

TOWN OF CORTLANDVILLE PLANNING BOARD

Minutes of Public Hearing & Regular Meeting - Tuesday, 27 October 2020 – 7:30 PM
Water & Sewer Garage – Next to Town Hall at 3577 Terrace Road – Cortland, NY

Board Members (*absent)

Christopher Newell, Chairman
Nicholas Renzi
Laird Updyke
Nasrin Parvizi
Ann Hotchkin

Others Present

Bruce Weber, (T) Planning/Zoning Officer
Joan E. Fitch, Board Secretary
John DeVecchio, Town Attorney
Patrick Snyder, Special Counsel
Tom Williams, Town Supervisor
Doug Withey, Town Councilman

Applicants & Public Present

David Spotts for SSC Cortlandville II & III, Applicant; Robert O’Gorman, Applicant; Matt Lester for Route 222 Cortlandville LLC, Applicant; Attorney Fran Casullo for Cortland Travel Holding, Inc., Applicant; Jim Halstrom for Suit-Kote Corp., Applicant; Scott Steve for JM Murray Center, Applicant; William Nichols, Mark Barlow, Anthony Gizzie, Paula & Peter Cowling, Pam Jenkins, Andrea Rankin, Michael Stokoe, Jim Nichols, Eric Ross, Colin Spencer, Lester Richmond, David Park, Vinnie Bellardini, Joe Reagan.

PUBLIC HEARING

SSC Cortlandville II LLC, Applicant/Reputed Owner – 4242 Bell Crest Drive AND SSC Cortlandville III LLC - 4240 Bell Crest Drive - TM #86.00-02-01.100 – Conditional Permits & Aquifer Protection District Special Permits – Proposed Solar Projects

The Public Hearing was opened at 7:30 p.m. by Chairman Chris Newell; the Board Secretary read aloud the Legal Notice as published in the *Cortland Standard* on 14 October 2020, as follows:

NOTICE IS HEREBY GIVEN that the Town of Cortlandville Planning Board will hold a Public Hearing on Tuesday, October 27, 2020 at 7:30 p.m. regarding the Conditional Permit application of SSC Cortlandville II & III, LLC, located south of Blue Creek Road and west of Ridgeview Avenue, Tax Map #86.00-02-01.000, to construct a Solar Array as per Chapter 140, Section 140-SF and Chapter 178, Section 178-74 C (2).

Attendance at the meeting will require you to wear a mask, practice social distancing, and consent to have your temperature taken. We request that only one member of the household attend due to space limitations in the Cortlandville Water & Sewer Garage across the parking lot from the Raymond G. Thorpe Municipal Building.

Chris Newell, Chairperson
Cortlandville Planning Board

Chairman Newell asked if there was anyone present who wished to speak on this matter, and there were, as follows:

Paula Cowling – 14 Ridgeview Avenue – Stated she was a “NIMBY” (not in my back yard). Lots of places this could be located. Had questions she would like answered. Who owns the land? How long is lease for? What about the water table? Will there be a report from NYSDEC? Why was Long EAF challenged? No definition of disturbance area yet. What is benefit to Cortlandville? About 36,000 panels only 200 feet away. Would like to see other affects from other farms. Site loaded with shale. Radon detected in her home. Thanked Board for serving as Lead Agency. What methods in place for maintenance? It’s an eyesore in the middle of a nice residential area.

Lester Richmond – 1025 Blue Creek Road – Lives 1000 feet away from proposed project. Opposes the solar array. Why put something this size where homes may be built? At some point in time, homes would be built here. Why put something like this in this neighborhood?

James Nichols – 12 Ridgeview Avenue – Raised our family here; moved here 33 years ago. Turned this into beautiful neighborhood through efforts of those living here. Since 2013, have been forced to endure flooding of St. Mary's Cemetery, and individual contracted with to remedy problem has turned our neighborhood into a construction site. Heavy industrial construction equipment parked in the area. Filed complaints with City, contacted Cortlandville Code Office, etc. with no response. What's proposed is not a solar farm, it's an industrial site like Niagara Falls. We are going to have to look at this monstrosity, 500 feet from my back porch. No reason for this at this location. Should be maintained as farmland. Opposed to this project.

