

## PLANNING BOARD

Town Hall 1375 Ridge Road Lewiston New York  
Thursday – February 15, 2018  
PB 2018-2

Present: Burg, Casale, Craft, Lilly, Taczak

Absent: Conrad

Presiding: Ken Lilly, Vice Chairman

Lilly: Ladies and gentlemen thank you for attending the Town of Lewiston Planning Board meeting for Thursday, February 15, 2018. Before we start the agenda I would like to call for a moment of silence for the tragedy that took place just yesterday afternoon in south Florida. Thank you.

The first item on the agenda was a site plan review for St. Mary's Hospital, Military Road

Lilly: Please come to the microphone, identify yourself and your roll, your position and tell us a little bit about your project.

Good evening, my name is Janet Faulhaber. I am the assistant director for planning/designing construction for Catholic Health which is the parent company for Mount St. Mary's. Catholic Health, downtown office handles the major capital construction projects. What we're doing at Mount St. Mary's is we're coming in. There's outdated electrical services and switch gear which serves the hospital which is a full upgrade. It's all brand new service coming to the hospital. We've done back-up generators to provide emergency power and all new electrical with heavy duty switch gear to serve the entire facility. Darren O'Hara is the engineer from M/E Engineering who is designing the project. What we're doing on the outside is, it's going to be 2 fold, there is going to be a major substation. There will be a metal enclosure for the substation portion of it. Also the two generators which are going to be placed inside the building which you will not see from the street. The fuel tanks will be outside. That is one of the main purposes we're coming to the board before the Planning Board. There is going to be two tanks, concrete lined fire guard, fire ready tanks. One is 10,000 gallon which is a re-use from one of our other sites. The tank is only 3 years old and then there's a brand new 6,000. gallon tank and those will serve the 2 generators.

Darren O'Hara, M/E Engineering. We're putting the 2 fuel tanks in near the ambulance ramp and the cooling tower that's existing there. We think it's the best location for the fuel storage. We have the layout. We are the code distance away from the ramp itself and the pump house

that are existing there as well. There are some fuel lines that run along the concrete ramp for the ambulance entrance into the building by the generators.

Lilly: Any questions?

Burg: What kind of protection is around these fuel tanks?

O'Hara: The tanks are tested, they're ...tested; they're flame tested. That's in a grass area that's mostly trees and tree line so there wasn't any bollards around that requires....no easy access for any vehicle to get in other than a riding lawn mower to get through there. We didn't feel the need to bollard proof either ....

Burg: How tall are these tanks?

O'Hara: 10,000. and the 6,000. are the same height, 17.6" high which is lower than the cooling towers. The 10,000 tank is 10'6" outside diameter and the 6,000. is 8'6".

Taczak: Is the 2,500 gallon fuel tank; is that going to be abandoned or are you going to still....

O'Hara: We are going to maintain it as additional fuel capacity. The commission requires that you have 96 hours of capacity for hospital fuel supply. We balance it would with the existing one that was there.

Lilly: The future pad transformer, that's going to take up a couple parking spots and then adjacent to that is the primary switch gear. Is that something new?

O'Hara: Initially we're putting in (1) 13/2 service for the hospital. The plan is for future to bring in a second 13/2 service so they have a normal feed. That's when the second big mounted transformer would be required then we need 2 more 15 cubical sections to be added to the existing line up of the upper switch gear to make that work.

Lilly: When you're done are we going to be losing any parking spots there in the doctor's area?

O'Hara: It looks like you will lose 8 spaces.

Lilly: Will that be enough to accommodate the doctors parking area or will some of them have to park in the other lot?

O'Hara: I will they are going to make arrangements to extend some of the parking out towards Military Road.

Masters: It's tight up there now.

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Lilly: Building Inspector, any comments?

Masters: I talked to Pat today and he said he was fine with the placement of the tanks. He said he will address any other issues when the building permit comes in.

Lilly: Legal, anything there?

Parisi: Nothing from legal except for when this does go to the Town Board there will be a public hearing at that point for review of this nature, not at the Planning Board level but at the Town Board level.

O'Hara: Will you need someone there for questions?

Parisi: This will be put on the agenda for the Town Board. At that point it will be the first night on the agenda and then they will schedule a public hearing. The night of the public hearing would be good for someone from the hospital to be present to describe the project in the event anybody from the public or our Town Board members have any questions about the project.

