

**PLANNING BOARD MEETING – FEBRUARY 6, 2023**  
**CALLED TO ORDER BY: CHAIRWOMAN DENISE MAYRER AT 7:00 p.m.**

**PRESENT**

Denise Mayrer, Chairwoman  
Wayne Johnson, P.E.  
Lawrence D'Angelo  
James Shaughnessy, P.E.  
Stephanie Leonard  
Attorney Craig Crist, Esq.  
Richard Laberge, P.E. Planning Board Engineer  
Melissa Knights, Planning & Zoning office.

**MEMBERS ABSENT**

John LaVoie  
Andrew Aubin

**APPROVAL OF THE DRAFT MINUTES FOR — DECEMBER 19, 2022**

Johnson moved, Shaughnessy seconded that the minutes be approved as amended, as the draft minutes of this meeting.

5 Ayes. Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: None

**APPROVAL OF THE DRAFT MINUTES FOR — JANUARY 9, 2023**

Johnson moved, Shaughnessy seconded that the minutes be approved as amended, as the draft minutes of this meeting.

5 Ayes. Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: None

**PUBLIC COMMENTS**

Resident spoke in favor of item # 7 the agenda Cecile Gregory Solar.

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Resident spoke in favor of item # 7 the agenda Cecile Gregory Solar.

Resident spoke against of item # 7 the agenda Cecile Gregory Solar.

Close the public hearing 7:20

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Melissa Knights read the hearing notice(s) as published in the Troy Record:

**Robert Day published January 28, 2023**

Chairman Mayrer directed the affidavit(s) of publication be made part of the hearing record(s).

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Public Hearing Opened at 7:24 p.m.

Public hearing left open until next meeting

Robert Day

2023-5/HC/200.-7-38.1 & 38.2

373 Shufelt Rd & 3997 US Rt. 20

Proposed - 2 lot sub & lot line.

Robert Day, applicant and Kevin McGrath, land surveyor were present for this meeting.

Mr. McGrath stated the applicant has 2 tax parcel, one tax parcel on Rt 20, second tax parcel on Shufelt road, auto repair shop and his home is on the Rt 20 parcel. Applicant wants to subdivide the repair shop from the home. making the land into 3 tax parcels. The auto business is currently being rented out, the applicant is moving the lot line for the house on Shufelt to make a driveway and get road frontage for the home behind the garage.

Mr. Laberge asked for clarification, this is currently 2 lots being made into 3 correct.

Mr. McGrath stated correct, he went through the map and showed the board all the proposed changes.

Mr. Johnson stated the new lot line between the garage and the home shows a 4-1/2 feet. This doesn't come close to meeting code so he is not sure that the planning board can approve this. The code requires a 40-foot rear setback. And in doing this creates 2 non-conforming lots and this should go to the zoning board for a variance. Also is there well and septic for the garage.

Mr. McGrath stated the garage has its own well and septic.

Mr. Johnson asked if it was separate from the house.

Mr. Day stated the house is hooked up to town water and has its own septic.

Mr. Johnson stated his big issue is having a lot line that is 4 ½ feet from the garage, which is the main structure on lot one,

Chairwoman stated we cannot approve this application when it is creating a non-conforming lot. This needs to go to the ZBA.

The board agrees to hope that application open until the next meeting.

Johnson moved; Shaughnessy seconded to adjourn this public hearing until the next meeting.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

### **Lot Line Adjustment**

Christine Paulsen

2023-3/RA/210.-7-113 & 14.112

117 / 165 Irish Hill Road

Proposed - Lot Line Adj.

Christine Paulsen, applicant was present for this meeting.

Mrs. Paulsen stated they live at 165 Irish Hill Road, they have a lot that is 25.55 acres, her daughter's property adjoins theirs and they would like to move the lot line behind their home so their property ends up being 9.06 acres and her property ends up with 19.2251. This does not affect any of the outside lines just the rear lot line.

Mr. Johnson stated he already has a conversation with the applicant prior to the meeting. he had a question on part of the property they own is part of a trust, and they stated the lot line needs to be approved before they can change the deed and trust. The map has everything he likes to see so he has no issues with the approval to go forward.

### **LEAD AGENCY**

Shaughnessy moved; Johnson seconded that the Planning Board declare itself to be LEAD AGENCY.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

### **TYPE II ACTION**

Be it resolved that the Planning Board hereby classifies the proposed action as a Type II Action under SEQRA.

Johnson moved; D'Angelo seconded.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

### **LOT LINE ADJUSTMENT**

Johnson moved, Shaughnessy seconded that the lot-line adjustment be accepted and approved. A public hearing is not required. The property will be conveyed to the adjacent landowner and become part of that existing parcel. Upon the conditions that new maps be drawn up regarding the changes Requested by the board and resubmit for signing.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

### **Site Plan / Special Permit**

Andrew Pappas

2022-37/RA/208.-1-12

1312 Muitzeskill Road

Adopt the Notice of Decision.

