

CHAIRMAN: JAMES PATTERSON

MEMBERS: WILLIAM OLSEN, JESSE GALLO, & KARL SCHEIBLE & KERRY BOLAND

Alternate: Michael Dombrowski

VILLAGE OF WARWICK
PLANNING BOARD MEETING
JULY 14, 2020

The monthly meeting of the Village of Warwick Planning Board was held on Tuesday, July 14, 2020. Present were: Jim Patterson, Jesse Gallo, Bill Olsen, Kerry Boland, Michael Dombrowski, Village Engineer, Dave Getz and Planning Board attorney, Robert Dickover. Others present were: Susan Roth, Jay Myrow and Robert Silber.

The meeting was held in Town Hall.

The Board recited the Pledge of Allegiance.

The acceptance of the June 9, 2020 Planning Board meeting was tabled until the August 11, 2020 meeting.

28 CHURCH ST.

AMENDED SITE PLAN
APPROVAL

CONVERGENT ENERGY

Mr. Getz - Mr. Griggs was unable to attend so we can review my notes.

Mr. Patterson – Yes, can you give us a quick summary of what this project is?

Mr. Getz – The proposed facility is a battery energy storage facility. It is roughly in the same location as the Planning Board approved greenhouse near the main building at 28 Church St. The greenhouse was never built, and this is proposed instead of that with some minor adjustments to the parking area. The main project is an energy storage system that would tie into the main grid. The questions I had after reviewing the application was it is not clear to me whether it is just a facility to be used on that local site but it is not that at all, it is really part of the main infrastructure that is to be built and tied into O & R's grid and would help handle difficult situations during peak usage times. This type of facility may even allow them to or help them avoid building a new sub-station by having these battery storage systems. I can go through my review comments and read Mr. Griggs responses to them. The project site is in the Light Industry zone and it is not located in the Historic District. The general questions are: 1) Will it serve just

the outside building or also off-site properties? 1a) Proposed points of electrical connection should be shown on the plan.

Response – The facility will not service the on-site building, it will serve the O&R utilities as energy storage for times and where it is needed such as, storm events, excess energy use or when the local sub-station is off-line. The proposed points of electrical connection will be added to the site plan.

Mr. Getz – I would imagine that those connections would be made underground but we will be getting more details. 1b) Will hazardous materials be utilized in the batteries?

Response – The batteries will be lithium ion with self-containment and fire containment. Lithium ion batteries are used in a variety of products from electronics to vehicles and are considered safe unless damaged.

Mr. Getz – 1c) What is the proposed height of the batteries and an elevation view of the facility should be provided. On the plans that were submitted they show on the first sheet an overall site plan to show where the facility will be built, pg. 2 shows a blow-up of a proposed concrete pad. It shows a fenced in concrete pad with a number of batteries located on it.

Response – The height of the battery storage facility would be 8’6”, the approximate same height as self-storage containers.

Mr. Getz – He said if we could visualize pods. This facility will look like a line-up of pod structures. I asked the applicant to provide some representative photos. 1d) The Fire Dept. should review the details of the proposed facility and provide comments to the Planning Board. I am no expert in this field but I have heard that if these batteries do explode or catch on fire there is little or nothing the Fire Dept. can do but basically stand back and let it burn. So we want to make sure that the Fire Dept or other EMS get a chance to weigh in on the proposal.

Response – The Fire Dept will be sent plans to review and comment.

Mr. Getz – 1e) What is required to decommission the facility? Should money be bonded to the Village? What mechanisms are in place for the time the facility needs to be decommissioned?

Response – Battery life is 10 years with the ability to switch out batteries 2 times for a total of 30 years. Afterwards the facility will be decommissioned, removed and the site restored to its previous condition.

Mr. Getz – In talking with Mr. Griggs on the phone he said that who knows in 30 years there most certainly will be other technologies or updated technologies that could be used for replacement facilities at that time.

Mr. Getz – 2) A note from the Planning Board attorney indicating that we are not sure exactly where this use falls within the parameters of the Zoning Code for uses allowed in the LI District. Based on the information that the facility is not just a relatively small facility to serve just this site but rather a part of the main O&R grid, it does appear that it could fall under the category of a Public Utility facility which is not subject to all of the zoning restrictions that some other uses might be. 3) Depending on what Use Group the facility falls under it may need a side yard variance for the existing building. 4) The applicant is proposing a fence height including barbwire of 7ft. and the zoning code allows fences 6.5 ft. they will need to discuss a variance.

