

TOWN OF CORTLANDVILLE PLANNING BOARD
Minutes of Regular Meeting - Tuesday, 7 January 2020 - 7:30 PM
Town Hall Board Room - 3577 Terrace Road - Cortland, NY

Board Members (*absent)
Christopher Newell, Chairman
Nicholas Renzi
Nasrin Parvizi
Laird Updyke
Ann Hotchkin

Others Present
Bruce Weber, Town Planning/Zoning Officer
John A. DelVecchio, Town Attorney
Joan E. Fitch, Board Secretary

Applicants & Public Present

Janet Ward for DG New York CS, LLC, Applicant; Paul Stupke, Sr., Applicant; Benjamin Locke, Applicant; Gregory Leach, Applicant; Leach Attorney Thomas Fucillo, Barbara & Patrick Leach, Kelley Locke, Paul Stupke, Jr., Arik Stupke, Pam Jenkins, Bob Martin.

REGULAR MEETING

The Regular Meeting of the Town of Cortlandville Planning Board was called to order at 7:30 p.m. by Chairman Chris Newell.

OLD BUSINESS

Gregory Leach, Applicant/Leach Properties, LLC, Reputed Owner - 1834 NYS Route 13 - TM #77.00-13-11.000 - Conditional Permit - Addition to Existing Building

(Reference is made to previous Minutes for additional details regarding this application.)

Town Attorney John DelVecchio stated that he had prepared a draft Resolution for the Board's consideration. The proposed Resolution includes all appropriate details of the scenario. When the February 2017 application was submitted, Attorney DelVecchio was a member of the Planning Board, but that application he considers separate and distinct and so believes there is no conflict of interest as the Town Attorney. Member Ann Hotchkin also stated that she was a member of the Cortland County Planning Board at that time too.

Attorney DelVecchio reported that the proposed Resolution also went into the distinctions with the separate applications, and he reviewed the Resolution with those present and as contained therein. He also stated that no prior Supreme Court decision prohibits this Board's jurisdictional authority to take a position as to whether or not to grant Mr. Leach a Conditional Permit with respect to his proposed use as a commercial garage. He advised the Board that they did not have to adopt the proposed Resolution, they could modify it, they could ignore it altogether. Each Board member had been provided a copy of this Resolution.

Chairman Newell asked if everyone had read Attorney DelVecchio's proposed Resolution and the Cortland County Planning Board's recommendations to approve this application. All had, and Member Nick Renzi had some comments on the Resolution, as follows:

"I appreciate and thank Town Attorney John DelVecchio for summarizing the background on the Leach Conditional Permit application.

"Town Attorney John DelVecchio prepared the document titled Resolution of Town of Cortlandville Planning Board. Within this document on page 3 item 8 states" With respect to the standards for issuance of a Conditional Permit, the Board makes the following specific findings:" listing items a. to i. which exactly parallels the Town Code Section 178-75 items 1. to 9. This Section is titled Structure/use requirements for permit approval with paragraph A stating "In order to grant approval for a conditional permit, the **applicant** (emphasis added) must prove that the structure and/or use:" followed by the aforementioned items 1 to 9.

"On page 3 of the proposed Resolution there are conclusions attributed to the Planning Board that have not been made by the Planning Board but if they have then there should be a reference to the date of the meeting when said conclusions were made.

"The Town Attorney has presented the resolution as though he is the attorney for the applicant, which is contrary to the Town Code as referenced above. The applicant and/or his attorney should prepare the Resolution and submit it to the Town Planning Board and the Town Attorney.

"As a point of reference I offer the Resolution of the Town Of Cortlandville Planning Board for the Wal-Mart Supercenter dated July 31, 2007. This project, which was in work for at least four years and was several orders of magnitude more complicated than the Leach project had the author of the Resolution the attorney for Wal-Mart not the Town Attorney. The resolution consists of 49 pages including attachments. The first 7 pages contain about forty (40) whereas statements with dates and names of the organizations making the statements.

"I recommend that the required resolution for the Leach application be prepared by the applicant as required by the Town Code, and submitted for action by the Planning Board."

