

MINUTES OF THE PLANNING BOARD OF THE TOWN OF KINGSBURY

Minutes of October 18, 2017

MEMBERS PRESENT:

Robert Dingman, Chairman  
Justin Fehl  
Karen LaRose  
Tim LaSarso  
Todd Murphy

MEMBERS ABSENT:

David Gauci (Excused)  
Randy Getty (Excused)  
Cheryl Hogan – Alternate (Excused)  
Randy Weaver (Excused)

Code Enforcement Officer  
Ross Cortese

TOWN ATTORNEY

Jeff Meyer, ESQ.

The meeting was called to order by Chairman Dingman at 7:00 P.M.

Roll call of all Members and Officials.

Chairman Dingman entertained a Motion to Approve the Minutes of October 18, 2017.

**ON A MOTION BY MR. LASARSO**, seconded by Mr. Fehl, the minutes of the October 18, 2017 meeting were approved.

AYES: NAYES: 5

ABSTAIN: 0

MOTION CARRIED

**1. AVIATOR WAY SOLAR, LLC**, contract vendee of Tax Map # 127.-1-27 and 127.-1-26.3 commonly known as 40 Aviator Way, Queensbury, NY, located in Zoning District, Residential Agricultural RA-1A District is seeking Site Plan approval to develop a 2 MW Solar Energy Facility at this location. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman opened the Public Hearing.

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Chairman Dingman introduced Bryan Stumpf, Cypress Creek Renewables, Zoning & Outreach Manager to address the Board.

Mr. Stumpf introduced Chuck Utschig, Langan Civil Engineering who will address the concerns from the September 20, 2017 meeting, also in attendance, Thomas Puchner, Phillips Lytle Attorneys at Law and David Wagner, Cypress Creek Renewables, a Project Manager who will be able to address any of the construction concerns. Mr. Wagner stated he is not the Project Manager for this project.

Mr. Stumpf stated he has a list of concerns that were brought up at the last meeting. On September 20, 2017 he went to the site and spoke with Don Gimbel and Amber McNally of Aviator Way.

Mr. Stumpf stated he wanted to get pictures to show exactly what to expect once the road was installed. Mr. Stumpf assigned the work to Langan Engineering. Mr. Stumpf provided pictures to the Board of the before and after renderings of the road elevations. Mr. Stumpf was able to address Mr. Gimbel's concern of how the road would be elevated.

Chairman Dingman asked if the septic system concerns of the residents had been addressed.

Mr. Stumpf stated after the last meeting he met with Mr. Gimbel. The Burdick's were not there. Mr. Stumpf reached out to them by email and arranged a time to meet with them. Mr. Stumpf and Mr. Utschig met with the Burdick's on Thursday, October 12, 2017. Mr. Stumpf stated Mr. Utschig was there as an independent third party to give his thoughts on the location of the septic tank. The Burdick's indicated where they thought the septic tank was located. Mr. Giroux was there to give his thoughts.

The general understanding now is from what they have seen the road is not going to affect their septic tank.

Mr. Utschig stated they don't know the exactly where the field is, although based on the evidence they could see, the cleared part of the site and the description from the owner who built it, they have a pretty good idea of where it is. It currently looks like the road and the fill section currently being proposed will not encroach on the septic system, it will be a distance away from it.

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Mr. Utschig stated they have offered to locate the septic for the owner of the property. Locating the edge of the septic is pretty easy. They will hit gravel and know where it is. They will actually locate the septic and relate to the stakes show where the road was at. Mr. Burdick was comfortable with the road not affecting the septic system. Mr. Utschig stated it seemed like if Mr. Burdick got that information he was comfortable with this. Mr. Utschig stated he is not speaking for Mr. Burdick, this is the indication he got. They will be able to demonstrate to the Board that there will be no impact to between the two. This is a step they are in the process of doing and will be able to submit a plan to show this and a report from Langan indicating if there is any impact or not.

Chairman Dingman asked if the drainage concerns had been addressed.

Mr. Utschig stated the neighbors were concerned with the elevation of the "lake" not changing. Based on some investigation they now have some a pretty good understanding of the level on lake. It is from the old culvert that goes under the old haul road used when they harvest the trees. The existing culvert currently controls the level of lake. The culvert will remain there. If it needs to be replaced Cypress Creek will replace it keeping it at the same elevation. There is also an over flow that goes across the road and they will also maintain the over flow. They are doing everything they can to match the current elevation.

Mr. Stumpf stated at the last meeting the home owner referred to the lake as a pond. It is a large pond therefore it could be referred as a lake.