Lilly: Do you know if the Engineering Department had a chance to look at it?

Masters: I sent it to them and they sent me back an email and said they had no issues with it. They thought most of the issues would be with Pat and the Fire Bureau.

Lilly: Any landscape screening or anything of that nature? There are some trees and shrubs.

O'Hara: Right now there is no plan for screening because of all the trees that are there.

Faulhaber: Actually it is going to be behind the cooling towers. It will be shielded by the cooling tower. You really won't see it from the road. At this point in time we're not putting any additional screening in that area.

Lilly: How about vandalism, anything that could put the hospital in jeopardy if somebody vandalizes it?

O'Hara: No because they're pretty strong, it's tamper proof, double wall. It's also ballistic proof as well.

Faulhaber: Both the tanks are very....between the inner and outer walls are approximately 3 inches of concrete. They're concrete filled tanks between the layers of the tanks so they're pretty robust.

Lilly: Any other questions or input from anyone?

Bax: With respect to filling them, what is the access as far as filling, I would imagine after a certain amount of time the....does that have a shelf life where you would have to refill it treat it?

O'Hara: There is treatment for it. They typically use filling it they would bring in a truck with a hose that's up to 100' long and they have a pull station on each tank to fill from and it also has an alarm if they over fill.

Bax: You would fill from the doctor's lot probably?

O'Hara: It could be from the out-patient medical arts building parking.

Lilly: The Niagara County Planning Board, have they looked at this?

Masters: The solar and this were sent out there, no issues.

Lilly: Is there anyone else?

Masters: Also it went to the Environmental Commission yesterday but I didn't hear anything that was wrong so.....it did go there last night.

Davey: We issued a negative declaration.

**A motion based on the plan submitted to approve the site plan was made by Lilly, seconded by Taczak and carried.**

The next item on the agenda was the review of the solar energy systems law.

Parisi: This is a law that I put together on behalf; I used some of the other laws that are in place in Niagara County and some of the model laws that have been put out to come up with this law. We used Somerset, Lockport, and Wheatfield and took some of what we thought were some of the best one of those laws and came up with this law. I would also say that prior to coming to the Planning Board it was sent to other people to review so our Building Dept. took a look at it. Mr. Conrad took a look at it. Engineering took a look at it. A copy was sent to all of Lewiston's Councilmembers. They all took a look at it. Everybody who had concerns was heard. Considerations were made and changes were made after those discussions prior to formally introducing it to the Town of Lewiston Planning Board. A lot of work went in to this law prior to even having it on the Planning Board tonight.

Lilly: It seems to me there are 3 items, the roof top, the ground mounted and then the utility are the 3 species if you will that are part of this. The roof top seems to be straight forward. The ones that I've seen seem to be with the roof line so it doesn't seem to be unattractive in any way. The ground mounted; there may be some issues there with neighbors and things of that nature.

Parisi: What we tried to do was to balance obviously the interest in the Town of having solar energy and clean energy systems. The rights of property owners to put these systems in but also the rights of the neighbors and the views and things like that. When we put this together you will find that it's actually more restrictive than what you would find in our code for something like accessory structures. Mr. Masters and I had a conversation about this. On accessory structures in a residential area you can have a height of up to 18'. On the solar systems we made that height limit to 10'. Some of the setback requirements are more restrictive than the other setback requirements for accessory structures that are contained within the code. Also the amount of space that the solar system can take up on an existing property. A percentage of the space they can cover is also very restrictive so that 50% of your property isn't solar rays in the back yard in a residential neighborhood. I think it's something like 5% of the property or 10% of the property to have that actual square footage of the property to have those solar energy systems on. You will see in other municipalities there are a number of ground mounted solar raised in Lockport for example. It's not just roof top mount; people are looking to put in these ground mounted ones.

Lilly: Is one more efficient than the other?

Parisi: Ultimately if we could use the same type of cells so I don't know why one would be more efficient than the other. I think mounting on the ground would be because you can tilt those and face the sun throughout the day whereas on a roof it's mounted and it's in place and you can't change the angle to get more absorption from the sun.

Burg: That would be the only reason for a ground mount is if the roof wasn't conducive to it.

Lilly: The utility scale that seems to be more in the larger property and leads to solar farms?

