

Zoning Board of Appeals

The Town of Marshall

Minutes of the Regular Meeting Zoning Board of Appeals on 9 April 2025

A meeting of the Zoning Board of Appeals (ZBA) of the Town of Marshall, County of Oneida and the State of New York was held at the Town Hall 2651 State Rt. 12B, Deansboro, NY on this 9th day of April 2025.

Present: J. Addington, C. McGill, J. McNair, J. Stephenson, D. Zweifel-Yaciuk

Absent/Excused: none

Guests: Brian Weigel, 6895 Van Hyning Road, Deansboro, NY
Thad Merriman, 6954 Van Hyning Road, Deansboro, NY
Doreen Falin, 6948 Van Hyning Road, Deansboro, NY
Melissa Williams, 2115 Brothertown Road, Deansboro, NY
Dan Williams, 2115 Brothertown Road, Deansboro, NY
John Marzocchi, Attorney, 314 E. Fayette Street, Syracuse, NY (D. Williams attorney)
Barbara Medina, 2155 Brothertown Road, Deansboro, NY
Deb Turner, 6788 Van Hyning Road, Deansboro, NY
Jody Hath,
Victor Ciaccia, Norbut Solar Farms, 1241 University Avenue, Rochester, NY
Ashley Champion, Attorney, Norbut Solar Farms, 1241 University Avenue, Rochester, NY

This meeting was called to order at 18:30 by J. McNair.

Resolution #1

A motion was made by C. McGill to approve the 12 March 2025 ZBA meeting minutes. J. McNair seconded the motion. The motion was approved 3-0-2.

Recognition of Guests:

J. McNair reminded guests that the ZBA follows the NYS open meeting conduct rules. Copies of the rules were made available to all. He also said that he would stay after the meeting for anyone who wanted to understand the process.

Acceptance of request for the recusal of C. McGill and J. Stephenson: J McNair accepted this request.

D. Falin stated that D. Williams had not followed the zoning ordinances before, and she wanted to know what assurances she could have that they would be adhered to going forward. She raised concerns over the increased traffic and said that her quality of life has deteriorated and would not improve with a “world class” resort.

D. Turner said that she was opposed to community growth and that it had an adverse effect on property values because of the Williams Fence trucks, construction trucks, and free running dogs. She feels that Van Hyning Road cannot handle the amount of traffic if the resort were to host an event with 150 to 200 people in addition to vendors and vendor trucks. She raised concerns about alcohol use. She had moved from East Bacon Street in Waterville to her Van Hyning Road residence. She relocated because

of all of the Memorial Park School activities. She sought the quiet, country living that Van Hyning Road offered.

B. Medina shared her concerns regarding the light and noise that would come from the resort. She asked if the resort property would have a fence around the entire perimeter. She wanted to know how the creek would be impacted. Additionally, she asked about what security measures would be put into place and wanted to make sure employees had legal status as well as background checks. B. Medina would like to see the public meeting notices posted in the Deansboro post office. J. McNair responded that he would make sure future meeting notices would be posted there, and he will check to see if they can also be posted on the Barton Hose Fire Department's electronic sign.

B. Weigel believes a golf club resort incompatible for the area. He has environmental concerns regarding ground water contamination from the use of pesticides and other chemicals at the golf resort. He wanted to know what would be done to prevent water running off onto his property and how it would affect on the livestock. He raised concerns about security issues with the possibility of people coming onto his property to look for a golf ball and mountain bikers going off the trail. With three event spaces, he stated that the area road would not be able to handle the increased traffic because it is a seasonal road. He is worried about drunk driving and public urination. He asked if there had been a traffic impact study done. There would be increased noise pollution related to the maintenance equipment. He said if you consider MJK Farm, this make it four neighboring event venues. He wanted to know about security and what the impact would be on property values.

