panels to save if they

have National Grid, Town of Hoosick would benefit from the taxes that will be paid to the Town. Mitch stated you can see if from Pine Valley Road and there will be a maintenance plan for the project and if solar is no longer there will be a bond to take out the panels. The property can be accessed by the Fire Department and EMS and they will provide training to them. She was also concerned about the noise level the way it sits on Pine Valley Road. She also had a concern because there are Bald Eagles in the area. Mitch Quine stated that DEC had no concerns.

Additional Questions:

* 1. What is the benefit for the town?
  2. Could toxins end up in the ground?
  3. What level of maintenance is required?
  4. What are the safety hazards of the facility?
  5. What is the ownership structure of the facility?
  6. How local is this project?

Marianne Zwicklbauer-73 East Hoosick Road

Marianne stated that she read everything online that the applicant put on the Town Website for the Hawthorn Solar Array Project and also read the Town Law and the Zoning Law. She has many concerns on the project. Marianne Zwicklbaur sent in a written report about her concerns in which I have attached to the Town of Hoosick Public Hearing minutes. **See Attachment A** for full comment letter.

Additional Questions:

1. Area Variance Criteria don’t apply.
   * 1. Detriment to property values.
     2. Setback changes are permanent and stay with the land.
     3. High environmental impact.
     4. Need changes to tree-clearing laws.
2. Landowners need to be the ones to ask for variance.
3. What is the price for remediation?
4. Why doesn’t this project utilize Agrivoltaics?
5. Coxsackie changed zoning for solar to industrial zones only.
6. Should provide reimbursement to all who lose property value.

Mr. Gibbons-Lower Pine Valley Road and 1483 St. Road Rt. 7

Mr. Gibbons stated he has property on Pine Valley Road and was concerned about landscaping and screening and doesn’t think anything can block the view of the project. He stated he is against the project. He believes the solar project will devalue their property with the visual impact it will have. Property at highest elevation on lower Pine Valley Road.

Additional Questions:

1. Unable to screen the area from their property and will lose vista.
2. Should offer a site visit for all residents to show impact of the project.
3. How does the bond adjustment every five years work?
4. Assessment will change, how will properties maintain their values?

Lloyd Moses- Eagle Bridge Road

Mr. Moses wanted to know if there would have to be upgrades made to the Hoosick Substation. Mr. Moses was concerned about whether there will be a Pilot Plan from the Company with the Town and School. He stated that Fords Road will not be the only road affected by the construction of the project. He wanted to know what happened after 30-40 years would it go back to farmland? Mitch Quine stated that there will not have to be any upgrades to the substation and he stated that there will be a Pilot and Decommissioning plan and there will be a Bond. DEC recommends there will be a weekly maintenance on the construction for stormwater issues. Mr. Moses stated he is not in favor of the solar array.

Additional Questions:

1. What is the Hoosick substation capacity?
2. Will this be a PILOT project?
3. What is the total value of the property after its built?
4. Who are the partners and subsidizers?
5. What are the road impacts to Fords Road and Pine Valley Road.
6. Why would this site ever be turned back to non-solar?
7. Stormwater management inspection is necessary beery 30 days during operation and each week during construction.

Don McCabe: 682 Pine Valley Road

He stated his concerns are Stormwater Maintenance, Impact on the cemetery on Fords Road and the loss of habitat from Large Projects. He has had wildlife travel through his property and does not want to see

that disturbed. Mitch Quine will look into the cemetery on Fords Road and would not disturb that property. He stated there is a stormwater maintenance plan.

Additional Questions:

1. What types of drives are on the tracking system?
2. What impact will there be on the cemetery at north end of property?
3. Pheasants are released in that area, what will be the impact?
4. Will there be an alteration to wildlife travel?

Mr. Willard-Windy-Lea Farm 10 Mitchell Road

Mr. Willard was very concerned about his business. He has 75 acres adjacent to the solar project and he breeds thoroughbred horses. His main concern is the construction site is close to where he breeds his horses and he fears the noise will have an impact on his business. He fears that when his horses are pregnant the noise might scare them and they will lose their babies and that would have a huge financial impact on his business. He has consulted a veterinarian but there will be no way of knowing until the

construction for the solar project begins. He breeds about 12 to 15 horses a year.

Additional Questions:

1. Concerned about the construction noise impact on 12 pregnant thoroughbred mares.
2. Potential loss of livelihood if they miscarriage due to stress.
3. Breeding is from February through June.

Richard Hunt-Hoosick Fire Department

Mr. Hunt stated that this is a bigger project than he thought and he’s concerned you might need two Fire Departments to get into the site. He also inquired about the tax credit and revenue the Town will receive when the project is complete.