Pam Jenkins – 4023 Collegeview Drive – Mrs. Jenkins displayed maps of area on the screen which showed boundary lines of Farmland Protection Plan which is in direct conflict the proposed solar array system. She explained the makeup of the map to those present. Areas set aside for residential development were indicated. Developer proposes to put solar system in area already designated for residential development. Comprehensive Plan, not adopted as yet, shows subject site to be used for other things, mainly residential. Many small farms are on land zoned Industrial (also had that map). Proposed array would cover 70 acres with panels. What about stormwater problems? Who are owners? Mr. Spotts reported there were two owners and two separate financing deals. What is the true answer? She stated that there's a monetary advantage to having two 5 MW facilities rather than one 10 MW facility; this may be the reason Mr. Spotts is seeking this subdivision. Because these projects are in conflict with the Town's plans, and the impacts could not be mitigated, in addition to the neighbors' objections, she requested that the Board deny the requested Conditional Permit.

Mark Barlow – Director of Catholic Cemeteries – Cemetery at 4101 West Road is an interested party, involved in six years of litigation with Jim Stevens. Equipment is there to mitigate stormwater damage. Current analysis of damage being done by PLS Engineering; it is not complete as yet. Had to disinter eighteen bodies. Spent one-quarter of a million dollars so far to repair all the erosion caused by Mr. Stevens. What will the impact of the proposed system be on the cemetery?

Scott Steve – 5 Ridgeview Avenue – Opposed to the project for most of the reasons already stated. Pile of topsoil from Route 281 project is onsite and hasn't been dealt with yet. What about long-term maintenance of the solar array project? What about erosion?

**With everyone being heard who wished to be heard,
Chairman Finn closed the Public Hearing at 7:58 p.m.**

REGULAR MEETING

The Regular Meeting of the Town of Cortlandville Planning Board was called to order at 8 p.m. by Chairman Chris Newell.

APPROVAL OF MINUTES – 29 SEPTEMBER 2020

A motion was made by Member Nick Renzi to approve the Town Planning Board Minutes of 29 September 2020, as submitted. The motion was seconded by Member Ann Hotchkin, with the vote recorded as follows:

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

Nays: None

Motion carried.

This becomes Action #64 of 2020.

OLD BUSINESS**McLean Solar 1 LLC, Applicant/Farm East ::C. Reputed Owner – 415 McLean Road – TM #95.00-01-33.1 – SEQRA Process**

Town Attorney John DelVecchio introduced Attorney Patrick Snyder, who is also a Licensed Professional Engineer, who had been previously discussed as someone well versed in the SEQRA process and would serve the Planning Board well in this capacity. Attorney DelVecchio stated he had reached out to the attorney for the applicant on several occasions, and the applicant has agreed to pay for Attorney Snyder's services in this regard. An escrow agreement has been drafted, he said, for Attorney Snyder's involvement; the agreement has been signed by the applicant with monies received. The Planning Board should affirm their willingness to execute this agreement if it so wishes.

Member Renzi asked if a scope of work had been determined, and Attorney DelVecchio advised it had been; Attorney Snyder would be involved in seeing the SEQRA process through. At this time, he stated, a Positive Declaration had been made and the applicant has chosen to follow through and had submitted a draft Scope and will eventually prepare an Environmental Impact Statement.

With no further discussion, **a motion was made by Member Hotchkin that the Town of Cortlandville Planning Board authorizes Attorney Patrick Snyder to represent the Town in the SEQRA process and authorizes Chairman Chris Newell to execute the Escrow Agreement between the Planning Board and the applicant for Attorney Snyder's services. The motion was seconded by Member Updyke, with the vote being recorded as follows:**

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

Nays: None

Motion carried.

This becomes Action #65 of 2020.

Member Renzi asked all Board members to take a look at Pam Jenkins' comments. Attorney Snyder addressed the Board regarding this project. The public, he stated, has not been given the opportunity to participate in the scoping process which has to be completed within sixty days. It is now up to the Board to provide an opportunity to review the document, and provide their input within this time period. Attorney DelVecchio then commented that the applicant's attorney had requested the scheduling of a public hearing on the draft scope for its next meeting, and that any comments to be made be submitted to him prior to that so they can be prepared to address them if need be. Attorney DelVecchio stated comments could be submitted to him and he will see that they are forwarded to the applicant.

Pam Jenkins commented that it was her understanding "that we were supposed to be invited to participate in scoping."

Draft scoping was then discussed and, at the conclusion of the discussion, **a motion was made by Member Updyke to schedule a Public Hearing for 24 November 2020, 7:30 p.m., for the draft Scoping of the Environmental Impact Statement. The motion was seconded by Member Parvizi, with the vote recorded as follows:**

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

Nays: None

Motion carried.