The planning board approved the Notice of Decision, see below.

Mr. Johnson asked the board if anyone has any ideas on what the applicant should do about the trees for screening.

Mrs. Leonard stated 6 foot is small.

Mr. Johnson stated right now there is no resident there that needs screening from the array, the neighbor asked for screening for his daughter for the future and that may never happen, so in his mind if the trees don't die you could probably plant 2 foot trees and a lot more of them so in time the screening will be there.

### **WAIVE THE READING**

Shaughnessy moved; Johnson seconded; to waive the reading.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

### **LEAD AGENCY**

D'Angelo moved; Leonard seconded that the Planning Board declare itself to be LEAD AGENCY.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

**TYPE II ACTION**

Be it resolved that the Planning Board hereby classifies the proposed action as a Type II Action under SEQRA.

Shaughnessy moved; Leonard seconded.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

**APPROVE THE NOTICE OF DECISION**

D'Angelo moved; Leonard seconded.

5 Ayes. 0 Noes. Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: none

STATE OF NEW YORK

TOWN OF SCHODACK

PLANNING BOARD

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In the Matter of the Application

Of NOTICE OF DECISION

ANDREW PAPPAS

File No. 2022-37

For a Special Permit and Site Plan Approval.

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**WHEREAS**, the Applicant, ANDREW PAPPAS, applied for a Special Permit to operate a ground mounted 17.52 kW solar system at 1312 Muitzeskill in the Town of Schodack (Tax Map No. 208.-1-12), which property is within a Residential (RA) District on land owned by ANDREW PAPPAS, thereby seeking to establish a ground mount solar use at the property, and

**WHEREAS**, the Zoning Schedule of Use Regulations of the Town Code permits such activity within a RA District by special permit; and

**WHEREAS**, all special permit application procedures have been followed and a public hearing, on appropriate and timely notice, was held on December 20, 2021; and

**WHEREAS**, at its January 9, 2023 meeting thereafter, the Planning Board found and determined the following:

1. The Applicant proposes a ground-mounted solar collector on property located at 1312 Muitzeskill in the Town of Schodack (Tax Map No. 208.-1-12), which property is within a Residential (RA) District.

2. The subject property, per Applicant's representations to the Board, is proposed to contain a ground-mounted solar system on the property as represented in the plans submitted to this Board.
3. Section 219-39.2(2)(c) of the Town Code provides that a "Special use permit from the Planning Board is required for all ground-mounted racks and freestanding solar collectors greater than 10 feet in height or greater than 20 feet in length or if the solar array surface area is greater than 200 square feet in the aggregate in all residential zoning districts. All other ground-mounted racks and freestanding solar collectors shall follow the standard building permit process."
4. Taking into consideration the objectives set forth in Section 219-71 of the Schodack Town Code, the proposed special permit use is in harmony with the development of the district, will not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof, will not affect existing traffic access ways or parking, is generally in harmony with the character and appearance of the surrounding neighborhood, will not be more objectionable to nearby properties than other permitted uses, and will not adversely affect the general welfare of the inhabitants of the Town of Schodack; and

**WHEREAS**, the Planning Board previously resolved to declare itself Lead Agency under the State Environmental Quality Review Act ("SEQRA"),

**WHEREAS**, following the aforesaid public hearing at which no opposition to the proposed special permit was shown, at its January 9, 2023 meeting the Planning Board resolved to declare itself Lead Agency under SEQRA:

1. to issue a Negative Declaration for the proposed action under SEQRA, and
2. that the application for the Special Use Permit be granted for an initial period of 20 years on the express conditions set forth herein:

A. All conditions, approvals as well as all representations and promises made by applicant and/or its agents to either Laberge Group or this Board shall be adhered to.

*B. Comply with the provisions of Section 219-39.2 of the Town Code.*

*C. Prior to the commencement of construction the applicant shall demonstrate to the Town's Building Department that the proposed foundations(s) meet all applicable setback requirements.*

*D. Eight evergreens are to be planted on the border of the property in order to provide screening.*

3. That the Site Plan as presented to this Board is hereby approved.

**THEREFORE, PLEASE TAKE NOTICE THAT,** the Planning Board of the Town of Schodack has **GRANTED** the Applicant a Special Use Permit and Site Plan approval to allow operation of a solar farm on the subject property as proposed in the application.

Dated: February 6, 2022

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DENISE MAYRER, CHAIRPERSON  
SCHODACK PLANNING BOARD

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Applicant— Andrew Pappas

**Site Plan / Special Permit**

Servidone

2023-4/HC/210.-7-2

1366 US Rt. 9

Proposed - new building office & storage.

Steven Hart, Hart engineering was present for this meeting.