Response – The proposed fence height of 7ft. is a requirement by NYS Public Services for electrical facilities.

Mr. Getz – So it is not the choice of the applicant that is causing the proposed height. 5) A portion of the site is located within a 100-year flood plain but it appears that there is no disturbance in the flood plain area proposed as part of this project. 6) is regarding details on the plan that need to be corrected. One of the Board members approached me before the meeting and asked “how do we measure the power or capacity of this facility.” I do not know the answer to that, so the applicant needs to provide more information on how this facility fits into the overall system and so we know the magnitude of what is being proposed.

Mr. Patterson – When discussing the batteries, you said “safe unless they are damaged” How could they be damaged? Do you know what causes them to be damaged?

Mr. Getz – I don’t know.

Mr. Patterson – When discussing the Fire Dept., you used the term burn or blow-up, the term blow-up is that your term or is that the applicant’s term?

Mr. Getz – I think he used the words “explosions are possible”. I agree that we need to find out about those risks.

Mr. Patterson – When you talk about the proposed fence height, what type of fence are we talking about?

Mr. Getz – There is a detail on the lower left corner on the second sheet, but they are proposing a chain link fence that is 6ft. high and then barbwire above it which is a total of 7ft. high.

Mr. Patterson – If they were to put this in that would require a variance.

Mr. Getz – The ZBA would weigh that decision. Would the Board consider a site visit?

The Board agreed to schedule a site visit.

Ms. Boland – I know they are submitting photos but if there is one in Warwick that I could see

Mr. Dombrowski – Is there liquid inside of these batteries or is it metal plates? If the battery housing is damaged or if materials were to leak out and leech into the ground...

Mr. Olsen – The little I know is that it is solid, there is no liquid, but it is a good point about if they are damaged, will they melt?

Ms. Boland – Will it directly help the Village or is it a facility for other places?

Mr. Getz – It will help the Village of Warwick.

Mr. Gallo – There is 600+ ft to residence is that building or property?

Mr. Getz – I don’t know, we will check that also.

Mr. Gallo – I see trees by the one building.

Mr. Getz – I know that edge of their property is wooded.

Mr. Patterson – It is drawn to the property line whether that is accurate or not.

Mr. Dombrowski – Is there a certain setback that the trees must be cleared away from the site?

Mr. Getz – I believe it is proposed in an open area, but they do show some screening to be planted along the fence line.

Mr. Dickover – You will see that these kinds of facilities popping up in connection with almost every solar facility out there. The idea is to store the energy the solar facility generates during the day and feed the grid as it gets drawn down at other times. As a result of this there is going to be industry standards that address the questions re: containment, trees, fences, etc. so the applicant should be able to address all those issues that were raised. The Fire Dept. should be consulted it’s just a question on who sends the letter so we should give the applicant some direction with respect of who will make that inquiry.

Mr. Patterson – I believe the applicant should write the letter and address it to Rob and Dave and then from there we will figure out to it gets directed to from the Fire Dept. and we will direct it on behalf of the applicant.

Mr. Dickover – So they should be instructed to draft the letter.

Mr. Patterson – Yes.

Mr. Dickover – Is the Board going to ask the applicant to have a decommissioning bond? A bond placed so 20 years from now there are funds available to decommission this facility if they happen to walk away from it. I don't know if our Code has provisions for decommissioning this type of facility. That needs to be looked out.

Mr. Patterson – Who will own this? Who would be in charge of the decommissioning? O&R?

Mr. Dickover – It is on the property owner, whomever that may be, they are the ones who should be concerned because they are the ones stuck with it. Whether or not this facility is permitted in the zoning district. Dave, says it might be a solar energy facility because it is an unmanned structure serving the Village and he may well be right but if the Board thinks that you can read the statute to mean that than you can determine if it is permitted. If you are uncomfortable or you don't know that, that is what was intended in the statute you could ask the Building Inspector to make a determination on whether or not this meets the definition or not. If the Building Inspector finds that it does than nothing further would be required. If he is unable to determine it or you don't want to refer it to the Building Inspector you could also refer it to the Zoning Board for them to interpret the statute and determine whether or not this unmanned facility falls into the definition of a utility facility. The first step is for the Board to decide if you believe this fall into the definition. If I were the applicant, I would prefer to go to the Building Inspector first because he may give me a favorable determination. But the first step is for you to decide.

Mr. Dombrowski – Do we have they one of these facilities at Sandfordville?

Mr. Dickover – That is not in the Village so I couldn't say.

