

2577 US Route 11
P.O. Box 193
LaFayette, NY 13084



Zoning Board of Appeals Meeting

Date: June 23, 2020

Time: 7:30 pm

Location: Zoom Meeting 82363476944

Meeting called by: LaFayette Zoning Board of Appeals

Chair: Christine Keenan Chairwoman

Secretary: Sue Marzo

Attendees: Zoning board members: Christine Keenan Chairperson, Mike Vilardi, Mike Stiner, Board members

Jeff Brown, Town Counsel, Sue Marzo, Secretary, Ralph Lamson, Codes Officer, Jackie Roorda, Town Clerk, Bill Pomeroy, Mark Chambers, Town Engineer, Stan Szuba, Joseph Mendelsohn, Cindy & Harold Heckerman, Carole Dwyer, Board Member

Minutes

Agenda Items:**Case # 8-2019-ZBA****PUBLIC HEARING Continued**

Application by Omni Navitas Holdings LLC for a Specific use permit for a solar farm. The proposed project is situated at the rear of an existing agricultural field at 3356 Sentinel Heights Road, LaFayette, NY 13084, east side 1 mile south of Bull Hill Road located in an Ag/Residential District. It includes the construction of a gravel access road, battery storage areas, transformer area, fence, overhead and underground electric lines, utility poles, and the solar panel array. Upon completion, the proposed project will generate approximately 5 MW of renewable power to the existing electrical grid via an interconnection point on Sentinel Heights Road. (Tax Map No. 025.-03-02.2)

Discussion:

Chairperson Keenan thanked James Nash for chairing last month's ZBA Meeting in her absence. She also took the time to remind members to read the new Zoning Ordinance and thanked Jeff Brown for the revision. She said it is much easier to read and reference.

Attorney Brown summarized that SEQR Review has been completed with a negative declaration being issued. We are now in a continuation of the Public Hearing of June 2. The Planning Board Public Hearing was closed, and the application was approved with a number of conditions.

Christine Keenan asked if Tennessee Pipeline has been contacted and if they are ok with the application. Joseph Mendelsohn of Omni stated that they have conferred with them and have forwarded our correspondence to them with the project location. Once approved by the Town they will go back to Tennessee Pipeline for their approval. Christine asked for this to be added to the conditions for approval.

Joseph Mendelsohn advised that in the past week they have received comments from Onondaga County and to touch on a couple of things. In terms of the proposed modification they will reach out to the Onondaga County Department of Transportation for the driveway permit which will also include a copy of the SWPPP which will be approved by Town engineers. For comment #1 the applicant has tried to reduce the impact visually of the agricultural land by placing it in the rear portions of Ms. Reed's property. In terms of #2 he has been in contact with David Wood project manager for Tennessee Pipeline and will have a follow up conversation regarding easement language utility crossing to make sure we do not hinder their pipeline.

Chair Christine Keenan asked for any questions from Board Members. No comments were raised. The Public Hearing continued. Mr. & Mrs. Heckerman was asked for their opinion on the project. They have no problem with it but are just trying to stay informed.

Stan Szuba lives north of the property and is fine with what has transpired.

Mr. Pomeroy spoke and advised he had extensive comments during the Planning Board meeting and has been a topic of great concern. He is very much in favor of this project. It is good for the Town and property owner. There is a possibility that there might be a glare problem and he would like to address that. The report from the applicant showed that there is a real glare problem. It is a problem that exists 8 or 9 months of the year. They tried to understand it and it finally came through this afternoon. They lay flat and look up at the sky and much like the sun rising over a lake the sun will reflect strongly over the lake and directed toward his house for 20-30 minutes. He started working with Omni on the mitigation and we just have verbal and do not have it backed up by facts yet. One of the mitigation ideas is to tilt the panels so they do not reflect up at his house. They need to rerun the glare report. Can it be done? The panel manufacturer needs to orient the glare away from his home and are they going to implement that modification? It is clear there is glare and it is directed at his house, but we do not know if it can be mitigated. He is asking for time to work out a mitigation plan. What can Omni recommend to ensure if problems arise? Things change, board members, owners of the solar farm. Mr. Mendelsohn was talking to in house counsel. Also, there are trees on the owner's property that will shield the southern portion of glare. It would be to the applicants benefit to take those trees down, but it needs to be required that those trees cannot be taken down. He is asking the board to extend the public comments to assemble the documents. Please consider this and take the steps necessary.