Town Attorney DelVecchio argued that there is nothing in the Code that actually says that the applicant has to prepare the Resolution. What he did, he said, was he provided this Board with a proposed Resolution for the Board's consideration. It is the Board's job to review all the issues in their analysis and deliberations. PZO Weber commented, "I don't think that the intent is that you just accept the Resolution, but it points out to you what you would need to do in order to complete it so when you go through the conditions for granting a Conditional Permit it's been laid out for you to go through that. And that's why John is saying the decision is yours as to making those determinations. So part of what your job is now is to go through the list of why you issue or not issue a Conditional Permit. And at the end of that, you may then look at the Resolution that's been prepared." Member Renzi said he wanted to see something from the applicant that follows the Code.

Attorney DelVecchio then countered, "Mr. Leach has provided a Conditional Permit Application (that's certainly something to consider what's asserted in that application. Mr. Fucillo, Mr. Leach's counsel, has prepared a letter which I distributed to you right at the final stages of the last meeting, which you may have forgot about . . ." (dated November 27th). "That letter goes through the Conditional Permit analysis and certainly it can be utilized for your consideration whether the applicant has provided you with any evidence to prove to you that the parameters . . . have been satisfied."

Chairman Newell noted that this was a Type II action which did not require a SEQR. Mr. Leach's attorney, Thomas Fucillo, commented that it is very common for the Board's attorney to prepare a Resolution. It's creating a great record. It's all information contained in the Conditional Permit application.

Member Renzi stated it is very important that we don't open ourselves to legal action. Member Laird U[dyke brought up the possible modification of the proposed Resolution to incorporate a couple of items that were not there, e.g., Attorney Fucillo's letter.

Chairman Newell asked if someone wanted to make a motion incorporating Attorney Fucillo's letter along with Town Attorney DelVecchio's Resolution. The Board briefly discussed the composition of a motion, assisted by Town Attorney DelVecchio. PZO Weber then asked the Board if they would like to do Part 2 of the Short Environmental Assessment Form in keeping with the record. Chairman Newell read aloud the questions contained in Part 2 of the SEAF; negative responses were received to all questions. Upon completion, Attorney DelVecchio advised, and it was the finding that it is not necessary for the Planning Board to make a declaration and, as such, no further action with regard to SEQRA is necessary.

A motion was then made by Member Hotchkin to approve the Conditional Permit application as submitted, with the understanding that the Board will adopt the proposed Resolution (five pages in length) dated 7 January 2020, and further that the Resolution incorporates a specific understanding that the applicant has met the requirements set forth in Section 178-75 of the Town of Cortlandville Zoning Code, and that the proposed Resolution incorporate by reference Attorney Fucillo's letter to the Town Planning Board and Town Attorney dated 27 November 2019 and also

incorporate the Cortland County Planning Board's recommendations contained in their Resolution No. 19-24 of 18 December 2019. The motion was seconded by Member Updyke, with the vote

recorded as follows:

Ayes:	Chairman Newell	Nays:	None
	Member Renzi		
	Member Parvizi		
	Member Updyke		
	Member Hotchkin		

Motion carried.

This becomes Action #1 of 2020.

The Resolution was completed, signed, dated, and given to the Town Attorney for filing with the Town Clerk.

NEW BUSINESS

Ben Locke, Applicant/Sarah Sykowski, Reputed Owner – 987 NYS Route 222 – TM #86.13-01-43.200 – Lot Line Adjustment

Chairman Newell recognized Sarah Sykowski who explained that she was seeking approval to combine two adjacent parcels of land as shown on the map accompanying the application. Tax Map #86.13-01-44.000 would be combined with the subject parcel to create one parcel.

With everyone in agreement, and with no further discussion, **a motion was made by Member Hotchkin to approve the Lot Line Adjustment, as requested. The motion was seconded by Member Renzi, with the vote recorded as follows:**

Ayes:	Chairman Newell	Nays:	None
	Member Renzi		
	Member Parvizi		
	Member Updyke		
	Member Hotchkin		

Motion carried.