Mr. Hart stated the applicant is looking to rebuild their building that burn down in July of last year, part of the reconstruction will be to double its size. The original building was office and storage - now it will be storage, warehousing for the owner's boat, cars, and a semi-truck bay for a truck with equipment that can't be out in the cold weather over night, there will be less demand on the septic system because the office people were moved into the new building that was build a few years ago. But the building will remain on the town water.

Chairwoman Mayrer asked what the building will be construction will be.

Mr. Hart stated it will be a steal building, about 20 foot tall at the peak, 112-foot length and 80 foot wide, a total of 8960 sq. ft.

Mr. Johnson stated at the end of the drive through you are showing parking spaces, are those needed.

Mr. Hart stated those are part of the existing condition there will be no one in the building unless they are putting something in there to store. So, the 3 spaces on the side will be used for that.

Mr. Johnson asked about handicapped entrance and parking, they are not shown on the plans.

Mr. Hart stated he is not sure there is a necessity to have handicapped spaces for the building, it is for storage.

Mr. Johnson asked if there were going to be repairs in this building.

Mr. Hart stated no.

Mr. Johnson asked about the retaining wall, will three need have excavation for that to be installed. And do you have adequate side yard to get the equipment in to build the wall.

Mr. Hart stated yes, that's correct, also they are 50 feet off the side setback.

Mr. Johnson asked if the driveway to get into the site is going to be between the buildings.

Mr. Hart stated that is correct it is on the south side of the building,

Mr. Shaughnessy asked what is the purpose of the retaining wall.

Mr. Hart stated there is a much higher elevation on the north side of the site. the idea is to be able to bring a vehicle along the side of the building.

Mr. Laberge stated this seems to be a concept plan that has a mix of things, is this the plan parking being proposed or is this existing parking that was part of the original building. also, this is all one lot he asked Mr. Hart is he wanted to put together a new plan showing all the parking. he asked about the original size of the building.

Mr. Hart stated about half of the new proposed building around 4000 sq. ft. the new building will be 8960 sq. ft.

All agree to send this to engineering.

**Site Plan / Special Permit**

Cecile Gregory Solar  
3669 US Rt. 20

2022-19/RA/211.-2-1.21

PB 2/6/23

17-2023



Proposed - Solar Farm

Eric Redding, Bergmann Associates was present for this meeting/

Mr. Laberge stated his office did a letter that has a lot of detail on the material that was submitted back on January. The biggest items he asked the applicant to is the setback issue from Rt. 20. The other item that has caused some concern is the design is the stream that runs through the site, he is trying to capture riparian buffer around that stream for storm water quality, so it is a challenging site which limits the size of the solar, he asked Mr. Redding to talk about applicant plans are regarding the setback that is probably going to be the major issue we have to get through.

Mr. Redding stated back in September they were proposing then to meet all the setbacks including the 200 foot setback from Rt. 20, but that plan had the solar panels went over the stream, which meant they were impacting the riparian buffer which in not good for the environment. So in the latest set of plans they shifted the panels 100 foot closer to Rt.20 making it a 100 foot setback instead of the 200 foot setback requirement. But in doing this they left the bank of the stream totally undisturbed and they would do selective clearing of trees for any of the taller trees that would cause shading on the array from about another 75 to a 100 feet off of the stream bank. Over all this is not a large solar array its enclosed by about 8.7 acres with in the fence and it will produces 2 megawatt worth of power. So as Mr. Laberge stated our next step would be to go to the ZBA for an area variance. They feel this is the best course of action for this site because it is the least environmentally impactive to this site. They plan on providing additional evergreen tree screening along the back side of the 100 feet of trees that they are leaving along Rt. 20.

Mr. Laberge stated if this application can proceed as it is presented tonight it will have to go to the Zoning Board for an area variance for the 100 foot setback proposed along Rt.20. he feels this should go first to the ZBA before attacking the 9 page letter (See Below) he would not want to put the applicant through that if this application is not approvable. He asked Mr. Redding to explain on the open space requirement as a solar PD2.

Mr. Redding stated what they have done was provide the open space area along the stream area to the south of the array and that will get worked into he leased area for the solar array,

Mr. Laberge stated the 30% would be in the leased area which would be subject to the PD2 solar overlay approval.

Mr. Johnson asked if they had anything that is showing what this array is going to look like from the road.

Mr. Redding stated yes, they have photo simulations, and he can bring them to the next meeting.

Attorney Crist stated we would like this board to do SEQR, the order in which this can be done is 1. We get the revised plans, 2. We complete SEQR, 3. Go the ZBA but they will be unable to do a vote until this board completed SEQR.

Mr. Laberge asked if we need to do a seek a lead agency notice to the ZBA.

Attorney stated correct, they are now an involved agency.

Mr. Redding asked if they should wait to do the application to the ZBA.