Attorney Brown stated that the Planning Board added a condition to its approval resolution that all glare conditions must be satisfied prior to issuance of a building permit. He stressed to Mr. Mendelsohn that the glare issue should be resolved sooner rather than later.

Michael Vilardi is ok with this concept. Mike Stiner is also good with it.

Ms. Keenan asked if Mr. Pomeroy agrees with adding the condition. He does.

Motion was made by Mike Stiner, second by Christine Keenan to close the Public Hearing. All Board Members present were in favor.

Christine Keenan asked to review the proposed approval resolution in relation to the Onondaga County Planning Board comments. Attorney Brown recommends adding two conditions to this resolution that Tennessee Pipeline and Onondaga County DOT are satisfied and in writing provide approval.

The Board then discussed the requirements in Town of LaFayette Local Law No. 1-2018 re: specific permit approval.

1. Scenic viewshed impact
2. Emergency shutdown adequate
3. Security bond in case they leave the site
4. Access road shall be used
5. No significant impact on animal habitat
6. Setbacks may be required

Chair Keenan asked for any concerns from Board Members. None were presented.

Motion to approve the application as follows was made by Mike Stiner, second by Christine Keenan. All Board Members present were in favor.

TOWN OF LAFAYETTE PLANNING BOARD and ZONING BOARD OF APPEALS

Resolution for Specific Permit Approval and Controlled Site Plan Approval
of Omni Navitas Holdings LLC Community Solar Project

June 23, 2020

WHEREAS, on or about September 10, 2019, Omni Navitas Holdings LLC (“Applicant”) submitted specific permit and controlled site plan applications pursuant to Local Law No. 1 of 2018 of the Town of LaFayette Town Law (“Town Solar Law”) for a 5 megawatt solar and energy storage facility (“Project”) to be developed near the intersection of Apulia Road and Dodge Road in the Town of LaFayette (“Project Site”); and

WHEREAS, the Project was subsequently reduced in size to 3.75 megawatts and the energy storage component was eliminated per discussions with National Grid; and

WHEREAS, pursuant to the Town Solar Law, the proposed facility is classified as large scale solar energy system which is a permitted use on the Project Site subject to specific permit approval from the Town of LaFayette Zoning Board of Appeals (“ZBA”), controlled site plan approval from the Town of LaFayette Planning Board (“Planning Board”) and compliance with the approval standards for large scale solar energy systems set forth therein; and

WHEREAS, the documents submitted by the Applicant as part of its specific permit and site plan applications consisted of, among other things, (1) a Site Plan Application; (2) a Specific Permit Application; (3) a proposed site plan; (4) a proposed stormwater management plan; (5) copy of the deed; (6) Part 1 of a Full Environmental Assessment Form (“FEAF”); (7) the requisite filing fees and escrow amount for the Application; and (8) other relevant documents and verbal representations (“Application”); and

WHEREAS, given that the specific permit and site plan applications are related, the ZBA conducted a joint environmental coordinated review of the Application, and with the assistance of its technical and legal consultants, engaged in a detailed review of the Application materials and completed Parts 2 and 3 of the FEAF; and

WHEREAS, on June 2, 2020 the ZBA as the lead agency under the State Environmental Quality Review Act (“SEQRA”) adopted a Negative Declaration on the Application concluding that the proposed specific permit and solar project will not create any potentially significant adverse environmental impacts; and

WHEREAS, in accordance with its obligation under Section 239-m of the NYS General Municipal Law, the Planning Board and ZBA referred the Application to the Onondaga County Department of Planning and Development (“County Planning Department”); and

WHEREAS, the County Planning Department reviewed the Application for countywide and intermunicipal impacts and issued resolutions dated June 10, 2020 (case #s Z-20-171 and Z-20-172) providing one suggested modification and four comments about the Application; and