J. McNair thanked the guests for their input and concerns. Then, he explained the process the ZBA would follow.

C. McGill and J. Stephenson returned to the meeting.

New Business:

Norbut Solar Installation: J. McNair recognized V. Ciccio and A. Champion of Norbut Solar Farms (NSF). He explained that the previous town attorney, B. Getman, had failed to submit the complete solar law. The extension paragraph had been omitted. Therefore, the Town of Marshall has no authority to grant nor deny an extension. The current granted extension was not needed. A new solar law was passed and will be established in May 2025. However, NSF will continue under the old law. J. McNair shared the NSF new timeline. V. Ciccio stated he would share the interconnect agreement. J. McNair and a few ZBA members visited the site and noted that more equipment was there, and work had begun. This shows that NSF has vested rights for continuity. J. McNair noted that a retaining pond on the left side of the road was not seen on the engineer's plan. He asked if there was an alteration to the plan and if there were any other changes. A. Champion said it was noted in the building permit and that the tree species had changed. C. McGill noted there was a culvert on the NSF property and that the construction manager should be mindful of water runoff onto the neighbor's land. J. McNair explained that the Codes Enforcement Officer is responsible for inspecting the site. A copy of the new timeline was given to the Town Board with a completion date of November 2025. V. Ciccio confirmed there would be no battery bank on the NSF site. J. McNair requested that there be a 24/7 emergency contact. Also, the ZBA would like to schedule the local fire departments and first responders to visit the site. This will likely happen in the fall, closer to the project's completion. V. Ciccio will provide the contact information to J. McNair. V. Ciccio and A. Champion provided the construction manager's contact information.

Acceptance of request for the recusal of C. McGill and J. Stephenson: J McNair accepted this request.

D. Williams SUP applications:

J. McNair explained the ZBA's role was

1. To hear an appeal of a Codes Enforcement Officer's ruling
2. To review an area variance request
3. To review a use variance request
4. To review a Special Use Permit request

a. In an A-1, Agricultural district, uses permitted by SUP by ZBA are in this case, for commercial recreation, outdoor amusement park. There are others but they do not apply in this case. A golf course and country club are some of the uses permitted by right and therefore do not need a SUP application.

All are reviewed on a case-by-case basis. First, the ZBA looks to make sure that the application is complete before reviewing it. If accepted, a public hearing is scheduled, and it becomes part of the public record.

After the ZBA accepts the application, various other government agencies, such as the DEC for a SEQRA (environmental review), Oneida County Planning Department, the Army Corps of Engineers, DOT, etc., are notified of the application. This depends on what the SUP application is for. Then a public hearing notice must be given a minimum of 5 days prior to the scheduled hearing. The ZBA has 62 days from the conclusion of the public hearing to render its decision. They may grant, grant with conditions or deny the application. A notice will be placed in the Waterville Times, the Town of Marshall's newspaper of record.

The Town of Marshall's Comprehensive Plan will be considered when reviewing the applications.

D. Williams presented 6 Special Use Permit (SUP) applications to the ZBA for review.

1. Tax Map Parcel Number 373.000-1-36 (6963 Van Hyning Road, corner lot between Brothertown and Van Hyning Roads) – D. Williams stated that he closed the retail and residential fence store since it was in violation of operating a commercial business in an agricultural zone. It is now a cloud-based business, supplies are shipped directly to the sites, and employees report to the sites rather than the business. He would like to apply for a special use permit so that he can set up an office and use the building as a temporary maintenance facility for the golf club. J. Addington asked if D. Williams would be storing any equipment there. D. Williams responded that he plans to build it out over time and that equipment for the fencing business would be rented rather than owned. J. McNair stated that a Special Use Permit was not needed for a country club. He pointed out that for an amusement park or commercial recreation, an SUP application would be appropriate. J. Marzocchi said a SUP would be required for a temporary club house and event space.

J. McNair shared with D. Williams that there were many parts of the applications for SUPs that did not provide the level of detail that the ZBA would require to make a thorough evaluation of each application. J. McNair then offered to D. Williams that should the applications be accepted at the meeting that night, that D. Williams would respond to requests for additional information and documentation prior to a public hearing for each SUP application. J. McNair indicated that the ZBA would email D. Williams such

requests in the next few days so that D. Williams would have adequate time to gather and provide additional information. D. Williams agreed to do so.