Attorney Crist stated no, submit the application now and things started but they will not be able to vote on it until this board completes the SEQR.

Mr. Redding asked if this can be done parallel.

Mr. Laberge stated correct, and the environmental issue have to go towards the storm water, getting the wetlands confirmed, we on the board will start to annualize.

Mr. Johnson asked if the 100-foot variance is not granted would this still be a viable project.

Mr. Redding stated it probably would not be.

Mr. Johnson stated you will have to decide if it is worth going through all of SEQR before you go to the ZBA.

Mr. Redding stated agreed.

Mrs. Leonard asked about # 10 screening, is there a requirement or do we get to set the requirement, because for her the type of screening proposed is unsightly.

Mr. Laberge stated there is two aspects, the solar law indicates screening is necessary and then there is the SEQR aspect, so we don't have any impact on the environment and the surrounding people. He asked Mrs. Leonard to work closely with him in this.

Mr. Redding stated they planned on putting the plantings on the back side of the 100 feet behind what is already there and then the fence would put in.

Mr. Johnson asked if the trees were in the 100 feet.

Mr. Redding stated correct, and the fence would be just outside the 100 feet and then there would be 20 feet to the panels.

Mr. Johnson stated a simulation of the setback would make things clearer.

Mr. Laberge stated he agrees, and it was requested back in September which he hasn't seen.

Mr. Redding no they haven't don't it yet.

Shaughnessy moved; D'Angelo seconded to notice the Zoning Board of the planning boards intent to continue to serve as lead agency on this project.

5 Ayes. 0 Noes . Motion carried.

Ayes: D'Angelo, Johnson, Leonard, Mayrer, Shaughnessy

Oppose: None

### **Laberge letter dated February 1, 2023**

Re: Sketch Plan Review  
Gregory Solar PD  
SPB # 2022-19

Dear Ms. Mayrer:

In response to our concept plan review we have received the following response from Bergmann, PC that includes the following:

1. Bergmann response letter dated January 3, 2023;
2. Certificate of Liability Insurance for Yellow 18 LLC dated October 27, 2022;
3. Full EAF, Part 1, by E. Redding as agent for Yellow 18 LLC dated January 3, 2023, unsigned;
4. Solar Farm Decommissioning Plan dated December 29, 2022;
5. "Preliminary Development Plans for Proposed Schodack Solar Project-Solar Development 3669 US 20 Schodack, NY 12123": consisting of 14 drawings all revised to December 9, 2022:

- |  |   |
|--|---|
| • C000 Cover, Sheet 1 of 14                                    | • C001 General Notes, Sheet 2 of 14                                 |
| • C002 Area Parcel Plan, Sheet 3 of 14, scale 1"=200'          | • C003 Existing Conditions Plan, Sheet 4 of 14, scale 1"=100'       |
| • C004 Overall Site Plan, Sheet 5 of 14, scale 1"=200'         | • C005 Site Plan, Sheet 6 of 14, scale 1"=100'                      |
| • C006 Detail Site & Grading Plan, Sheet 7 of 14, scale 1"=30' | • C007 Erosion & Sediment Control Plan, Sheet 8 of 14, scale 1"=60' |
| • C008 Phasing Plan, Sheet 9 of 14, no scale                   | • C009 Details I, Sheet 10 of 14, no scale                          |

- C010 Details II, Sheet 11 of 14, no scale.
- C011 Details III Sheet 12 of 14, no scale
- C012 Details IV, Sheet 13 of 14, no scale
- C012 Details V, Sheet 14 of 14, no scale

The project is subject to §219-39.3 of the Town's zoning law. As such, the application must comply with the regulation for planned developments in Article XII of the zoning law including referral by the Planning Board of the application to the Town Board for approval. With this in mind, we offer the following comments on the materials submitted and on the outstanding requirements of §219-39.3:

1. The applicant will be required to obtain a NYS DOT Highway Work Permit and Commercial Driveway Access Permit for the proposed point of access to the property from US Rte.20.
2. The applicant has stated that a Jurisdictional Determination (JD) from USACOE and NYSDEC will be drafted and copied to the Town. The JD should be submitted when received.
3. While the applicant has submitted a certificate of insurance, an updated proof of insurance should be provided as Umbrella and Commercial General Liability has expired and Automobile and Workers Compensation and employer's liability will expire soon. The amounts must be as acceptable to the Town.
4. The applicant has presented a table "Site Plan Data Table" on Drawing C004 and C005 that contradict each other. Therefore:
  - a. The Tables should be revised to indicate that the required front setback is 200 feet; and
  - b. The plans should be revised to propose improvements shown on the plan such that all solar collector systems, associated buildings, accessory structures and equipment (including fencing) are all be indicted to be a minimum of 200 feet from any property line.
  - c. Plans should indicate/call out all the required setback distances.