Parisi: That's exactly what the utility scales were or had in mind. For those larger ones who have a very large piece of property and still the setbacks from the neighboring properties and streets are even more restrictive. Then you also have a maximum for the amount of space that could be taking up on the property itself. As Mr. Masters might have mentioned they go to engineering and the engineering commented they thought it was a very good law. Mr. Masters can confirm that.

Lilly: From the building inspector's office has there been much inquirers about putting up these sort of panels?

Masters: There are 4 solar companies that have canvassed the Town. I have the letters at my house. What they look for is vacant large parcels with southern exposure. I have personally 4 wanting to cover my whole property with solar panels. There seems to be an interest in this area. I don't know if it's because of the granting and all that's going on right now. Not so much the residential standalone ones but the solar farms there is a lot of interest. All 3 letters recently wanted at least 30 acres of solar farm. That's a lot of panels.

Lilly: 30 acres of panels?

Masters: 30 acres of panels. A panel is 2x4, so they put a bunch of panels all together like grid work. If anyone wants to see one, Bill Conrad has 2 of them in his back yard.

Taczak: They are behind Town of Porter too right.

Masters: Yes. The gas station at the corner of Transit and out by Reid's Hot Dog Stand, they have their whole property littered with them. They are popping up all over with the grant scenario.

Lilly: Would anyone else like to add anything? I read through it a few times. It seems new. I'm trying to figure where could an issue come up that we haven't thought of? I guess we lean on where other people have already experienced this to see what their experience is.

Parisi: When I was drafting this law I wanted to err on the side of caution so some of our setback restrictions on our overall area restrictions on the total square footage that you can have these solar rays on, we tend to be more restrictive than the other laws. I would rather err on when I was drafting this on the side of let's be more restrictive and not make it an issue with neighboring properties so if we have further setbacks. These laws have worked in other municipalities for the most part. In order to avoid tensions between property owners and stuff like that we made it a little more restrictive just to protect property rights of adjoining properties.

Lilly: Do we want to table this or approve it or do we want more input?

Morreale: Say if a neighbor's kids are playing ball and they hit a ball and it goes back there, are these panels easily breakable?

Parisi: Yes, they are glass. They will break. I think the trend is towards more durability. They are doing some incredible things with the solar arrays. I've seen everybody has seen Solar City in Buffalo. They are making roof tile panels out of the solar panels now.

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Masters: Right now the law says if you put a utility scale in it would be by special permit. Do you have a preference for that and do we need to come up with a criteria then Ryan on what the special conditions would be?

Parisi: We do set forth.....look at Section 360-220 and I believe that will set out the threshold that you're looking for on criteria. In order to put one up you have to have at least 5 acres, you can't do it on more than 100 acres, 100' setback from property lines from industrial areas.

Masters: All the special use criteria will be contained in this one.

Parisi: Section 360-220.

Bax: Ryan how do you define this to be commercial?

Parisi: I believe it has to do with the size.

Masters: Over 5 acres, less than 100.

Parisi: It's any solar energy system where it's designed and intended to be used for sale off of the property. So it's not meant to fulfill the needs of that property owner. It's meant to generate more and for sale or any solar energy system that has an overall foot print in excess of 5 acres. It's either 5 acres or if the intent of the system. If a property only requires, I'm just throwing out numbers here, I'm sure they're way off so if a property owner requires one megawatt of power for a year or whatever it is, and this solar energy system is designed to produce 10 megawatts....

Bax: What is it's closer and produced 1.1 megawatts?

Parisi: That's not an issue, that's just considered....in my opinion that's just a.....it would be....the intent of that that it's so close that it's just meant to power that and if there is a little extra that can be sold back to.....the intent of that system wouldn't be to make money off of it.

Morreale: Would that Town have to abide by that law also? Say if they clean up the low site in 5-10 years and they really have no use for that site after they plant the grass. Would the Town be able to look for a solar farm there or would we have to abide by....

Parisi: The Town doesn't own it right now.

Morreale: What if they donated it?

Masters: We wouldn't want it.

Parisi: We do own the old waste water treatment plant there. I would have to look in to it. There are certain things that the Town doesn't have to abide by.

Morreale: I'm just curious because the uses for that property are going to be limited.

Bax: I think you're right but I don't think that law would restrict us as much because of the location, it being among a number of different brown fields. We need to adjust ourselves accordingly. Would we have to worry about setbacks?

