

TOWN OF FORESTBURGH PLANNING BOARD

DRAFT Minutes

December 19, 2023

The meeting was called to order at 7:00pm by Chairman Richard Robbins at the Town Hall in Forestburgh.

Members Present: Katherine Barnhart
Anthony Cardoso
Alan Devlin
Susan Hawvermale
Arthur Leaney-Levenson
Richard Robbins - Chairman
Robert Sipos

Town Attorney: Javid Afzali

Recording Secretary: Billie Jean McGinnis

Approval of Minutes

Motion made by S. Hawvermale to approve the minutes as amended. Seconded by K. Barnhart.
Vote: All in favor.

Public Comment on Applications on the Agenda

There were no comments.

NY Forestburgh I, LLC

Barbara Garigliano, Mollie Messenger and Melissa Melko presented on behalf of the applicant. They are seeking approval for a large scale ground mounted solar system on Route 42, approximately one mile from the Route 42 and Hartwood/Forestburgh Roads intersection

Mrs. Messenger provided an update. The site plan has been updated. They're working with DOT for approval for commercial driveway permit. Drainage ditches were added. SWPPP should be ready within 10 days or so. Fencing has been added. Landscaping plan has not been included because additional plantings or visual studies may need to be done. The neighbor residences have been added along with the distance. There's one close neighbor but the solar farm will not be visible from across the street.

A.Cardoso asked if the current fencing and entrance will be remain the same? Mrs. Messenger stated that it's the same entrance but because it's a different use, a different permit is required.

Chairman Robbins asked if, assuming the lot is subdivided as proposed, what is the lot coverage of the solar project on that parcel? Mrs. Messenger explained that it's about 9 acres of coverage. Chairman Robbins reviewed the Code definition of coverage. By the description in the summary provided, it states that 29.32 acres. Mrs. Garigliano explained that it's less than 40%. The description has the fence perimeter and not the actual coverage. Mrs. Messenger said they're aware of the coverage and they're well below it.

Chairman Robbins asked if there's a residence on the property across the street. S.Hawvermale stated that it's quite a distance away. T. Gottlieb said the closest residence is about 870 feet away.

R. Sipos asked how many acres of trees will be cleared. Mrs. Garigliano explained that the 59 acres will be cleared but it's not all trees. It was logged years ago and now is all thick rhododendron. The seeding area is 55.7 acres. It doesn't have a tree count. How much CO2 is taken out of the air and how much oxygen does that produce? Mrs. Messenger said they don't have that data because they don't have an actual tree count. R. Sipos would like to know how many trees will be cleared. A. Cardoso would like to see an actual forestry report.

A.Cardoso asked about the shape of the proposed subdivided parcel. There's a notch out of the corner. It would make more sense to square it off. Mrs. Garigliano will ask the surveyor for this information.

Chairman Robbins stated that this will be part of a community solar program with reference to a discount off the utility rate. He asked how much of a discount this represents. Mrs. Messenger will research this further.

Mrs. Garigliano would like this application to be treated as a land division. They submitted the application as a subdivision to get it in because there was no other pathway. The Town Code states that the Board may exempt it from the normal requirements of a subdivision. Chairman Robbins read through the definition and requirements and agreed that this meets the criteria to qualify as a land division. He confirmed with the applicant that they wish to amend their application from a subdivision to a land division.

J. Afzali explained that according to the Town Code, this could be categorized as a land division and would be exempt from the normal subdivision requirements.

Motion made by K. Barnhart to exempt this division from the requirements of the minor subdivision law and deem it a land division. Seconded by A. Cardoso.
Vote: All in favor.

Roll Call Vote:

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|-------------|-----|--------------------|-----|
| K. Barnhart | Aye | A. Leaney-Levenson | Aye |
| A.Cardoso | Aye | R. Robbins | Aye |
| A. Devlin | Aye | R. Sipos | Aye |

J. Afzali explained that because this is part of a broader project, it makes sense to avoid segmentation issues to combined the SEQRA review with the review for the solar project. Mrs. Garigliano is in agreement. They want the approvals to parallel each other. She wants to hold off on a vote until they have the site plan approval because they go hand in hand. She indicated that this land division will not be subject to the public hearing. It's not required. A public hearing and 239 review are not required.

Chairman Robbins stated that they have the bulk of what's needed but they need a few more things within the 15 days of a public hearing. They need items #5, site clearing and grading plan. #12 – erosion and sediment control plan, #13, SWPPP. These are needed 15 days before to allow time for review.

R. Sipos asked about the sight distance. T. Gottlieb said this info is part of their DOT permit.

Motion made by K. Barnhart to schedule a public hearing for January 23, 2024 at 7:00pm conditioned upon the receipt of missing materials within the proper timeframe. Seconded by S. Hawvermale.

Vote: All in favor.

Rules of Procedure

Chairman Robbins explained that other Boards have a set of procedures in place for general purposes. The Town is finding themselves in litigation. The Board needs to be confident in the security and defensibility of their actions as a Board. Afzali drafted rules of procedure for review and discussion.

The Board reviewed and discussed the document section by section. J. Afzali provided explanations as needed.

After a discussion, the Board decided to designate a temporary Vice Chairperson to conduct meetings in the Chairman's absence. J. Afzali will make the changes and redistribute the document for additional review and discussion at our next meeting.

Other Business

There is no other business.

Adjournment

Motion made by S. Hawvermale to adjourn the meeting at 8:16pm. Seconded by A. Cardoso.
Vote: All in favor.