Alternatively, if the applicant is seeking to lessen the required setback distance, then the Board should refer the applicant to the Zoning Board for an area variance.

5. The applicant should indicate the dimensions from the property lines to the setback lines shown on Drawing C003;
6. While the applicant has labeled the lease lines on Drawings C005 and C006 they should also be labeled on Drawings C003 and C004.
7. The applicant has stated that with the recent resubmission/revisions to the plans that the project is now compatible with the Town's Comprehensive Plan. As previously noted, the proposed project is inconsistent with the Town's Plan that states one of the fundamental guiding principles is the protection of vital natural assets, particularly the water resources of the Town that includes the protection of ecologically sensitive areas such as streams, wetlands, or steep slopes. Further, the Comprehensive Plan indicates the use of natural tree and other vegetation growth areas as buffer zones along streams and wetlands as a means to protect and conserve open space. Therefore, to ensure that the proposed project does meet the Town's Plan the applicant should note the following on

the plans:

- a. A minimum offset from the stream and wetlands on the property in place of an arbitrary “top of slope”. The offset should be consistent with the NYS Stormwater Design Manual Chapter 5 Section 5.1 requirements that call for the buffer to include the 100-year floodplain, steep banks, and freshwater wetlands. A 50-foot undisturbed buffer is the minimum, with at least 75 feet from the edge of the stream being desirable.
  - b. That the offset to protect riparian buffers shall be demarcated in the field by a licensed land surveyor prior to ~~any~~ construction occurring.
8. The applicant has noted the use of on-line information to perform a study of the area relative to the site possibly containing protected threatened species, endangered species or critical habitat. They have confirmed that the Northern long-eared bat (NLEB) may be present on site and have indicated that tree clearing should be restricted to the period November 1 to March 31 and that retaining individual potential roost trees is the best management practice for this case.

Further, the applicant has stated that they are performing a tree survey to identify the individual potential roost trees within the project limits and that a pending report will be submitted to indicate these trees on the plans so that further review of tree clearing and cutting limits may be assessed in order to lessen the project’s impact on the NLEB. The applicant should submit the report for review.

9. Tree Harvesting: The applicant has indicated that a separate report is forthcoming as requested in our prior review comments below:
- a. The applicant should provide an estimated quantity of cubic feet of wood to be removed outside of the proposed lease / PD limits as a timber harvesting permit / special permit may be required. A timber harvesting permit may require significant plan revisions and or additional plans that require the preservation of buffer strips along streams and public roads and provide further details for the locations and construction of haul roads, landings, stream crossings, etc.
  - b. The applicant should further define tree cutting or tree clearing:
    - i. To what level above ground will trees be cut leaving a stump behind;
    - ii. To include the removal of cut trees and slashed vegetation;
    - iii. A note with a description of these terms should be provided on the plans.
  - c. The applicant should perform a tree survey by a certified arborist to identify the types of trees to be cleared or cut and to identify those that should be retained on the site for various reasons that may include uniqueness, old growth, critical for the preservation of buffers and habitat, etc. The arborist should also offer recommendations for tree survival of cut or trimmed trees that the applicant should adhere to.
  - d. The applicant should revise the plans to address their arborist’s recommendations.
10. While the applicant has shown proposed vegetative screening at the point of connection equipment, additional screening should be proposed south approximately 450 feet of this

location at and along the property line in the area of the existing clearing.

11. The applicant has relocated the proposed access/point of interconnection northerly to minimize visual impacts of the proposed project and has indicated that additional line of sight analysis will be provided. Continuing our previous review comment; the sight analysis should consider that “average evergreen” height does not exist as the views are primarily of existing deciduous trees without any evergreens. Further, the analysis should include the use of a tree survey to ensure a reasonable representation of the line of sight. The analysis, in addition to considering the impact to residences, should also consider the potential visual impact to those traveling US Rte. 20. The applicant should minimally propose the following improvements:

- a. Significant vegetative screening along the project limits fronting US Rte. 20;
- b. An allowance for additional vegetative screening to be placed upon Town review after panel installations and prior to the completion of construction.

12. While the applicant has previously provided the requested Full EAF with supplemental information to Part 1, including a visual assessment report per §219-39.3 (c) (3), (6) and an additional line of sight analysis from the residences directly north of the proposed entrance; they have indicated that a further response is in progress to respond to our prior review comment requesting the following:

Provide photos or photo simulations from the following vantage points and any other vantage points of interest:

- a. The residence at 3668 Rte. 20 located directly opposite the proposed project with potential line of sight of the proposed site access and interconnection, Tax Map ID 211.-2-1.11;
- b. The residence at 3724 Rte. 20 located westerly of the project, Tax Map ID 201.-2-32;
- c. The residence located just south of Loweree Road, Tax Map ID 211.-2-3;
- d. The residence located south of the project on McClellan Road, Tax Map ID 211.-2-28.22
- e. Bunker Hill Road, 0.3 miles south of the intersection with Rte. 20; and
- f. The assessment must include the proposed switch gear, panels, poles, meters, battery storage, etc. in the visualizations.