Parisi: There is so much land there I think we would be okay one way or the other. I think generally we try to follow our code and be good stewards of the Town. There are things the Town can do that like I said.....

Morreale: It would be a money maker for the Town. That land will have limited use. It would be ideal for something like that.

Parisi: For these systems there is a big up front cost. You can plan on making your money back over the course of 10-20 years. It's not an overnight thing where you put in solar arrays and they pay for themselves in a year. It's a long term investment.

Casale: The Power Authority should subsidize some of that stuff with all their profits.

Morreale: You're saying Lockport does have the law? R-1 residents, they have the solar panels? I want to take a ride this weekend and see. I just don't see some of these beautiful areas we have for them to have solar panels popping up all over.

Parisi: The corner of Stone Road and Transit. There is a gas station that has them.

Taczak: There's one on Westwood Circle right near me that's a new build and he has them on the roof. They're not unattractive at all.

Morreale: I'm saying on the ground. Can you imagine all your neighbors?

Taczak: Again, you get in to the situation where hopefully this is going to help alleviate a lot of friction and that.....the reflection is in my fourth floor windows.....we don't have fourth floor residential homes here so.....

Masters: I just wish there was a benefit, I know Rob was talking about the Town putting in a solar farm. I wish there was some way that the Town could benefit off of these solar farms. Let's just say the law goes in to effect and you get 5 companies that want to come in to the Town of Lewiston and put up 5 big solar farms. What is the benefit to the Town of Lewiston? The way the State is moving right now is they are talking about making these tax exempt



properties because they're green. Now really what's the tax advantage and what's the benefit to the Town to have it.....

Casale: What about a solar tax like we have a bed tax for hotels?

Masters: Or some type of reduced power for Town residents. I wish there was some way we could do something like that in the law that would be a benefit to have these big farms come in.

Lilly: Then we won't have any taxable property in Lewiston.

Masters: That's a problem right now.

Lilly: If a bunch of solar farms come in and they're not taxed.

Casale: Is that like the Bridge Commission on Upper Mountain, all the work you guys did on re-zoning and tried to make it an appealing commercial piece of property that was bought out by non-profit basically and it was taken right off the tax rolls.

Masters: One of the best commercial sites in Lewiston.

Lilly: Any other discussion? Do we need to read this some more or make a motion? Are we giving it an okay to move forward? I'm going to put my trust in the attorney that he has done his due diligence and I've read it a few times.

Bax: Has this gone out for public comment?

Parisi: It's scheduled for a public hearing next month.

Casale: Do we need to approve it first for them.....this is on our website? People can read it?

Parisi: The law is on our website. People will be coming in and commenting on it. We have our public hearing scheduled. We notified all the interested agencies, the municipalities to let them know. They received a copy of the law. A notice of the public hearing....it went to the County Planning Board so it will be considered at the County Planning Board this month. This is something that we've been discussing for the last year or two actually at our Town Board meetings. Now we actually have the law in hand and people can comment on something. It hasn't really been a controversial item that the Town Board has been dealing with. I think everyone agrees that there needs to be some regulation of the systems.

Bax: We hear the footsteps of people coming in wanting to do something, we want to have a.....prior to the project being....

Parisi: I think Grand Island may have been what queued us in on this because I know Grand Island early on was a place where a lot of solar farms wanted to because they had a lot of open space there. I don't think they had a law. I think they recently passed a law.

Taczak: I know there was some discussion in the back before we came out about leans error, bonding.....

Parisi: The preferred way to get reimbursed in the event that someone does not remediate their solar energy system commercial scale or whatever it might be is they have a bond in place and they don't do it, then the bond simply pays for it. That was actually in the law and it was brought up by our engineers and our building department during the review process of the law. They suggested the bond issue is really the way to go. We don't want to make this a tax lien because then it becomes much harder to collect. If we have both of them in there ideally there is a bond in place and we get paid back by the bond and we don't have to put anything as a tax lien. The bond is mentioned and the tax lien is mentioned.

Taczak: One or the other?

Parisi: I left it as both, again as kind of like a belt and suspenders. If the bond doesn't work then you can fall back, not ideally but you will have another remedy through the tax lien in the event the bond falls through for some reason. The cost goes up to remediate so you don't have enough from the bond to cover the entire cost so the remainder goes on as a tax lien. There are different scenarios that may come up. But that is the thought if something happens with the bond, it's not enough....it goes away...whatever might happen, at least that you have the tax lien option as a secondary option.