Mr. Stumpf stated at the last meeting there were concerns with the timing of construction. The team put together what they envision how the construction will play out. Mr. Stumpf handed out a time line to the Board showing the timing of construction.

Chairman Dingman questioned how long the construction period will be and what the hours for this project will be.

Mr. Stumpf stated the construction period approximately 12 to 16 weeks.

Mr. Wagner stated typically the hours of construction are usually 7:00 am to 5:00 pm. If there is an issue with the neighbors they can change to hours to 8:00 am to 5:00 pm. They like to do overtime so that the project is completed sooner but if that will be an issue they can work it out.

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Mr. Wagner stated most of the time they do not allow tractor trailers or large equipment to work after hours. In the beginning there will be a little bit of clearing of trees. The biggest time for tractor trailers on the site will be for deliveries.

Don Gibbel, 41 Aviator Way, stated he feels there will definitely be flooding on his property with this design. When they originally talked it was of something a little more gradual.

Mr. Utschig stated when Mr. Gimbel stated gradual he thought they talked about keeping the road down as low as possible going in and that makes the transition to your property as gentle as possible. They are working on that solution.

Mr. Utschig stated to the Board there is nothing that they are proposing that changes the current drainage patterns on the properties as you go back to the project site. There is currently a gravel road which they will maintain, the road gets wide and will be using a heavy stone that is an approvable design that has been approved by DEC and are not changing any of the grades so as to change the current drain patterns. The greatest impact they could have is blocking the drainage as a result of their road which comes from the lake and goes across. They are being very careful to maintain what is already there. If there is currently a drainage problem they will not make it any worse but they will not make it any better.

Mr. Gimbel stated in the spring when there is a heavy snow fall he does get water. He believes this design is going to make it a whole lot worse. He would like to see a design with the property line because he just doesn't see how this is possible with a twenty foot road not encroaching on his property. He is not saying they are against this project; he wants to see the property lines.

Chairman Dingman requested a plan showing the property lines for the homes on Aviator Way to see who belongs to what.

Mr. Utschig stated they will agree to verify the property corner and verify the property lines. Mr. Utschig stated he was sure CCR would be willing to put the stakes in the ground for the home owners. They cannot in our design encroach on properties they do not own. They are very confident their design can do this. This is a visual perception and not engineering based.

Mr. Stumpf reminded the Board on May 16, 2017 they submitted a Stormwater Pollution Prevention Plan that will make clear they will find ways to make sure the drainage does not affect anyone's property.

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Mr. Stumpf stated at the last meeting there was talk of the decommissioning. He believed the Board had received this information before tonight's meeting.

Chairman Dingman stated the Board had not received anything. Mr. Stumpf then provided the Board with copies of the decommissioning information.

Mr. Stumpf stated they have a third party independent person that can provide Langan's estimate of cost for decommissioning.

Mr. LaSarso stated the Board had asked for something showing where the houses are located along with the property lines.

Mr. Utschig stated they do have an aerial with them. This aerial is a lot clear than what the Board was given earlier. He will make it part of the record when he does the submission.

Mr. Utschig stated this is a bit of work in progress until they locate the septic's. When they come back they will have additional detail that will substantiate the presentation being presented tonight.

Mr. Stumpf stated construction for this project will not start until 2018.

Chairman Dingman requested Mr. Gimbel to take pictures of the snow this winter and rain in the spring showing the flooding on his property.

Mr. Gimbel stated he will have pictures for the Board.

Chairman Dingman stated that a stipulation in the resolution will indicate that the work done is not to cause an increase in flooding that already exists.

Mr. Gimbel questioned what his recourse of action would be if there is a problem with flooding on his property.

Chairman Dingman stated his thought would be a stipulation in the resolution if there was more flooding than what is there now. The stipulation in the resolution would provide the property owner with the tools for redress against Cypress Creek. He also indicated that this was his opinion and that he was not an attorney.

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Mr. Giroux stated the worst flooding he has ever seen on this property was around 1983. At that time the pond filled up to the top of the road and over flow on the road. That wasn't even a 100 year flood. When this flooding happened Mr. Gimbel's property was all flooded except for where the house is located. Everything in the wetlands was flooded. This was a function of the weather not the history of the last three years. You can expect worse flooding than you have seen if nothing is done with the wetlands.

Mr. Gimbel stated he would like to see his property stay the same as it is at this time. At this time he cannot see how this rendering can work. He is looking at where the pond, the road and his property lines are now. He does not believe they can squeeze that much in.

