



Cortland County Planning Department

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DANIEL S. DINEEN

Director of Planning

email: ddineen@cortland-co.org

October 17, 2019

Bruce Weber
Zoning Officer
Town of Cortlandville
Town Hall - 3577 Terrace Rd.
Cortland, NY 13045

RE: McLean Solar 1, LLC – application

Dear Bruce:

The Cortland County Planning Board has taken NO Action on the aquifer protection district special permit, conditional permit and use variance application of the above mentioned referral at the October 16, 2019 Cortland County Planning Board meeting.

There were 3 out of the 7 Board members present who voted to approve this proposal subject to the contingencies outlined in the staff report. The vote was 3 (ayes) Danny Ross, Wendy Miller, and Chuck Feiszli and 3 (nays) Ann Swisher, Beau Harbin and Amy Bertini and 1 (abstain) Ann Hotchkin. The County Planning Board however, requires a majority of the total membership (six) to pass a resolution. A majority decision could not be reached on this matter.

The Town of Cortlandville may proceed with this application without further input from the County. Enclosed is a copy of the County Planning Department staff report.

Please feel free to contact me if you have questions.

Sincerely,

Kevin J. Pagini
Planner

Enclosures: (1 – staff report)

October 11, 2019

**GML# 95.00-01-33.100
Town of Cortlandville
Conditional Permit, Aquifer Protection
District Special Permit & Use Variance
McLean Solar 1, LLC**

TO: Cortland County Planning Board

FROM: Cortland County Planning Department

This application for a conditional permit, aquifer protection district special permit and a use variance is being referred to the Cortland County Planning Board pursuant to General Municipal Law 239-m as the property is located within 500 ft. of McLean Road (County Road # 120) and active farming operations within the Cortland County Consolidated Agricultural District.

GENERAL INFORMATION

Date Received: September 28, 2019

**Applicant: McLean Solar 1, LLC
Attn: Elie Schecter
55 5th Avenue
Floor 13
New York, New York 10003**

Status of Applicant: lease agreement

Requested Action: conditional permit, aquifer protection district special permit and use variance

Purpose: to construct a solar array, accessory access driveway and security fencing encompassing approximately 12.00+/- acres on an R-1 (Residential) zoned property

Location: south side of Mclean Road, directly across from the McLean Road/Deerfield Heights intersection

Size: 83.6+/- acres (project area 12.00+/- acres)

Existing Zoning: R-1 (Residential)

Existing Land Use: woods/fields

Surrounding Zoning: AG (Agricultural) and R-1 (Residential)

Surrounding Land Uses: N – residential
S – residential
E – residential and woods
W – residential and vacant

Existing Regulations: Code of the Town of Cortlandville

Chapter 178 Zoning

Article IV – Residential R-1 District

Article X – Aquifer Protection District

Section 178.46 – Special permits

- A. Is a development, other than residential, of real property exceeding \$150,000 in development cost

Article XIV – Conditional Permit

Section 178-75. Structure/Use Requirements for Permit Approval

Section 178-76. Additional Specific Requirements

- G. Transportation and utility facilities
(2)

Article XVI - Stormwater Management and Erosion and Sediment Control

Section 178-90. Jurisdiction and applicability

- C. Exemptions
(1)

Article XVIII – Signs

Section 178-112 – Permitted signs

Section 178-113 – Regulations for permitted signs

Article XIX – Supplemental Regulations and Exceptions

Section 178-123.3. Solar energy systems

D. Permitted locations

- (3) Ground-mounted large-scale solar energy Systems

E. Conditional use design and installation standards

G. Height and setback restrictions

I. Signage and/or graphic content

ANALYSIS:

The applicant is requesting a conditional permit, aquifer protection district special

permit and a use variance to construct a solar array, accessory access driveway and security fencing encompassing approximately 12.00+/- acres in an R-1 (Residential) District. The property is located on the south side of McLean Road, directly across from the McLean Road/Deerfield Heights intersection, and is zoned R-1 (Residential).

This is the second time this project has been before the County Planning Board for review. In March 2019 this same project came before the Board, but the applicant was requesting a zoning map amendment. The Board approved the application for a conditional permit, aquifer protection district special permit and zoning map amendment contingent upon the following:

1. That the Town considers the appropriateness of rezoning this property from R-1 (Residential) to AG (Agricultural) given that while this property is adjacent to AG zoned properties to the west across McLean Road and to the south across Lime Hollow Road, it would be the only property south of McLean Road and north of Lime Hollow Road zoned AG (Agricultural).
2. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
3. That the applicant obtains written approval for the driveway entrance to McLean Road from the County Highway Superintendent since McLean Road is a County road.
4. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.
5. That the applicant prepare and submit an erosion and sediment control plan to the Town to address erosion and sediment control during construction and revegetation of all pervious areas upon completion of construction.
6. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
7. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater

Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.

8. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
9. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
10. That the applicant submits a detailed narrative to the Town for this project which provides, at a minimum, the following information; the amount of electricity to be generated on site, the maximum height and angle of the proposed panels, how panels/arrays would be secured to the ground, types of plantings and planting maintenance schedule adjacent to and underneath panels/arrays, total length of buried cable and number of power inverters and conductors, whether the electricity generated would be used solely by the property owner or as a community energy project and a decommissioning plan for the project to provide the Town with the necessary information to adequately assess potential impacts of this project on the surrounding neighborhood and community.
11. Compliance with SEQR requirements.