Mr. Patterson – I don't believe there is anything in the Village that we have like this. The Board should discuss whether this facility falls into the definition of a utility facility. I personally think it is very similar to the storage from solar. The fact that it is not going back to the grid is the only difference I think from something that would be done locally.

Mr. Olsen – Under the Code is under Solar so I would agree.

Mr. Gallo – Yes, it is similar to the storage of solar.

Ms. Boland – I do not have a comment right now.

Mr. Dombrowski – Yes, I agree.

Mr. Patterson – So if the majority of the Board at this point believes it fall under it, what is our next step?

Mr. Dickover – We continue to process the application and no referral to the ZBA or the Building Inspector is necessary. We just incorporate that as part of your Findings on the matter when the time comes.

Mr. Getz – If it is deemed a public utility facility there is no use group and therefore setback variances would not apply. We spoke earlier about the fact that the main building is closer than the required setback under certain use groups but under your Zoning Table of Uses under general uses there is no table for required setbacks for a substation or anything like that. The fence height may still be an issue.

Mr. Olsen – Is this a public utility? It is another owner who is just renting the facility or given Mr. Dickover – In my personal opinion I think it is a public utility. If this is going into the grid and being used by the public, that is what utilities do. The application says it is going to be a public utility facility utilized by O&R only, no private entity. So it is going to be a privately owned facility which would probably not be deemed a public utility it would be a private utility at that point serving a public purpose. We should ask the applicant who is going to own this facility before we deem it a permitted use. It appears that they are going to need a variance on the fence height and I don't think the Village allows razor wire or barbwire either so the applicant should check that also because that may need a variance as well.

This application should be referred to the County for a 239. This application appears to be an Unlisted action and is not in the Historic District but the applicant has submitted a Long EAF so when the time comes we will be reviewing a Short EAF and a public hearing will be required.

The Board discussed scheduling a site visit for Sat. Aug. 1, 2020 at 9:00am

VILLAGE VIEW

DISCUSSION

VILLAGE VIEW

Mr. Myrow – I believe we are very close in have the Board accept the FEIS. We are looking for status on that and what the next step is because once that is done we have to do a Finding Statement so the sooner the better.

Mr. Getz – Two topics have been addressed with the latest changes. 1) Traffic measures that the applicant is offering along Locust St.

Ms. Roth – The findings in the traffic study was that there would not be any change to the ability of the existing road capacity to handle the traffic and one item was brought up, speeding and people failing to stop at the Locust & Woodside Dr. stop sign. The Village has been monitoring that a little and we have changed the EIS to propose that a new electronic radar sign be installed and the applicant has committed to re-stripping the lanes which would help to increase safety along that passage as well. The other item is that the applicant and the Village have come to an agreement that it is better for the Village that the applicant replace the Robin Brae pump station. They are going to build a new one and then transition it over from the old to the new. Right now the Village is working on the Developer's Agreement which is about the money and the sequence and the FEIS says that the permits for the sewer permits, CO permits, if you can't get the Developer's Agreement, you can't file the plat.

Mr. Patterson – To remind you, in one of our meetings there was a conversation that the Mayor had a phone call with the applicant's traffic expert. I followed up with the Mayor and although there were no conclusions to their conversation there were some discussions and recommendations. The stripping of the lines that they are referring to will actually narrow the road and it will provide safety to some one on the side of the road and will also kind of guide the cars to the center of the road as they approach. So it should slow them down. Although the applicant felt that everything was safe and that the issue as far as the speeding was an issue for the Village and the Police, they have offered to include this in there and I think that is a great step forward and I appreciate that. These comments actually came from conversations and I know Dave was the one that pushed it forward to make sure that the communication was there. I

know most of the concerns were about safety so I think that these items address the safety. I also understand as you stated that there will be a new pump station built and that the applicant is paying for it and installing it and the paperwork the way it is stated is that it will be built prior to any of the houses receiving a Certificate of Occupancy. It does not say that it has to be built prior to the houses being built but definitely before they are occupied.

Ms. Boland – Can I see the FEIS one more time?

Ms. Roth – I can mail it to you but the pages that were changed you have in your hands.

Mr. Olsen – Will the applicant be responsible for the maintenance of the sign?

Mr. Myrow – It will be dedicated to the Village.

Mr. Dickover – I believe that the applicant has now presented for you a Supplemental Environmental Impact Statement that is ready to be accepted by the Board.

Mr. Getz – Yes.

