

Minutes
Town of New Scotland
Zoning Board of Appeals
June 26, 2018
7:00 PM

Zoning Board Members:

Jeff Baker, *Chairman,*

Lance Moore, Steve Crookes, Edie Abrams, Michael Barton,

Lori Saba, Planning Board Secretary, Jeremy Cramer, Building Inspector
Crystal Peck, Zoning Board Attorney, Mark Dempf, Town Engineer (Stantec Engineering)

Public Hearings:

Variance Application # 523: Application submitted by US Solar to appeal a determination by the building inspector. U.S. Solar has proposed for a large scale solar project on a parcel that contains prime soils. Siting considerations identified in Part 2 G, Section 4.xiii of our solar law prohibits large scale solar facilities on any site that is prime farmland or which contains prime soils. The applicant is seeking an appeal of the determination and requesting an interpretation of this section of the law to determine if large scale solar projects are prohibited on any site or parcel that is prime farmland or has prime soils or are they allowed to be located on the site as long as the proposed project is not located within the prime farmland or on prime soils areas of a site or parcel. The proposed solar project is located on lots owned by Martha Oden and Donald Baker, to be leased to US Solar Corp, are located in the R-2 Zoning District at 331 New Scotland South Road, and are identified as New Scotland tax parcels id # 84.-1-40.11 and 84.-1-38.

Mr. Baker opened the meeting to the public.

Ms. Martha Oden: My only comment is this definitely not prime farm land. There are maps over at the Extension service, I think they were done in the 50's, not the one in Voorheesville. They showed the good lands and the poor lands and mine is all poor land. My brother's is too. There is a small section in the south east corner which because they changed the road recently they took land away from my Aunt and therefore I doubt there is more than 10-feet of that soil there. Plus there is the land along the railroad tracks, which you have to consider too, which they would not be using.

Mr. Baker: So that goes to the point I was making I do appreciate those comments and I think you should save those comments in particular for the Planning Board when they are reviewing this, because our question here is we've talked about before is simply a matter of law, of interpreting the solar law. We are not concerned really with anything site specific on your property now. For the purpose of our determination, it doesn't matter if you have all prime soils or almost none. The question is can a project be sited on a property that has some prime agricultural soils but the project itself will not be located on those soils. That is the issue before us. We are not making an opinion or taking any position on the wisdom of your project or whether it meets the criteria of the Solar Law.

Mr. Nick Miller, 144 Clip Road, if the property was subdivided so that that the prime soil was separated from the non-prime soils would it be a non-issue?

Mr. Baker: In that instance yes. It still doesn't change our question. Our question basically goes to if it necessary to know if prime soils are present and if so does that bar the project.. Your point would be one alternative to avoid the problem if we were to find that presences of any prime soil bars the project.

Mr. Baker moved to close the public hearing and Mr. Crookes seconded the motion; all in favor; motion so carried.

Mr. Baker: The decision basically falls along the discussions before where we are basically saying that the presence of prime soils on the property does not bar the project, it just can't be located on it. There will be a siting decision by the Planning Board. Any thoughts?

Mr. Barton: I certainly agree. In my planning board experience in another town, you can have a large parcel, but it was done in phases. The site plan phase one there is a site plan specific to that area only. All the definitions that I found point to the fact that it sites an exact plot of ground which something is going to be built. So if the solar array is going to be sited away from the prime soils I don't think that's going to be a problem.

Mr. Baker made a motion that we grant the appeal as set forth within the decision and order circulated today and I will make just the addition of where we had a blank in there for the comments and I would suggest that it will consist of a statement that the comments are generally in support of the appeal. That is my motion to grant the appeal per our decision and Mr. Barton seconded the motion; all in favor; motion so carried.

Vote: 5-0

New Business:

- 1) **Variance Application # 525:** Application Submitted by Jeff and Stephanie Muha requesting relief from Article XIII, Section 190-99 of the Town of New Scotland's Zoning Law to allow for additional horses to be allowed on a parcel which has applied for a private boarding and riding stable and arena. Public stables are allowed one horse for every two acres. The parcel which consists of 11.03 acres is located within the "RA" district at 82 Clipp Road. The parcel is owned by the applicants, is identified as New Scotland Tax parcel id # 94.-1-47.14. . This request is for 10 additional horses to allow for 15 horses total.

Mr. Baker recommended that the applicant will need to provide the following or show the following items on their site plan:

- Letters from the Power Authority and National Grid allowing the horses to roam on that part of their property.
- This application will be subject to SEQRA. ZBA **has requested** lead agency.
- We need the distance from your neighbors well to your property. Also we will need the depth of his well. **Contact Health Dept and request well data for the adjacent neighbors.**
- Explain to the PB and the ZBA how you will handle the manure supply and the water supply for the horses. **Written narrative and show location of manure storage area on site plan.**
- **SWPPP** may be needed; see Mr. Cramer regarding that.
- Erosion sediment control plan **and Topo should** be a layer on the site plan.
- Show your gravel parking area and how many cars will be able to park in the area **on the Site Plan.**
- Show where your well is in the front of the house **on site plan.**
- Show your extent of vegetation, what **has and** will be cleared **as well as** what will **remain including** what vegetation will be remaining in the front.
- Show an example of your fencing that is proposed. **Copy to building Inspector for file.**
- Show if there are any wetlands on your property. **Shown already on separate map. Show any other possible environmentally sensitive areas?**

Mr. Baker moved to schedule a public hearing on July 24, 2018 with the ZBA. Mr. Baker declared their intent to be lead agency under SEQRA and circulate a notice to the Planning Board requesting their consent at their July 3, 2018 meeting. Mr. Moore seconded the motion; all in favor; motion so carried.

Vote: 5-0

Regular Meeting:

Discussion/Action minutes of May 29, 2018. Mr. Moore moved to approve the May 29, 2018 minutes and Mr. Barton seconded the motion; all in favor; motion so carried.

Vote: 5-0

Motion to adjourn: At 7:45 p.m. Mr. Crookes made a motion to adjourn and Mr. Moore seconded the motion; all in favor; motion so carried.

THE NEXT TENTATIVELY SCHEDULED MEETING July 24, 2018

Respectfully submitted,

Lori Saba