The Town did not approve the zoning map amendment and the applicant has resubmitted the application but as a request for a use variance.

The Coordinated Review Committee (CRC) met regarding this proposal and addressed the following issues. The applicant is proposing to construct a solar array, accessory access driveway and security fencing encompassing approximately 12.00+/- acres. Ground-mounted large-scale solar energy systems are permitted in the AG District subject to a conditional permit. An aquifer protection district special permit is also required as the proposed development costs would exceed \$150,000. The applicant is also applying for a use variance as large scale solar arrays are prohibited in an R-1 (Residential) District. In order for a use variance to be granted, the applicant must demonstrate that there are unnecessary hardships in the way of carrying out the strict letter of the Town's zoning law. The property abuts existing AG zoned properties to the west across McLean Road and to the south across Lime Hollow Road, but is predominately surrounded by residential properties in the R-1 (Residential) District. It is therefore recommended that before any positive consideration is given to the proposed use variance, that the Town consider the appropriateness of permitting this use on a residentially zoned property.

The site plan indicates that the proposed solar array would be 12.00+/- acres in size and would include 6,864 panels. The applicant has stated that the amount of electricity that would be generated from this solar array would be approximately 3,507,504 kWh annually. The array would be enclosed by 7 ft. in height chain-link fencing with a secured access gate. Warning signs, owner's name and contact information signs shall be installed every 200 ft. along the fence. The solar panels would be rotating panels facing east-west and have a maximum height of 8 ft. The solar panels would be setback a minimum of 50 feet from all adjoining properties. There is concern regarding the impact of glare from the solar panels on surrounding properties. Although the applicant has provided new information in regards to mitigating glare from the solar panels, it is still recommended that the applicant provide assurance to the Town that the necessary steps would be taken to minimize reflective glare impact on the surrounding residential properties.

Access to the site would be provided via a 10 ft. wide gravel driveway access from McLean Road. It is recommended that the applicant obtain written approval for the driveway entrance to McLean Road from the County Highway Superintendent since McLean Road is a County road. This 10 ft. wide driveway would extend approximately 430 ft. from Mclean Road to the proposed solar array.

The area of the proposed driveway and solar array is currently being used as a farm field. There is concern as to the potential stormwater impacts from a large scale solar array. While solar arrays themselves do not add direct impervious cover, the kinetic energy of the water flowing off of the panels has the potential to create driplines, and subsequently may cause erosion and channelization underneath the panels. There would be vegetative cover underneath the panels that should be maintained on a regular basis. It is recommended that a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained as it would be the primary management practice for stormwater on site. The applicant has indicated that there would be only .59+/- acres of land disturbance as a result of this project since the solar panels would be installed in an area that is an existing cultivated farm field. It is unclear as to whether the installation of solar arrays on a cultivated farm field is considered land disturbance. Regardless of whether or not this project is considered to have more than one acre of land disturbance, it is recommended that the applicant prepare and submit an erosion and sediment control plan to the Town to address erosion and sediment control during construction and revegetation of all pervious areas upon completion of construction. If it determined that this project would disturb more than one acre of land, it would require the preparation of a Stormwater Pollution Prevention Plan (SWPPP) per the Town's stormwater ordinance including water quality and quantity management. The applicant would also be required to file a Notice of Intent with the NYS Department of Environmental Conservation (DEC), prepare and submit a stormwater pollution prevention plan (SWPPP) to the DEC for the site and obtain a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage for greater than one acre of soil disturbance. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements. The applicant would also be required to obtain approval

of the final design of the stormwater pollution prevention plan from the County Soil and Water Conservation District prior to any positive consideration of this proposal. It is also recommended that the applicant contact the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.

It should be noted that almost the entire project site is considered prime farmland as identified by the United States Department of Agriculture Natural Resources Conservation Service. The use of prime farmland for ground-mounted large-scale solar energy systems requires Town Planning Board approval.

The applicant intends to return the electricity generated to the grid as community distributed generation which would allow transfer of the electricity generated in the form of bill credits to subscribing members within the same distribution utility territory and NY-ISO control load zone. The applicant has also submitted the requested details for the proposed solar project including the amount of electricity to be generated on site, how panels/arrays would be secured to the ground, types of plantings and planting maintenance schedule adjacent to and underneath panels/arrays, total length of cable (buried and aboveground) and number of power inverters and conductors and a decommissioning plan for the project. This narrative can be found in your application packet.

Finally, the applicant has completed Part I of a Full Environmental Assessment Form. Parts II & III should be completed by the Town to determine if any significant adverse environmental impacts may result from the proposed development.

RECOMMENDATION

The staff recommends approval of this application for a conditional permit, aquifer protection district special permit and use variance contingent upon the following:

1. The applicant demonstrating that there are unnecessary hardships in the way of carrying out the strict letter the Town's zoning law as is required before any use variance may be granted.
2. That the Town considers the appropriateness of permitting this use on a residentially zoned property.
3. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
4. That the applicant obtains written approval for the driveway entrance to McLean Road from the County Highway Superintendent since McLean Road is a County road.

5. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.
6. That the applicant prepare and submit an erosion and sediment control plan to the Town to address erosion and sediment control during construction and revegetation of all pervious areas upon completion of construction.
7. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
8. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
9. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
10. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
11. Compliance with SEQR requirements.

Prepared by:

Reviewed/ revised by:

Kevin J. Pagini
Planner

Daniel S. Dineen
Director of Planning