This becomes Action #66 of 2020.

Attorney Snyder suggested that the Board members compile their written comments individually which would then be put into one document.

SSC Cortlandville II LLC, Applicant/Reputed Owner - 4242 Bell Crest Drive AND SSC Cortlandville III LLC - 4240 Bell Crest Drive - TM #86.00-02-01.100 - Conditional Permits & Aquifer Protection District Special Permits - Proposed Solar Projects

(Reference is made to this Board's Minutes of 4 and 25 August and 29 September 2020 for additional details.)

Attorney/Engineer Snyder said he had been in communication with Mr. Spotts and had received what he had needed from him. He stated he had heard from NYSERDA who did not want to be Lead Agency; however he has not heard from the NYSDEC or the IDA. The Town Board wants the Planning Board to act as Lead Agency. No determination can be made until this Board is established as Lead Agency.

Member Renzi advised those present that he had made some comments regarding these applications, and he reviewed them with the Board. He clarified that what he was reading were strictly his own comments, a copy of which has been placed on file for the record, and also given to Mr. Spotts for his response.

Member Hotchkin asked about the project's effect on the County Landfill, and noted that the applicant stated the project would generate about 32 tons of solid waste. Mr. Spotts reported this was mostly packaging material, i.e., cardboard and pallets. He said they had options where these materials could be disposed of; Chairman Newell advised there was a "flow control law" in this County. Member Hotchkin reminded the Board that this was only one project out of eight that are proposed.

Member Renzi suggested that the Planning Board members should review the Supreme Court Order of 1 February 2019 which he had emailed to them. He then asked if the stormwater problem had been mitigated? Mr. Spotts said they had weekly calls regarding this as it is very important to them as neighbors that the problem be addressed and finalized and closed out with NYSDEC. It is substantially complete, he said, and they are just waiting for vegetative growth.

Member Renzi asked if County Soil & Water had been contacted, and Mr. Spotts did not know. He suggested that Ms. McGrath of CS&W be contacted for their review. Mr. Spotts asked for the Board's consideration to approve the project under the condition that the Court Order is lifted prior to the issuance of the Building Permit.

Attorney DelVecchio commented that litigation raised by the Board is of legitimate concern. He believes that should the Board ultimately grant the Conditional Permit, that it would not be legally inappropriate to do so with a contingency upon all of the directives specified in that Court Order being fulfilled. The best way to see that this is done is for NYSDEC to make the sign-off.

At the conclusion of this extensive discussion, **a motion was made by Member Renzi that the applications for a Conditional Permit and an Aquifer Protection District Special Permit for these solar projects be postponed until the next meeting of the Town of Cortlandville Planning Board. The motion was seconded by Member Updyke, with the vote recorded as follows:**

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

Nays: None

Motion carried.

This becomes Action #67 of 2020.

Route 222 Cortlandville LLC, Applicant/Rosler-Herwood Properties, LLC, Reputed Owner - (wellNOW Urgent Care Clinic) - South Side of NYS Route 222 - TM #86.13-01-58.100 - Conditional Permit and Aquifer Protection District Special Permit

(Reference is made to the 29 September 2020 Minutes of this Board for further details.)

Chairman Newell recognized Matt Lester, representing the applicant who was seeking a Conditional Permit and an Aquifer Protection District Special Permit to construct a 3531 SF urgent care clinic on the subject property. Chairman Newell asked if Mr. Lester had received the Cortland County Planning Department/Board comments regarding this project; he had.

PZO Weber commented that the applicant was supposed to have provided hard copies of the plans for the Board and he only received one, and there was no reference made to the comments. Mr. Lester apologized. The plans have been updated, he said, to address the comments. Member Renzi reviewed the County's recommendations.

Mr. Lester reported that a copy of an easement to the Valu Home Center has been drafted and will be placed in the deed. Hours of operation for the wellNOW facility will be from 8 am. until 8 p.m., 365 days per year; if high volume, it could go from 8 a.m. to 11 p.m. Handicapped spaces have been moved closer to the main entrance. The building has been raised due to the Flood Plain. Answers to the Board's other concerns have been contained in the revised packet (which should be forthcoming).

At the conclusion of the discussion, **a motion was made by Member Hotchkin approve the subdivision of land and the Conditional Permit, as requested, incorporating Items 1 thru 16 of the Cortland County Planning Board's Resolution No. 20-25 of 21 October 2020, with a recommendation made to the Town Board that the issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQRA. The motion was seconded by Member Parvizi, with the vote recorded as follows:**

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

Nays: None

Motion carried.