Lilly: Will this be advertised so the residents are well aware of it?

Parisi: I just sent public, the ad will go in our official newspaper for the Town. I just sent the notice to the clerk to have it published.

Masters: It will go to the surrounding Towns also.

Parisi: All the interested agencies, the DEC, the Parks Commission under the SEQRA Law and Town Law 264 there is a lot of different people we have to notify when we're doing zoning changes and when we're doing something with SEQRA that involves this much property. Every municipality that borders upon Lewiston has been notified that I've given a copy of the law and they were notified about the public hearing date. Additionally like I said some State agencies have been informed as well like the DEC and the Parks Commission, the local Parks Commission, Niagara County Planning Board. It has gone to all the necessary parties.

Lilly: At the regular Town Board meeting there was a Lewiston group, I can't think of their name, Taxpayers Alliance, what has their feedback been?

Parisi: We haven't had anything back....they are more concerned with how funds are being spent and who is getting Town contracts. They are more of an economic group as opposed to a.....

Lilly: I had the impression they were interested in everything in any way shape or form.

Masters: If they were they would be here tonight.

Morreale: Jacoby's concerns. Is there a problem....we have a 6' fence that it's going to stick over....

Parisi: It's about half the height that an accessory structure can have of 18'.

Masters: Right now we have a height limit on a regular house at 35', an accessory height of 18' and we have a fence height of 6' in the rear and side yard, 4' in the front yard. You have 6', 10', 18', and 35' all on the same property. I personally didn't think the 10' was going to be an issue. I don't know what the rest of the Board thinks.

Lilly: I'm thinking this panel isn't going to be right against this fence either.

Brock Davey: Glare can be an issue as well.

Parisi: I believe in the law it steps are to be taken on...so in the event that it is reflective that reflective isn't aimed or pointed towards any adjacent properties or houses.

Bax: Won't that change throughout the day?

Parisi: I think this is another one of those issues to where as these have evolved I think the reflection has become less of an issue. I think they're trying to make these darker and less reflective so really I guess when you reflecting energy isn't being absorbed. If you want to make these as efficient as possible you make them to absorb as much of that sunlight.

Taczak: I would even that especially since where we are that the air base, if this is facing south and you have a 5 acre array and all of a sudden in their flight pattern whoa.

Masters: They want them non-reflective.

Taczak: That's I'm sure one of the questions.

Parisi: Actually there have been issues with the air base now and asking us for help in terms of what can be built and what can't be built. It's kind of a new thing that they've approached different municipalities surrounding the air base with. Our thought is to possibly put in an overlay district within a certain distance of the air base and have additional requirements there. The additional requirements in that air base overlay district would be if you have a solar farm it needs to be non-reflective.

Taczak: That would almost be the entire Town of Lewiston the way they are flying over the entire Town.

Parisi: I think the main issues are on landing and takeoff. That really happens within a certain distance from the air base.

Lilly: Well I think it looks fine. Do we need a motion to forward this on?

Burg: I don't think there is any action needed by the Planning Board. I think it's just a review of it.

Davey: The Environmental, we tabled it. We just got it Tuesday and how can you read through that in 10 minutes.

Taczak: We've had it a while.

Masters: I talked to Gerry a week and a half ago.

Parisi: Ultimately the Board is an advisory. Obviously the Town Board wants the Planning Board's input.

Masters: I would personally make a motion on it.

Parisi: If possible I would like to move it forward.

**A motion to approve the solar energy system draft was made by Casale, seconded by Lilly, with the condition to be open to further options as well. The Environmental Board tabled the review.**

Taczak: I like the idea of approving with the condition that if there is anything else that's not in what we have that comes up that we still have the opportunity to review it.

Parisi: The Town Board still has to consider it and approve it. What the Town Board has right now is a draft so if the Town Board wants to make changes so if there is clarity issues that come up during the public hearing or during the discussions we have on it between now and the

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public hearing those issues can be addressed and drafted in to a new version of the law that the Town Board can vote on.

**A motion to approve the minutes of December 2017 was made by Taczak, seconded by Craft and carried.**

**A motion to adjourn was made by Taczak, seconded by Craft and carried.**

Respectfully submitted,

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Sandra L. VanUden  
Planning Secretary

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Ken Lilly  
Vice Chairman