

Town of Waterford
Planning Board
65 Broad Street
Waterford, NY 12188

Minutes of December 11, 2023

At 7:30 PM, attendance was taken. Chairman Woodin and members Peter Fletcher, Harriett Fusco, Paul Henry and Robert Lefebvre were present. Alternate member Brian Brusco was in attendance along with consultant Nan Stolzenburg and Town Attorney John Dowd.

The regular meeting began with the Board waiving the reading of minutes for the November 13th meeting. Motion by Woodin and 2nd by Fletcher and approved 5 – 0.

A site plan review for a cannabis dispensary at 27B Saratoga Avenue was continued from November when a sketch plan was reviewed. Jason Wellington, representing M & J Genesis noted that the group has done significant work at the proposed site including striping the parking lot. Fixing the exterior lighting, removal of the smoker's bench, and adding a handicapped parking space in front of the old NAPA store. A public hearing was set for January 8, 2024 at 7:30 PM (motioned by Woodin and seconded by Fusco; passed 5 – 0).

At 7:41 PM, Matt Rimkunas presented a site plan for Waterford Wine & Spirits which seeks to open a liquor store at 27C Saratoga Avenue. The store will be located in the former NAPA store and occupy about 2000 sf. The hours of operation would be 9 AM to 9 PM, open 7 days per week with shorter weekend hours. Much of what would be required for site improvements are already being done by the cannabis dispensary. A new sign is proposed at the southwestern corner of the plaza where an existing blue sign pole for the former NAPA sign is already there. Several concerns were expressed. The zoning allows only one freestanding sign on the property. In the plaza, there are already two and the liquor store sign would be the third sign. However, the plaza is actually two separate lots and therefore, each lot gets a sign. The NAPA sign was in place at one time when the two other signs were also existing. Was this sign given a variance in the past? Would it be considered grandfathered? Another concern is that the pole exceeds the zoning requirement that the sign be no higher than 10 feet. Mr. Rimkunas said that they would be agreeable to reducing the sign height to 10 feet. Chairman Woodin said that he would look into the need for a variance regarding two free-standing signs on the same parcel.

Chairman Woodin said that he would send a copy of the Dispensary's SEAF Part 1 as the liquor store SEAF should be identical.

At 7:55 PM, Dylan Defrino (Seaboard Solar), Ryan Clark, John Brazo, Caryn Mlodzinowki (Bohler Engineering) and Attorney Mark Sweeney appeared before the Board to continue discussions for a special use permit and site plan review for two 5 MW solar facilities in Riberdy Grove along the Mohawk River. The property (approximately 136 acres) proposed for review is currently owned by John & Elizabeth McLaughlin of Troy.

There was a review of the outstanding items. In order to accommodate the Riparian buffer, some solar arrays had to be relocated/removed. In all, 4 acres were impacted in which 900 panels of about 156,000 were lost. This represented a 3.7% loss of power production. At the November meeting, Seaboard was asked why couldn't the affected arrays be relocated elsewhere on the property to avoid a potential power loss. The reason was that a relocation would require another SHPO review which could cause a significant delay of up to six months.

There was a quick discussion regarding the visibility of the future solar arrays. There had been concern that the methodology used to indicate where the arrays would be visible or not was less than satisfactory. However, actual field observations countered the studies. Chairman Woodin noted that he drove the Crescent Road earlier in the day and with no leaves remaining, the woods are dense enough to prevent seeing any arrays that will be set back several hundred feet into the woods. He also applauded Seaboard's effort to provide screening and buffers while other solar farms in Upstate New York have little to no screening. The only visible points should be from the top of the Colonie Landfill.

The issue of access via Flight Lock Road remains a problem. Defrino stated that NYSDOT had provided Seaboard with information that said the canal bridge was rated for legal 40 ton loads and that it is R posted for heavier loads. As for Flight Lock Road, based on their Title Insurance review, Seaboard is confident that they have legal access via Flight Lock Road. However, the Power Authority and Canal Corp have not concurred. Chairman Woodin stated that before a building permit could be issued, the access issue would have to be resolved with all parties in agreement.

The Board reviewed the SEAF (Parts 1, 2 & 3) and concluded that the environmental impacts were mostly none or minor in nature. Where impacts were more significant, mitigation efforts like creation of a Riparian buffer were provided. Chairman Woodin motioned to approve the Negative Declaration and 2nd by Fusco. The motion passed 4 – 0 with Paul Henry abstaining.

With the Neg Dec complete and the major issues resolved, Attorney Mark Sweeney approached the Board to ask that the condition requiring Canal Corp/Power Authority approval to use Flight Lock Road be eliminated or modified. After some discussion, the Board agreed to modify the condition concerning access as follows:

Access. Prior to issuance of a building permit, the Applicant shall provide proof, subject to the reasonable satisfaction of the Town's attorney, of legal access to the parcel from Flight Lock Road and the Canal side of the Project.

Chairman Woodin motioned to approve the site plan review and issue a special use

permit for the solar project. It was 2nd by Fletcher and passed conditionally 5 – 0. The conditions were as follows:

- a) Initiation of Construction. No grading, tree clearing, or other construction activities shall commence until all the conditions of this approval have been met and the Town of Waterford Building Inspector has issued a valid building permit.
- b) Stormwater Plan. A Notice of Intent must be filed with the NYS Dept. of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements in the NYSDEC's SPDES General Permit for Stormwater Discharges (GP-0-20-001, January 29, 2020) for construction activities disturbing more than one acre of land and a copy of said Notice must be submitted to the Town's Designated Engineer and Building Inspector.
- c) Decommissioning. The final approved Decommissioning Plan together with an original Decommissioning Bond, in a form subject to the reasonable approval of the Town's attorney, shall be delivered to the Building Inspector.
- d) Taxable Status of Property. The property not occupied by the solar arrays shall not be placed in a conservation easement.
- e) No Further Development. The site development plans shall state that no development is permitted within identified setback or buffer areas without review and approval by the Town of Waterford Planning Board.
- f) Access. Prior to issuance of a building permit, the Applicant shall provide proof, subject to the reasonable satisfaction of the Town's attorney, of legal access to the parcel from Flight Lock Road and the Canal side of the Project.
- g) Bridge Rating. Prior to issuance of a building permit, the Applicant shall provide written confirmation from the New York State Department of Transportation that the bridge needed to access the parcel is rated to allow for up to 80,000 pounds, sufficient for construction and decommissioning activities.
- h) Wetlands Permit. Prior to issuance of a building permit, the Applicant shall provide written confirmation (all correspondence and issued permits) of all required wetlands permits from appropriate agencies that address the proposed 0.1 acre disturbance of a wetland.
- i) Maintenance and Inspections of Riparian Buffer. Prior to issuance of a building permit, the Applicant or Applicant's contractors shall evaluate trees to be felled in certain areas within the Riparian Buffer (outside of the 25' no disturb area but within the Riparian area as mapped) because they may shade solar panels. Based on this evaluation, such trees to be removed will be marked and mapped, and details as to how adverse impacts to the Riparian Buffer will be avoided or mitigated provided. Such map and detail shall be submitted to the

Town of Waterford Building Inspector as part of the Building Permit Application. The Building Inspector shall refer such map to the Planning Board if a field change related to tree cutting in those areas is proposed.

- j) Cut Sheets. Final cut sheets for all equipment shall be provided as part of the building permit application.
- k) Proof of Insurance. Proof of insurance with the Town listed as additional insured shall be provided as part of the building permit application.

At 9:30 PM, Woodin motioned to adjourn, 2nd by Fusco.