J. McNair made a motion to accept, J. Addington seconded, the SUP application for Tax Map Parcel Number 393.000-1-36 as amended to be Requesting a change of use from Williams Fence of CNY Retail Store and Yard to Event Space and Temporary Clubhouse for the Blueberry Brook Farm Resort. This County Club is a permitted use in the A1/Agricultural Zone. The motion carried 3 – 0.

2. Tax Map Parcel Number 373.000-1-36-1 (6963 Van Hyning Road) – D. Williams explained that this parcel was part of the fencing business, and he plans to convert some of the land to a nursery and use the building as a maintenance and construction facility for the Blueberry Brook Farm Resort. The nursery plants would be used around the resort. J. McNair explained that a nursery does not need a SUP. However, a maintenance and construction facility would need a SUP.

J. McNair made a motion to accept, D. Zweifel-Yaciuk seconded it, the SUP application for Tax Map Parcel Number 393.000-1-36-1 as amended to be “We are looking to use the building at 6963 Van Hyning Road, Deansboro, as the maintenance facility for the Blueberry Brook Farm Resort and a construction yard for the country club being built at the Blueberry Brook Farm Resort. The motion carried 3 – 0.

3. Tax Map Parcel Number 373-000-2-47.1 (2115 Brothertown Road) – D. Williams and his wife, Melissa, currently reside at this address. He would like to change the use from Residential/Agricultural to a Country Club. J. McNair explained that he did not need a SUP application for a country club. However, the residential and agricultural zones could be used as an owner-occupied Bed and Breakfast and that an inn would require a use variance. J. Addington asked if this site was going to be for multiple uses specific to lodging. If so, then a Use Variance should be requested. J. McNair said that as an A1/Agricultural property, there would need to be some justification for a SUP for lodging as it is not a use permitted by right in the A1 Zone.

J. McNair made a motion to accept, and J. Addington seconded to SUP application for Tax Map Parcel Number 373.000-2-47.1 as amended to say “.... The property will become part of the 244-acre country club at Blueberry Brook Farm Resort. The resort will include lodging and entertaining.” The motion carried 3 – 0.

4. Tax Map Parcel Number 373.000-1-31 (Cabin) – D. Williams explained that the cabin borders the Blueberry Brook Farm Resort and will be used for lodging.

D. Zweifel-Yaciuk made a motion to accept, and J. McNair seconded the SUP application for Tax Map Parcel Number 373.000-1-31 as amended to say “... other country club activities and lodging.” The motion carried 3 – 0.

5. Tax Map Parcel Number 373.000-1-33 (Blueberry Brook Farm Resort) – D. Williams would like this to be used for lodging and entertaining. J. McNair explained that as per the definition in the Town Ordinance a Bed & Breakfast needs to be owner occupied.

J. McNair made a motion to accept, and D. Zweifel-Yaciuk seconded the SUP application for Tax Map Parcel Number 373.000-1-33 as amended "... for lodging and entertaining as part of the country club at Blueberry Brook Farm Resort." The motion carried 3 – 0.

6. Tax Map Parcel Number 373.000-1-42. J. McNair said that since this was in an A-1/Agricultural district and was to be used as a country club, no SUP was required. He said it may need a permit to change its use.

The application was withdrawn by the applicant, D. Williams.

J. McNair said the next step would be to schedule a public hearing. This will take place at the next ZBA meeting to be held on Wednesday, 14 May 2025, at 18:30. He will place a notice in the Waterville Times and on the Town of Marshall's website. He will consult with the Town Board on whether notifications can be displayed in the Deansboro post office and on the Deansboro Fire Department's electronic sign.

J. Marzocchi requested that a GML 239 be sent to the Oneida County Planning Department and that the SEQR review be done before the next meeting. The Oneida County Planning Department has 30 days to respond to a completed GML239 application. J. McNair said that rather than close the hearing, we could reconvene. This would require a public notice. J. Marzocchi would like the Oneida County Planning Department to be notified by 28 April 2025.

J. McNair thanked everyone for their time.

Old Business:

None

Executive Session:

J. McNair motioned to convene an executive session to discuss a personnel issue. D. Zweifel-Yaciuk seconded.

The Board came out of executive session and the meeting was adjourned at 20:31.

Initials: DZY

Date: 2 May 2025

CC: ZBA board