This becomes Action #2 of 2020.

Paul Stupke, Sr., Applicant/Reputed Owner – 749 Stupke Road – TM #95.15-03-08.000 – Conditional Permit – Building Addition

Chair Newell recognized the applicant and his son who were seeking a Conditional Permit to construct a 15± ft. by 28± ft. addition to their existing building as shown on the sketches attached to the application. The building will be used for towing and shop supplies. Construction details were provided to Board members. There will be no floor drains.

PZO Weber advised the Board that a variance had been granted some time ago to allow a business at this location.

With no further discussion, **a motion was made by Member Renzi to approve the Conditional Permit for the proposed building addition, as requested. The motion was seconded by Member Nasrin Parvizi, with the vote recorded as follows:**

Ayes:	Chairman Newell	Nays:	None
	Member Renzi		
	Member Parvizi		
	Member Updyke	Abstain:	Member Hotchkin

Motion carried.

This becomes Action #3 of 2020.

(Member Parvizi was excused at 8:48 p.m.)

OLD BUSINESS (RE-VISITED)

DG New York CS, LLC, Applicant/Joanne Condron, Reputed Owner – East River Road – TM #87.00-03-02.110 (Cortlandville 1) – AND – DG New York CS, LLC, Applicant/Douglas Christofferson, Reputed Owner – Riley Road – TM #87.00-01-08.100 (Cortlandville 3) – Aquifer & Conditional Permits – Proposed Large-Scale Solar Energy Systems

(Reference is made to this Board's previous Minutes of 12/3/19 for additional details.)

Member Renzi read aloud his comments follows:

COMMENTS ON THE DECEMBER 3, 2019 SUBMITTALS FOR THE DG NEW YORK CS PROJECTS

1. The comments of N.Renzi dated 10-28-19 have been addressed.
2. The submitted Description of Proposed Use addresses all of the information describing the project and addresses all of the Conditional Permit requirements. The "Appropriate " safety measures should be described under item (9).
3. In the submitted operations & Maintenance Plan please include a requirement to submit inspection reports including training programs and root cause analysis to the Town.
4. In drawing number E-101 General Site Overview, are the Jinco Solar and Risen Solar manufacturers interchangeable or are the two going to be used concurrently? The Revision box item 2 should be described exactly as noted in the field of the drawing. Please explain the use of Safe Harbor modules in relation to the Jinko and Risen modules. Fill in the Drawn By box.
5. As a general rule, please date documents such as the Description of Proposed Use and also number the pages for ease of referencing.
6. Having filled out Part 1 Project and Setting of the Full Environmental Assessment Form the Planning Board will proceed with Part 2 Identification of Potential Project Impacts.

Prepared by Nick Renzi for discussion purposes.
January 5, 2020

Chairman Newell recognized Janet Ward, representing Next Era Energy Resources, LLC, who responded to Member Renzi's comments.

Member Updyke asked about the sound the motors that turn the track, with 140 to 150 at each site, would make when moving. Ms. Ward responded she would have to ask their engineer, but she understood that there would be a slight hum from the transformers which is, at 50 feet, about the sound of a washing machine in the next room.

Chairman Newell commented that the Board should proceed with the Full Environmental Assessment under SEQRA for each site, and review the recommendations from County Planning. All responses to the LEAF were recorded by PZO Weber.

Long Environmental Assessment Form

Re: DG New York CS, LLC - East River Road – TM #87.00-03-02.110 (Cortlandville 1)

At the conclusion of a brief discussion, Chairman Newell read aloud Part II of the Full Environmental Assessment Form. Negative responses were obtained to all questions in Part II. Therefore, it was determined by the Planning Board, **on a motion made by Member Hotchkin, that the action, based on the information submitted, would not cause any significant adverse environmental impact, resulting in a Negative Declaration. The motion was seconded by Member Renzi, with the vote**

recorded as follows:

Ayes: Chairman Newell
Member Renzi
Member Updyke
Member Hotchkin

Nays: None

Absent: Member Parvizi

Motion carried.

This becomes Action #4 of 2020.