Additional Questions:

1. What is the tax levy going to be on the properties; less, equal, more?
2. Will it be taxed on top of current taxes?

Joyce Brewer: 20 CT Lane

Joyce Brewer was concerned about the cemetery also. She was concerned with someone that was buried there and how this project would impact that. She was also concerned about the construction and the big trucks on the Town Roads and wanted to know if they hire local companies. Mitch Quine stated they do partner with local companies when possible and any damage to the roads they will pay. Joyce stated sometimes the damage doesn’t happen to the roads for a while.

Additional Questions:

1. How will you avoid the burial plots?
2. Current road funding is insufficient; costs $13k/mile for pavement. What will the truck traffic impact be on the roads?
3. What is the noise level from the fans?
4. General noise levels are amplified due to the topography of the area and should be accounted for.

Nancy Mills-75 Pine Valley Road

Nancy Mills stated she is not opposed to solar; she has panels in her yard for solar energy. She is more concerned of the visual impact and stated how 12 people will be able to see the panels from their property. She wanted to know if the equipment is American made and who benefits from the solar project. Mitch Quine stated that they use Tier 1 Manufacturer for the panels and property owners could benefit with a 10% discount if they have National Grid power and the Town would benefit from the taxes they will be paying.

Additional Questions:

1. Solar proponent at a small scale.
2. What percentage of Pine Valley residences will be able to see the array?
3. Where are the panels coming from?
4. There will be an impact from noise and light due to tree clearing.
5. There is going to be little benefit to the community.
6. Who is benefiting from this project?

Jeff Wysocki-21063 St. Road 22

Jeff stated he is not opposed to the project. He has a solar project on his property and he entered into a Pilot Program. He asked Mitch Quine why he wasn’t approached for the solar project on his land. Mr. Quine stated the #1 factor was cost, slopes and the lines of the property.

Additional Questions:

1. $5-6k/MW per year, $1M over 20 years in taxes based off the county model.
2. What will be the impact to travelers?
3. Will local workforce be utilized? How many jobs?
4. Why was the project scaled down?
   1. How will you prevent impact to bald eagles?
   2. Why aren’t domestic companies being utilized for materials?

**Attachment A**

Letter to the Town of Hoosick

September 12, 2023

Dear Town of Hoosick Zoning and Town Boards,

Last week I attended the Public Hear for a solar project on Ford Rd. and Pine Valley Rd. I would like to summarize my talking points for review. I have sited NYS Law as written in the James A. coon Local Government Technical Series on NYS Department of State’s Website, for Special permits and Area Variances.

I referred to the 5 legal questions an applicant must answer to be granted and are Variance.

**“The Zoning board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:**

1. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance**
2. **Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance**
3. **Whether the requested area variance is substantial**
4. **Whether the purposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
5. **Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the variance**

**The zoning board of appeals, in the granting of area variances, shall grant the minimum variance it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.**

These are essentially how the company answered and my comments to their responses:

1. Efficient design, cost savings, more panels, ( more money they make) is not a viable answer to question 1. They needed to prove that it would not affect the character of the neighborhood
2. They admit that project can be done without variance but at a greater cost to themselves. Again not a viable answer under the law. It costing more or the fact they won’t make as much money is not a legal answer to this question
3. The company says that this is not a substantial ask. This is very substantial to the people who live there.
4. They claim there will be no adverse effect or impact. Area variances are attached to the property forever. Just one circumstance I see is that one of the properties could be sold and the new owners would have solar panels right up to their property line with no set backs and no recourse to get them back.
5. This is from the view of the companies not having control over local laws and setbacks so therefor it was not self created. I argue that it is completely self created because they do not need the setbacks changed to proceed with the project, they just make less money.

**All of these questions need to be legally answered correctly for an area variance to be granted.**

I also made the argument that the landowner has to be the one who fills out these questions. The Variance goes with the property and Lessees and renters cannot be the one answering these questions. My thoughts were substantiated by Rensselaer County’s office of Economic Development, specifically the person who has written most of the Zoning ordinances in the County for many years.

**Questions I left with the Board:**

**1. Special Use Permit application is needed as per our own Zoning laws. To apply and receive this permit you must prove that your project does not “adversely affect the neighborhood”. The sheer turnout of people against this project including all of the surrounding property owners believe there will be a huge adverse effect of the neighborhood and who else should determine that but the people who live there.**

**2. How were decommissioning amounts come up with considering there has not been one in NYS to date? Who is the recycler and are you using their current recycling rates? Have you factored in shipping the panels to the recycler if recycling is not local? Is there a time line promised for remediation?**

**3. How does removing of mature trees not effect the neighborhood and the environment? The flora and fauna in just one tree and below it is significant. You are changing shade to full sun which is a huge environmental impact.**

**4. Why aren’t agrivoltaics being used?**

**5. In the Town of Hoosick Solar Zoning law, if variance is granted the zoning board has the right to require screening for panels. Will you consider large trees planted with native shrubs to screen the entire perimeter of the project?**

**6. Company has stated that trees will be replanted when remediation/decommissioning happens. Have these funds to be set aside, calculated “whips” or larger size trees as replacement estimates?**