13. Full Environmental Assessment Form, Part 1:

- a. D.2.e., Based upon the site slope area map previously submitted by the applicant the area of imperviousness should be revised to include solar panels that will be located on slopes in excess of 15%.
  - i. The applicant should submit an updated slope map for further review that indicates the solar array layout on the map that highlights slope areas:
    1. Of slopes  $\leq 5\%$ ;
    2. Of slopes  $\geq 5\%$  but  $\leq 10\%$ ;

3. Of slopes  $\geq 10\%$  but  $\leq 15\%$ ;
  4. Of slopes  $\geq 15\%$  but  $\leq 20\%$ ; and
  5. Of slope  $\geq 20\%$ .
- b. E.1.b, should include not only the area of structures such as concrete pads, transformers and poles but should also include the area of solar panels that will be installed on slopes equal to or greater than 15%.
  - c. E.2.f, the applicant should provide an updated slope map with the arrays indicated as previously noted for further review.
14. While the applicant has added additional spot finish grades that demonstrate that stormwater runoff from the equipment/pad area will flow to the grass filter strip construction details for the grass filter should be provided and include:
- a. The filter should have gravel diaphragm at the top of the filter and a permeable berm at the toe of the filter.
  - b. The filter should be preceded by an engineered level spreader in accordance with the NYS DEC Standards for Erosion and Sediment Control.
  - c. The filter construction detail/specifications should include an amended soil with dense turf cover upon soils decompaction.
  - d. The level spreader indicated just downslope should be extended beyond the area along the contour.
  - e. The applicant should provide the proposed buildings and accessory structures elevations and indicate that these shall have a maximum height of 35 feet similarly as provided for the arrays.
  - f. While the applicant has indicated that site plans have been updated they have not indicate the location of the stormwater management practice and provided a construction detail for the sign that conforms to the requirements of the NYS DEC Stormwater Management Design Manual Section 3.5 Maintenance Requirements as previously noted.
15. The applicant has indicated in their response that they have updated the plans accordingly regarding erosion & sediment control. However, the following remain to be satisfactorily addressed:
- a. The plan sequence of construction notes on sheet C001 should be revise Note 1 include the Town's Stormwater Management Officer and the Town's MS4 consultant.
  - b. Composite filter sock:
  - c. The applicant should revise the plans to either indicate the placement of the composite filter sock along the contour of the land; or
  - d. Provide end of run stormwater management for the concentrate stormwater runoff with sediment containment at the point discharge that will be created as runoff is channeled along the sock running perpendicular to the contour.

- e. The construction staging area should include fencing to delineate the limits of the area and also control entry/exit to the top of the stabilized construction entrance to enable the full use of the entire length of the stabilized construction entrance.
  - f. Sediment control measures should be added down slope of the proposed construction staging area.
  - g. The phasing plans should include materials and equipment haul roads to be utilized for each phase and indicate erosion and sediment control measure for each phase and each road.
  - h. A construction detail for the proposed inlet protection to the storm drainage system located down slope of the access should be provided.
  - i. While the applicant has provided a detail, the erosion and sediment control plan should show the locations of US Rte. 20 road side swale sediment control check dams.
  - j. The requirement for soils decompaction and restoration should be clearly indicated on the plans and include the removal of the construction entrance materials and decompaction under the area prior to the installation of the limited use pervious access road.
  - k. The note for the installation of the limited use pervious access road should be removed from the erosion and sediment control plan as this is a permanent practice that should not initially be installed. Further, the sequence of construction should clearly indicate when the limited use pervious access road should be installed; at the completion of construction after soils decompaction and upon all soils stabilization has occurred for every phase of the work.
  - l. The plan should include the use of interim practices that should be installed during the proposed clearing activities for each phase of the project.
  - m. The Erosion & Sediment Control Plan should indicate the limits of each phase of construction as shown on the phasing plan.
  - n. The Erosion & Sediment Control Plan and the Phasing Plan should:
    - i. Note that each phase of the project shall be temporarily stabilized and reviewed by the Town's MS4 Consultant and found acceptable prior to proceeding to any earth disturbing activities in any other phase of the project.
    - ii. Note that soil disturbance activity includes, among other things, the cutting of vegetation, removals, equipment tracking/skidding, and any other activity that results in earth disturbances.
16. The applicant has indicated that the plans and SWPPP/SWMR will be stamped and signed by a Professional Engineer licensed in the State of New York upon completion.
17. Given the proposed project limits of disturbance, the project has failed to consider and apply the New York State Stormwater Management Design Manual required five step process. Specifically, step one that requires site planning to preserve natural features and reduce impervious cover. The applicant is directed to the Design Manual Table 3.1



Green Infrastructure Planning General Categories and Specific Practices, and should demonstrate how the proposal maximizes the preservation of natural resources such as riparian buffers and steep slopes.