Re: DG New York CS, LLC - Riley Road – TM #87.00-01-08.100 (Cortlandville 3)

Chairman Newell read aloud Part II of the Full Environmental Assessment Form. Negative responses were obtained to all questions in Part II. Therefore, it was determined by the Planning Board, **on a motion made by Member Hotchkin, that the action, based on the information submitted, would not cause any significant adverse environmental impact, resulting in a Negative Declaration. The motion was seconded by Member Updyke, with the vote recorded as follows:**

Ayes: Chairman Newell
Member Renzi
Member Updyke
Member Hotchkin

Nays: None

Absent: Member Parvizi

Motion carried.

This becomes Action #5 of 2020.

Conditional Permits

Re: DG New York CS, LLC - East River Road – TM #87.00-03-02.110 (Cortlandville 1)

After reviewing the Cortland County Planning Board's recommendations, **a motion was made by Member Hotchkin to approve the Conditional Permit for the Large-Scale Solar Energy System, as requested, incorporating Items 1 thru 11 of the Cortland County Planning Board's Resolution No. 19-22 dated 20 November 2019. The motion was seconded by Member Updyke, with the vote recorded as follows:**

Ayes: Chairman Newell
Member Renzi
Member Updyke
Member Hotchkin

Nays: None

Absent: Member Parvizi

Motion carried.

This becomes Action #6 of 2020.

Re: DG New York CS, LLC - Riley Road – TM #87.00-01-08.100 (Cortlandville 3)

After reviewing the Cortland County Planning Board's recommendations, **a motion was made by Member Hotchkin to approve the Conditional Permit for the Large-Scale Solar Energy System, as requested, incorporating Items 1 thru 10 of the Cortland County Planning Board's Resolution No. 19-21 dated 20 November 2019. The motion was seconded by Member Updyke, with the vote recorded as follows:**

Ayes: Chairman Newell
Member Renzi
Member Updyke
Member Hotchkin

Nays: None

Absent: Member Parvizi

Motion carried.

This becomes Action #7 of 2020.

Aquifer Protection District Special Permit Recommendation

Re: DG New York CS, LLC - East River Road – TM #87.00-03-02.110 (Cortlandville 1)

A motion was made by Member Hotchkin to recommend to the Town Board that they issue an Aquifer Protection District Special Permit for the proposed Large-Scale Solar Energy System. The motion was seconded by Member Renzi, with the vote recorded as follows:

**Ayes: Chairman Newell
Member Renzi
Member Updyke
Member Hotchkin**

Nays: None

Absent: Member Parvizi

Motion carried.

This becomes Action #8 of 2020.

Re: DG New York CS, LLC - Riley Road – TM #87.00-01-08.100 (Cortlandville 3)

A motion was made by Member Hotchkin to recommend to the Town Board that they issue an Aquifer Protection District Special Permit for the proposed Large-Scale Solar Energy System. The motion was seconded by Member Renzi, with the vote recorded as follows:

**Ayes: Chairman Newell
Member Renzi
Member Updyke
Member Hotchkin**

Nays: None

Absent: Member Parvizi

Motion carried.


This becomes Action #9 of 2020.

OTHER DISCUSSION

- Member Renzi brought up resuming the preparation and distribution of the Conditional Permit Log which was kept previously. This Log was used to keep track of the disposition of these Permits, making sure that the conditions had been adhered to. PZO Weber suggested talking with the new Town Supervisor, Tom Williams, about this.
- Member Renzi mentioned that the Town had always received Maintenance Reports from Walmart via County Soil & Water. He has not seen any of these reports in the last year or two and would like to receive them. He suggested a meeting with Amanda Barber to see if the items in this Board's requirements had been adhered to as a follow-up to their Stormwater Management Plan.

ADJOURNMENT

At 9:15 p.m., a motion to adjourn the meeting was made by Member Updyke, seconded by Member Hotchkin, with all members present voting in the affirmative.


Joan E. Fitch, Board Secretary

Draft e-mailed to Town Clerk, JBF, PB Members,
DD, BW, KM & DC on 1/23/20.
Approved 2/4/20.