This becomes Action #68 of 2020.

Suit-Kote Corporation, Applicant/Reputed Owner - 3779 US Route 11 - TM #97.00-01-31.000 - Conditional Permit & Aquifer Protection District Special Permit for Proposed New Facilities

[The applicant appeared before the 29 September 2020 meeting of this Board, seeking a Conditional Permit and Aquifer Protection District Special Permit to add a new scale platform, storage unit (two silos), and gas service building at this blacktop plant site, as shown on the materials accompanying the application. Eventually they will be eliminating the small plant they have. They would like to start construction in November/December.]

PZO Weber reported that, in error, the incorrect documents had been forwarded to County Planning. He has spoken with their staff and they have not seen anything in the correct documents that would be a problem, and the Aquifer Permit requirement is because of the cost of the project, not because of any hazardous material storage.

Chairman Newell asked the Board if they had any questions; there were none.

With no further discussion, a motion was made by Member Hotchkin to approve the Conditional Permit for a new scale platform, storage unit, and gas service building contingent upon a positive recommendation from County Planning and adherence to any County recommendations, with the Town Planning Board's recommendation to the Town Board that they issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQR. The motion was seconded by Member Parvizi, with the vote recorded as follows:

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

Nays: None

Motion carried.

This becomes Action #69 of 2020.

Cortland Travel Holding Inc., Applicant/Reputed Owner – 3742 US Route 11 – TM #97.02-01-24.000 – Conditional Permit & Aquifer Protection District Special Permit – Proposed Underground Storage Tank

(Reference is made to this Board's Minutes of 29 September 2020 for further details.)

Chairman Newell recognized Attorney Fran Casullo, representing the applicant who was seeking a Conditional Permit and Aquifer Protection District Special Permit to install an underground 9400-gallon double-walled storage tank to hold a non-petroleum product (diesel exhaust fluid – Urea DEF). It's non-toxic and used in diesel trucks to make emissions a lot cleaner, and is not regulated by the NYSDEC nor the Environmental Protection Agency. All details were contained in the technical materials accompanying the application.

Attorney Casullo reported that he had received the report/resolution from County Planning. The recommendations from the County Board would be met.

With no further discussion, a motion was made by Member Updyke to approve the Conditional Permit for the proposed underground storage tank, as requested, with a recommendation made to the Town Board that they issue an Aquifer Protection District Special Permit and act as Lead Agency under SEQR. The motion was seconded by Member Hotchkin, with the vote recorded as follows:

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

Nays: None

Motion carried.

This becomes Action #70 of 2020.

NEW BUSINESS

Robert O'Gorman Applicant/U2 Enterprises LLC, Reputed Owner – 3699 Luker Road – TM #95.00-05-05.110 – Conditional Permit for Pole Barn

Chairman Newell recognized the applicant and complimented him on the materials accompanying the application. Mr. O'Gorman explained he was seeking a Conditional Permit to construct a 40 ft. by 60 ft. pole barn expansion on this site occupied by his business. There will be no signs and only one light over the door.

Member Renzi said he saw no problem with what was proposed but wanted to make sure the proposed storage use was in keeping with the Code. PZO Weber assured him the use would be in conformance with the Code.

It is noted for the record that the plans for the proposed pole barn and associated parking area had been reviewed by County Soil and Water, and their 19 October 2020 letter stated they found the proposed project will not cause additional stormwater volume to leave the property.

With no further discussion, **a motion was made by Member Hotchkin to approve the Conditional Permit, as requested. The motion was seconded by Member Updyke, with the vote recorded as follows:**

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

Nays: None

Motion carried.

This becomes Action #71 of 2020.

OTHER MATTERS

- Chairman Newell stated that between now and the November meeting, Board members had their homework to do regarding the proposed solar projects. Attorney DelVecchio gave some instructions on procedural issues.
- PZO Weber answered the Board's questions regarding setting up of a Town email address. Nick Alteri serves as the Town's "guru" for same.

ADJOURNMENT

At 9:10 p.m., a motion to adjourn the meeting was made by Member Renzi, seconded by Member Updyke, with all members present voting in the affirmative.


Joan E. Fitch, Board Secretary

Draft e-mailed to Town Clerk & AR,
JD, PB Members, DD, BW, KM & DC on 11/16/20.
Approved 11/24/20.