Mr. Utschig stated the surveyor will set the corners and put pins in the ground. There will be no guess work or approximation work. They will come back to the Board with this information.

Mr. Utsichg stated the survey stakes will show where the property lines are. If it is not what they think it is, they are obligated to develop a solution. They will be doing a technical engineering way that will hopefully be easy to follow so that there is no guess work.

Chairman Dingman questioned Mr. Stumpf if they have heard anything from DEC.

Mr. Stumpf stated they are still waiting to hear from them.

Chairman Dingman stated the Public Hearing is still open.

Mr. Gimbel questioned the draft minutes from the previous meeting.

Chairman Dingman stated the minutes are not done verbatim. If there is something specifically you want in the minutes you need to put it writing and they will be submitted with the minutes.

Mr. Gimbel gave the Chairman a copy of his notes he had taken from the last meeting for the record. (A copy is attached)

Chairman Dingman stated any other concerns the public may have should be put in writing so that they can be addressed at the meeting and put in the resolution as stipulations.

Chairman Dingman stated the Public Hearing will remain open.

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**2. PRELIMINARY – ROZELL DEVELOPMENT, LLC**, Tax Map # 137.-2-47 commonly known as 119 Park Road, Town Kingsbury, located in Zoning District, PIC-75 Park/Commercial District, is seeking Site Plan Review to construct a new 12,000 square foot Butler Pre Engineered Building for Fabrication. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Dingman introduced Michael Rozell, Rozell Development and Shawn Rivers, Schoder Rivers Associates to address the Board.

Mr. Rozell stated he and his brother Brian Rozell own the business. They are proposing a 12,000 square foot building on Park Road. At this time the cranes they use are being stored outside on the lot where this proposed building is located. The building will be used as a fabrication shop. At the present time they are leasing an 11,000 square foot in Albany, NY. This building is not working for them due to the fabrication business being very busy at this time. They will be moving the fabrication being done in the building located on Queensbury Avenue to the new building. They will move the cranes back to Queensbury Avenue building to get them out of the weather.

Mr. Rozell stated he had been to the IDA meeting. The IDA had a couple of questions on the site plan. One being the site plan was showing a different setback on the side then they would like. He put in the Town of Kingsbury code for setbacks and the IDA said they would defer to Kingsbury. The other change would to be more paving. This would change the Stormwater Protection Prevention Plan. This has been changed already. Mr. Rozell stated he already had a 911 number for the property. They will continue doing what they have been doing as far as the other three buildings they own. They are in the process of buying 2 buildings from Lewis Crane. These buildings are primarily used for maintenance, storage and office space.

At this point they are not planning any fencing around the building. They may at a later date. There will not be outside storage. Once the building is up there will not be room for outside storage.

Chairman Dingman stated one of the issues in the past and nobody ever pushed it but in the Industrial Park there is an outside storage regulation.

No outside storage would be a condition to the approval.

Mr. Rozell stated there would not be any outside storage.

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There will be visual landscaping. They try to be a good neighbor. This building will have wall packs for lighting purposes. This is mainly for security reasons. There will not be any zoning changes. This building will be approximately 4 feet higher than the one they have at this time. You won't notice it because it sits down four feet.

There will be a small retention pond. The paving will be similar to their other buildings they have.

Mr. Rozell stated it will be a steel building, the same as they already have. He is thinking the building will be a tan coloring

Mr. Fehl questioned if there would be any gates or signs.

Mr. Rozell stated there will not be any gates on the property. As for signs there are identification signs on the other buildings they own. They will be doing the same on the new building. At this time they have 5 buildings. This building will be number 6 and have a small Rozell sign on it. This is how his employees know where everything is.

This project is tabled until November 15, 2017 when there will be a Public Hearing.

**ON A MOTION BY MR. LASARSO**, seconded by Mrs. LaRose all in favor, the meeting was adjourned at 8:30 P.M.

Michelle Radliff  
Secretary



OCTOBER 18, 2017

## ATTACHMENT

10-18-17  
Don Gimbel

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Our #1 concern is the health & welfare of the 6 families on the right of way. There are small children as well as individuals with serious health issues which at any time could require an ambulance and/or fire trucks. This will require immediate access and must be available 24/7 365. There must be no obstruction to these emergency vehicles. N.Y.S. Fire Code requires 20 feet of clearance. 503.6

SO NO PARKING CARS TRUCKS NO EQUIPMENT ON ROAD. NO BUILDING MATERIAL