18. Since the applicant has stated that a revised SWPPP is forthcoming, our previous SWPPP review comments remain as follows:

- a. Page one of the SWPPP, Operator's Responsibilities, #1 Requirement for a pre-construction meeting shall also include the Town's Stormwater Management Officer and the Town's MS4 Consultant.
  - i. Note that this requirement should also be repeated in Appendix A.I.E and A.VIII.B.
  - ii. Note that this requirement should also be repeated on Sheet C001, Sequence of Construction Note 1; and in Part VIII.B.1.
- b. Page one of the SWPPP , Operator's Responsibilities, #6 should include the requirement to provide the Town notice of the project's pending permit termination and the completed Notice of Termination (NOT) form to be submitted to the Town for approval, upon which the Town will file the NOT with the NYS DEC; Note that this requirement should also be repeated in Appendix A.K.3;
- c. Appendix A.V and IV sections should be revised to include a description that the site is located in phosphorous-limited watershed (Kinderhook Lake Watershed) and as such the control of sediment discharge from the site and dust control is critical to limiting the impact of this site's development on the watershed.
- d. Appendix A.VIII.A, the table should also indicate the use of stone staging area, check dam, and permanent plantings.
- e. Appendix A.VIII.C and D, since the project proposes a solar project outside the limits (for projects on slopes <10%) of the NYS DEC Memo April 5 2018 Solar Panel Construction Stormwater Permitting/SWPPP Guidance and the referenced Maryland's Stormwater Design Guidance-Solar Panels Installations the project must addresses both water quantity and quality requirements of the NYS DEC Design Manual Chapter 4 Unified Stormwater Sizing Criteria and Chapter 10 Enhanced Phosphorus Removal Supplement.
- f. Appendix A.IX.D, this section should be revised to prohibit equipment cleaning and servicing on the site. If necessary the section should include the requirement for full containment of the service area to protect and prevent groundwater and surface waters discharges. A construction detail and specifications should be provided for review if proposed.
- g. Appendix A.IX.F, This section should be revised to prohibit on-onsite masonry mixing. If necessary the section should include the requirement for full containment of the area to protect and prevent groundwater and surface waters discharges. A construction detail and specifications should be provided for review if proposed.
- h. Appendix A.X.I.4.a, b and c, should include coverage to prevent rainfall on to

these products and subsequent stormwater contamination. Full containment of the area where these products are stored should be provided to protect and prevent groundwater and surface waters discharges.

- i. Appendix A.XV, the project is located in a phosphorous-limited watershed (Kinderhook Lake Watershed) and as such the control of sediment discharge from the site and dust control is critical to limiting the impact of this site's development on the watershed.
- j. Appendix D., the NOI should be revised given the project's requirements to meet the NYS DEC Design Manual Chapter 4 Unified Stormwater Sizing Criteria and Chapter 10 Enhanced Phosphorus Removal Supplement.
- k. Appendix D, MS4 Stormwater Pollution Prevention Plan (SWPPP) Acceptance Form should be may be filled in with the following information:
- l. The applicant has provided a site slope area map that indicates various slopes on the site. This map indicates that the majority of the site contains slopes over 10% and significant areas with slopes over 20%. Along the stream corridor, both sides of the stream are bordered slope in excess of 20%. Given this information the applicant should provide the following plan revisions:
  - i. A revised plan that limits clearing and grubbing in areas of slope 10% to 15%;
  - ii. A revised plan that prohibits clearing and cutting vegetative cover in areas of steep slopes over 15%;
  - iii. Additional temporary and permanent erosion and sediment control practices, to be installed prior to any clearing and cutting activities to address construction disturbances;
  - iv. Additional permanent erosion and sediment control practices such as level spreaders/energy dissipators to ensure solar panel stormwater runoff non-rooftop disconnection in slope areas less than 15%. These should be placed under the panel/array drip edges along the slope contours; and
  - v. Additional stormwater quantity and quality controls for areas where solar panels are to be installed on slopes equal to or greater than 15%. All solar panels shall be considered effective impervious cover for the purposes of calculating stormwater quantity and quality requirements.
- m. Appendix R: Stormwater Management Report:
  - i. The project description should include the fact that the site is located in a phosphorous-limited watershed (Kinderhook Lake Watershed).
  - ii. SWMR description of DA-1 in Tables II and III should include:
    1. A description of the receiving drainage system, namely the roadside swale and State catch basin as well as the description of the ultimate outfall of the storm system; and
    2. A description of the proposed permanent improvements (road,

transformer, filter strip, etc.);