Mr. Dickover - We have tweaked the language about the traffic today as well as the language about the pump station. I have seen the changes that are being proposed and I believe they are acceptable. If the Board is ready the next step would be to accept the SEIS which combined with the DEIS will become the FEIS. We need to file a Notice of Completion of the FEIS and that would ready the Board to embark upon preparing the Findings on the EIS. The applicant has offered to take the first step in drafting your Findings, they are your document. Mr. Getz and I will have to review it but to get the process started the applicant is prepared but they need you to accept the final SEIS and a motion to file a Notice of Completion.

Mr. Patterson – Are there any hesitation about doing this tonight?

Ms. Boland – I feel a little ambushed, I just received this six hours ago and just received your copies coming into the meeting. Clearly the public was unaware that this was on the agenda and out of respect for them and just to make sure I understand what is happening I would prefer to review this before voting.

Mr. Roth – Did you happen to see Mr. Dickover’s comments?

Ms. Boland – Yes, I did.

Ms. Roth – I just copied and pasted his comments right into the SEIS. I have not changed...

Ms. Boland – I believe there should have been notification to the public.

Mr. Patterson – I agree with what you are saying but I don’t know that if the public was here it would make any difference or not.

Ms. Boland – I agree with that too I just feel the sentiment would be look what happened when they put it on the agenda a few hours before the meeting.

Mr. Patterson – Agreed, but the reason it was put on the agenda at the last minute was a scheduling conflict that we had. The paperwork was done on time as far as requesting to be put on the agenda it just didn’t happen. I don’t feel that, that was being done as to try and slip it in at the last moment.

Mr. Gallo – I guess I could agree about the sentiment that there might be a perception that it was put on the agenda last minute. Whether than can speak or not is not really the point but I think there would be a perception.

Mr. Olsen – Is there another public hearing on this application?

Mr. Dickover – No, I don’t believe so. We have conducted a joint public hearing on the subdivision and the DEIS and they were the required public hearing on the subdivision.

Mr. Myrow – If that is the case that means that the public has been heard. Right now if you are struggling whether or not somebody is here to watch you vote, I am I think everyone agrees that the substance is good, they will have a chance to review the Findings Statement before you approve that. There have been delays based on the pandemic and I ask the Board to consider it tonight and if not I ask to the Board to consider a Special Meeting so we can get this done so we can get to the Findings Statement.

Mr. Patterson – I understand and I agree with you with the exception of the fact that we don't necessarily want the public's opinion on it we know they have seen it all but what we are struggling with is our personal ethics as far as our dedication to the public. So, I would be hesitant about voting on it tonight. I can not speak about having a special meeting tonight, I don't know if everyone has enough time to do a special meeting.

Mr. Myrow – This is a vote, there is no public participation.

Mr. Patterson – How long does the Finding Statement take to prepare?

Ms. Roth – I could probably get a draft over to Mr. Dickover by next week sometime and then he would finish it up.

Mr. Myrow – We can't present it for 10 days after the notice goes out?

Mr. Dickover – Yes, then the time clock starts running to file the Findings which I believe is 30 days but it might be 60 days. The applicant is asking if you will consider a Special Meeting if you are not going to accept this tonight.

Mr. Olsen – Is it possible that they can prepare the Finding Statement and we can deal with the Finding Statement the same day we accept the SEIS?

Mr. Dickover – They can get started on it certainly.

Mr. Olsen – If we accept the SEIS next month can we have the Finding Statement right away?

Mr. Dickover – Yes.

Mr. Olsen – Then they would not be put back in time.

Mr. Patterson – Having a special meeting would not necessarily get you to the finish goal any quicker.

Ms. Roth – In one way it would be more fair to the other agencies, like the DEC who are interested to see what the Finding Statement has in it and to be given more time to comment back.

Mr. Myrow – If you don't vote tonight we will lose 30 days.

A MOTION was made by Mike Dombrowski to accept the SEIS to include pages received on July 14, 2020, i.e. pages 6 & 7 regarding the traffic and Robin Brae pump station. The Motion not seconded; Motion failed.

The Board reviewed an application for a change in use/site plan waiver at 46 Main St. The change in use application is proposing to convert a small existing retail space back into a small coffee and sandwich shop.

The Board granted a site plan waiver to 46 Main St. from a small retail space into a small coffee and sandwich shop.

A MOTION was made by Jesse Gallo, seconded by Bill Olsen and carried to adjourn the meeting. (5 Ayes)

Respectfully submitted;

Maureen J. Evans,
Planning Board secretary