WHEREAS, on June 2, 2020 the Planning Board and ZBA opened separate public hearings on the Application as required by the LaFayette Town Solar Law and the NYS Town Law, and these hearings were continued on June 23, 2020, during which all interested persons were given the opportunity to submit oral or written comment. The public hearings were closed on June 23, 2020; and

WHEREAS, the Planning Board has determined that the solar project will comply with the applicable controlled site plan criteria as set forth in the Town Solar Law; and

WHEREAS, the ZBA has determined that the solar project will comply with the applicable specific permit requirements and design standards as set forth in the Town Solar Law; and

WHEREAS, the Planning Board's and ZBA's determinations outlined above are based upon the Applicant's representations contained in all the Application materials and oral presentations submitted to both boards.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the Town Solar Law, the Planning Board hereby approves the controlled site plan and the ZBA hereby approves the specific permit for the Project proposed by Omni Navitas Holdings LLC dated September 10, 2019, as amended, subject to the conditions set forth below; and

BE IT FURTHER RESOLVED, that pursuant to Section 274-a of the New York State Town Law, the Planning Board imposes the following conditions on the approvals granted by this resolution:

1. The Applicant shall comply with all commitments made in the Application.
2. Prior to issuance of a certificate of completion/occupancy/operation, the Applicant and Town shall have fully executed a Payment in Lieu of Taxes Agreement in a form and amount acceptable to the Town Board of the Town of LaFayette, and the Applicant shall commence payments thereunder.
3. Prior to issuance of a permit for construction, the Applicant shall provide the decommissioning bond required under the Town Solar Law. The performance guarantee shall be in a form acceptable to the Town Attorney.
4. Prior to issuance of a permit for construction, the Applicant shall pay in full all consulting fees incurred by the Town.
5. At all times, the Applicant shall comply with this approval resolution. Unless otherwise expressed, any violation of this approval resolution or failure to satisfy the conditions set forth herein is subject to enforcement in accordance with New York Town Law or the Town Solar Law.
6. The access driveway(s) as shown on the site plan must be approved in writing by the Onondaga County Department of Transportation and Town of LaFayette Highway Department.
7. The Applicant must coordinate installation and operation of the solar array with local emergency services, to include providing safety notices and safety training to such local emergency services.
8. All panels and associated support structures used for the solar facilities must have anti-glare coating or consist of materials that will not produce offensive glare. Any glare issues shall be resolved to the satisfaction of the Code Enforcement Officer, Town Engineer and Town Attorney prior to the issuance of a building permit.

9. Removal of any vegetation on the property other than specifically approved as part of the site plan is permitted without further review and approval of the LaFayette Planning Board.
10. All approvals of the Public Service Commission for this commercial solar facility must be filed with the Town of LaFayette.
11. Access to the commercial solar equipment is limited to the access road as depicted on the site plan, and no other access shall be allowed without further review and approval of the LaFayette Planning Board.
12. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
13. The security fence shall be made accessible to local emergency personnel.
14. The use of pesticides and/or herbicides shall be limited to the maximum extent possible.
15. The opportunity to become customers of the Project shall be offered first to Town of LaFayette residents.
16. The Applicant shall provide the Town written confirmation that the Tennessee Gas Pipeline Co. has no objection to the Project.

BE IT FURTHER RESOLVED, that the Planning Board hereby authorizes the Planning Board Chairperson to stamp and sign the Site Plan; and

BE IT FURTHER RESOLVED, that as required by the NYS Town Law, the Planning Board and ZBA Clerk shall file a copy of this approval resolution in the Town of LaFayette Town Clerk's office within 5 days after this resolution has been adopted and shall also send a copy of this resolution to the Applicant and the Town of LaFayette Code Enforcement Officer; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Dated: June 23, 2020

Town of LaFayette, New York

Minutes from the June 2, 2020 Zoning Board of Appeals meeting were approved as written. Motion was made by Mike Stiner, second by Mike Vilardi. All Board Members present were in approval.

Motion to adjourn was made by Mike Stiner, second by Christine Keenan. All Board Members present were in favor.

Meeting adjourned at 8:00 pm

Respectfully Submitted,

Sue Marzo
Zoning Board Secretary