- iii. Section III should be revised based upon plan revision and comments presented in this letter, revise for increased water quality and quantity requirements including the enhanced phosphorus treatment requirements.
  - iv. The Green Infrastructure design sheets should be revised as each stormwater analysis catchment/design point should be considered. The sheets should include all impervious cover such as solar panels on steep slopes in addition to the equipment/pads.
19. The clearing limit line along the northern property line along US Rte. 20 should be closer to the proposed facility fence/lease line. The applicant should tighten the limits of disturbance along the northern property line along US Rte. 20 to preserve as much existing wooded buffer as possible.
20. The applicant has provided proposed screening at the point of connection that may serve to adequately screen equipment, and required utility poles, towers, etc. However, additional screening may be required dependent upon the review of additional line of sight and visualizations that are required per prior review comments.
21. “Selective tree clearing” as called out on the plans should be specifically defined as to what trees are to be cleared and how trees are to be identified and “cleared” while protecting others to remain.
22. The applicant has indicated that they are “currently working with Craig Crist, ZBA attorney” to resolve our comments regarding open space. Our previous comments are repeated below:
- a. The Applicant states in their “Open Space Proposal” that 4.7 acres of open space is to be provided to the south of the solar arrays outside of the proposed lease limits over the existing wetland/stream corridor. Further the applicant’s open space proposal cites in multiple occurrences that the open space will serve to “...preserved and protect sensitive waterbodies, land and remain a high priority, and keep providing habitat for a diversity of plants and animal species.” However, the plans and operations and maintenance plan indicates significant initial and ongoing clearing/cutting that will involve associated habitat disturbance throughout the life of the project.
  - b. Therefore, the applicant should revise the open space proposal and lease agreement previously submitted to propose the open space to be within the lease limits but outside of the fenced enclosure; and
  - c. Indicate the open space to be provided along the wetlands and stream corridor while also proposing to retain a significant existing vegetative buffer along the corridor in order to preserve “...and protect sensitive waterbodies, land and remain a high priority, and keep providing habitat for a diversity of plants and animal species.”
  - d. While the applicant has indicated in their “Open Space Proposal” who will maintain the open space they have only provide a vague general statement on the condition that the open space will be maintained. A detailed specific plan should

be presented for continuous inspection, recommended maintenance practices to be used and the schedule for these.

23. While the applicant has presented a revised cost to decommission the project using the minimum unit cost to decommission of \$52,000/MW AC, the following revisions should be presented with a revised calculation:

- a. Calculations should revise the system size of 2.0 MWAC to a more realistic MWAC value of 2.3 MWAC, assuming an inverter efficiency of 95%. The applicant should also provide the manufacturers specified for the inverter with inverter load ratio for the equipment for further review (The initial surety amount as a letter of credit should be a minimum of \$120,000.)
- b. An annual increase of a minimum of 2% should be used in the calculations.

The applicant should submit the required/requested information for further review. Upon determining that all the necessary application material has been presented, the Chairwoman can certify same after the Planning Board makes a SEQRA determination. Then within 60 days of certification, the Planning Board is required to submit their report to the Town Board for further action under Article XII, including a public hearing on the matter.

Please contact our office with any questions or comments on the above.

Very truly yours,  
LABERGE GROUP

By: \_\_\_\_\_  
Philip E. Koziol, P.E.  
Project Manager

PEK: kmo

C: Charles J. Peter, Supervisor (via email and mail)  
Chris Langlois, Esq., Town Attorney (via email only)  
Craig Crist, Esq., Planning Board Attorney (via email only)  
Cecile Gregory c/o Chris Stroud, Yellow 18, LLC (via email only)  
Eric Redding, P.E. (via email only)

### **MEMBER DISCUSSION**

Mr. Laberge spoke about the White River Solar and the metal retaining wall that was installed along Rt. 9J, the vender has offered to plan some sort of Ivey on the wall to cover it. he would like to know what the planning board would like them to do, come in and present their plan and then this board can respond, or have his office send them a note stating that is insufficient and we want more detail.

Mr. Johnson stated we asked for a design of the sheet wall because we have no idea how deep the sheets are installed and if is adequate for holding back the hill.

Mr. Laberge stated they gave some dated in the future they would submit a few things and one of them was the engineering behind the retaining wall.

Mr. Johnson asked how do we know what they give us is accurate, are we going to ask for a receipt showing the length of the sheeting.

Mr. Laberge stated verification is something we should ask to be submitted as well.

#### ADJOURN

Leonard moved; Shaughnessy seconded that the Planning Board meeting be adjourned. There being no objections, Chairwoman Mayrer adjourned the meeting at 8:40 p.m.

Respectfully submitted,  
Melissa Knights  
Director of Planning & Zoning