

Zoning Board of Appeals

The Town of Marshall

Minutes of the Regular Meeting Zoning Board of Appeals on 11 September 2024

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 Hal 2651 State Rt. 12B, Deansboro, NY on this 11th day of September 2024.

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

Absent/Excused: None

Guests: Robert Blunt, Bill Culpepper, Mike Neidhart, Ed Neidhart, Mike Forrester, Shannon Culpepper, Victor Ciccia (Norbut Solar Farms Representative), Penny Rowe, Colleen Baldwin, Andrew Stedman, Ron Klopfanstein (Investigative Reporter)

This meeting was called to order at 18:31 by J. McNair.

Resolution #1

For the 10 July 2024 meeting minutes, C. McGill asked that it be reflected that D. Zweifel-Yaciuk would represent the ZBA at the Town of Marshall's 8 October 2024 Board meeting instead of her. A motion was made by J. McNair to approve the 10 July 2024 ZBA meeting minutes as modified. C. McGill seconded the motion. The motion was approved 4-0-0.

Resolution #2

J. McNair made a motion to adopt the 14 August 2024 unapproved meeting minutes due to lack of a quorum. D. Zweifel-Yaciuk seconded the motion. The motion was approved 4-0-0.

Recognition of visitors

J. McNair explained that the ZBA had adopted the Rules of Conduct at its annual organizational meeting held on 10 January 2024. J. McNair then read aloud the rules to the visitors. J. McNair stated that he will answer questions after the meeting and that anyone may call or email questions to him directly.

Penny Rowe, 7064 Sanger Hill Road resident, was first to speak. She asked

1. That the ZBA should not renew the Norbut Solar Farms (NSF) special use permit (SUP). But, to let the current SUP expire since work was not completed in 12 months.
2. That the moratorium should be in effect. Some of the stone/gravel roads were just being worked on this week and crops were planted after six months and have not yet been harvested. Therefore, continued site work is not going to be done anytime soon.
3. The ZBA should require a new site plan because the current plan differs. There is an increase in size from the original submitted plan.
4. She asks if the ZBA would be voting before the next ZBA October meeting.

Bill Culpepper, 7065 Sanger Hill Road resident, was next to speak. He stated

1. He spoke with B. Getman, former TOM Attorney, and B. Schmitt, current TOM Attorney, to get a copy of the signed decommissioning plan. Neither had a copy of the signed documentation. He tried to call and email G. Schreppel, TOM CEO, but did not receive a response from him. Bill said it could be a huge cost to the TOM without a signed decommissioning agreement.
 - a. J. McNair explained that the ZBA does not have a decommissioning agreement with NSF and nor is the ZBA responsible for obtaining one. The ZBA hired a third party to review the decommissioning agreement and that several changes were made to the original one and it was the town attorney's responsibility to get it signed.
 - b. C. Baldwin, TOM Supervisor, said she would call G. Schreppel, TOM CEO.

C. McGill asked if RIC Energy had a right of way. J. McNair stated that RIC Energy had approached the ZBA but never officially addressed the ZBA.

Mike Forrester, 1376 Sawmill Road stated

1. The Town Attorney should have reviewed the decommissioning plan and was to make sure financial backing was completed. He asked if there was any communication done with the town attorney and the CEO.
 - a. J. McNair again stated that it is not the ZBA's role to oversee the Town Attorney nor the CEO. They are employed by the TOM Town Board.

Andrew Stedman, 7389 Sanger Hill Road, spoke next.

1. Since B. Getman, Town Attorney, had resigned, the ZBA should ask for a stay in the process going forward. It seems that NSF is trying to strongarm the ZBA into granting another extension.

Ron Klopfanstein, Investigative Reporter, who lives in Westmoreland, said he is researching the effects of solar farms on local communities and would like to speak with anyone after the meeting, including guests, ZBA members and V. Ciccio, NSF.

Victor Ciccio, NSF representative, wanted to address some of the guests' concerns.

1. He explained that the system is the same size. He said that some documents refer to a DC system and others to an AC system. The DC system states that there are 17 MW where the conversion to AC is 13 MW. This is the same size.
2. NSF will supply signed copies of the decommissioning plan. The terms state that the bonds will be negotiated when the racking is in place at the start of construction.
3. NSF is to sync construction when the in-service racking panels are procured.
4. He did not see a need for a new site plan approval and SUP since he believes there is no reason for a new SUP. He stated that substantial construction has started.
5. He was unaware of the crops.
6. He provided a projected timeline as well as photos for the site work.
7. Victor said that some clearing had been done and that the culvert was in.

C. McGill reminded us that Ashley Champion, Esq., Vice President and General Counsel for NSF, had stated at the 13 March 2024 ZBA meeting that all procurement was done and that the interconnection agreement had been signed.

J. McNair questioned whether a gravel road should be considered as substantial construction. He said he does not believe a gravel road with a culvert meets the requirement of substantial construction since they are not permanent and can be removed. The SUP expires on 11 October 2024. He reminded us that the ZBA is not required to grant an extension. The ZBA needs to be sensitive to the concerns of the community. The rate of the site work may be 10 percent to 15 percent complete and a financial deposit for the racking panels is not significant. He does agree that the substantial language is ambiguous.

V. Ciccia wanted to know the definition of substantial. If the racking panels were brought on site, would that be considered substantial? He will be reaching out to B. Schmitt, TOM Town Attorney.

J. McNair stated that it would not since they could be removed. He will reach out to B. Schmitt, TOM Town Attorney, for a definition of substantial.

The ZBA agreed to change its Wednesday, 9 October 2024, at 18:30 meeting to Friday, 11 October 2024, at 18:00. J. McNair will place a notice in the Waterville Times. V. Ciccia said he would attend. The 11 October 2024 aligns with the day the current extension expires.

Old Business:

J. McNair reported that the Town Review Committee had met on Thursday, 5 September 2024. The reviewed the orders given by G. Schreppel, TOM CEO to Dan Williams. Dan Williams explained the current use and the intended use of the properties. The Town Review Committee told D. Williams that he has a menu of options. They are:

1. Apply for a zoning change
2. Apply for a use variance
3. Since in an agricultural zone, apply for a SUP

J. McNair stated that because the Town Review Committee consists of Planning and Zoning Board members, it is an efficient way to meet complicated needs for certain situations. They will meet as needed.

New Business:

None.

Executive Session:

None required.

The meeting was adjourned at 19:33.

Initials: DZY

Date: 26 September 2024

CC: ZBA board