

TOWN OF CHESTER
PLANNING BOARD MINUTES
October 7, 2015

Members present: Chairman Don Serotta, Bob Conklin, Carl D'Antonio, Steve Denes, Ernie Damiani, Frank Gilbert

Also present: Dave Donovan, Attorney, Al Fusco, Engineer, Tanya McPhee, Planning Board secretary

A motion was made to adopt the minutes of August 19, 2015, September 2, 2015, September 16, 2015 by Carl D'Antonio, seconded by Ernie Damiani. Motion carried 6-0.

Next meeting of the Planning Board is scheduled for October 21, 2015 at 7:00pm.

Board updates: Bazs Landscaping will be coming back on next agenda for landscape review. Everyone is signed up for education. Extra hours are carried over.

ROCK CITY MEDIA – PUBLIC HEARING

First item on the agenda is a public hearing for Rock City Media. Appearing before the board is Doug Barthel from Rock City Media. Presenting to do a digital billboard and clean up existing regular billboard.

Al Fusco discussed the applicant has supplied most of the items requested. Identified on the plan which signs would be replacing the existing and which signs would be converted to digital. Surveyor signed and certified, showed dimensions from the property line and the road and between each other. Determination into the double faced billboard, determined it was in compliance in that regard. Calculations were submitted and reviewed and were adequate. They are completing the review of the foundation. The applicant has supplied most of the required items. Applicant issued a letter of compliance indicating it would comply with the code. Need data sheets from the digital supplier to show said compliance. Approval upon condition of NYS D approval after planning board before a building permit. Need to give him a conditional approval, but applicant can't get building permit until he gets DOT approval. The DOT standards were identical to ours. Unless DOT made other changes the applicant should be in compliance with DOT.

Received County report today, with this project there were certain factors that the Town of Chester planning board is obligated to send a plan up to Orange County planning department for their review and comment. The signed final version came in today. They called this a local determination. Comments were made.

Attached letter from OCDP:

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Steven M. Neuhaus
County Executive

Orange County Department of Planning

124 Main Street
Goshen, NY 10924-2124
Tel: (845) 615-3840
Fax: (845) 291-2533

David E. Church, AICP
Commissioner

www.orangecountygov.com/planning
planning@orangecountygov.com

County Reply – Mandatory Review of Local Planning Action
as per NYS General Municipal Law §239-l, m, &n

Local Referring Board: Town of Chester Planning Board

Referral ID #: CHT 08-15M

Applicant: Rock City Media/Doug Barthel

Tax Map #: 3-1-72

Project Name: Sign Pole and Digital

Local File #: none provided

Proposed Action: Site Plan for replacement of two existing billboards onsite, one with a new double-sided static sign and one with a new double-sided electronic sign

Reason for County Review: Within 500 feet of NYS Route 17

Date of Full Statement: September 3, 2015

Comments: The Department has received the above referenced site plan and has found no evidence that significant intermunicipal or countywide impacts would result from its approval. We would like to offer the following advisory comments:

Existing Regulations: We advise the Town Board to ensure that the proposed billboards conform to the regulations of the Town of Chester Code §98-21.H regulating billboards. The proposed signs are closer together than 1,000 feet, and are closer than 75 feet to the property line adjacent to the highway. The applicant may need to request an area variance.

State Regulations: The proposed billboards are adjacent to NYS Route 17, in the process of being converted to Interstate 86. As such, they are subject to the New York State Department of Transportation regulations for offsite commercial signs. DOT typically requires local approval for a billboard project prior to issuing a permit; we advise the Town to contact DOT following the decision for this project, to ensure that the Town's concerns are addressed in the State permit.

Safety: The location of the proposed billboards as well as the constantly updating content of the proposed electronic billboard could potentially pose a safety hazard for traffic on NYS Route 17 as well as pedestrians and bicyclists on the Heritage Trail. We advise the Town to ensure that the proposed signs are designed and installed in accordance with the state laws regulating billboards, including the criteria for regulating off-premises commercial electronic variable message signs and with §98-21.H of the Town of Chester Code.


Open Space Plan: Orange County adopted the County Open Space Plan in 2004 as an addendum to the County Comprehensive Plan. This site is referenced in that document, and in the previous scenic preservation plan adopted in 1988, as a Special Scenic Area, specifically as part of the Oxford Depot meadowlands as seen from Route 17. Billboards and other signage, particularly electronic signage, are inconsistent with the principles of scenic viewshed preservation as espoused by New York State in their creation of Scenic Byways. Therefore we advise the Town that this proposed project is inconsistent with the Orange County Comprehensive Plan.

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County Recommendation: Local Determination

Date: October 6, 2015

Prepared by: Megan Tennermann, AICP, Planner



David Church, AICP
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available online at www.orangecountygov.com/planning.

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All mailings were complete, proper notice published in Time Herald Record.

Open to Public Hearing:

No one spoke for or against the application.

Motion to close the public hearing. Motion made by Bob Conklin. Seconded by Steve Denes. Motion carried 6-0.

Doug to give Al Fusco specs of conformity. Dave will draw up Resolution of Approval will be next meeting October 21, 2015.

GUANERI SUBDIVISION:

Jim Clearwater present for Guaneri. Question on the lake and the water course through there. Al Fusco went there, concerned with the location of the septic system, Mr. Fusco asked to have the septic system moved. Applicant moved septic system.

Al Fusco submitted letter:

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- 233 East Main Street
Middletown, NY 10940
Phone: (845) 344-5863
Fax: (845) 956-5865

- 19 Waywayup Lane
Port Jervis, NY 12771
Phone: (845) 956-5866

October 1, 2015

Don Serotta, Chairman
Town of Chester Planning Board
1786 Kings Highway
Chester, NY, 10918

Re: Guarneri Subdivision
Natures Trail

Dear Chairman Serotta,

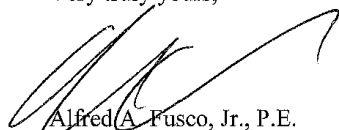
I have reviewed the recent 9/30/15 submittal for the above noted subdivision after a field visit.

The Engineers have adhered to my requirement for the separation distance to the watercourse through the property.

We are satisfied with their submittal. We do ask that a condition be placed on the resolution that the Town Engineer must inspect the septic system prior to backfill and a \$250 escrow fee to remain for the purpose.

Please advise if you have any questions.

Very truly yours,



Alfred A. Fusco, Jr., P.E.
Fusco Engineering & Land Surveying, P.C
AAF/cam

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Requested \$250 escrow and town engineer inspect prior to backfill. Also \$2000 parkland fee. Dave Donovan drafted Resolution of Approval. Dave will make proper changes for Final Resolution of Approval.

Need to adopt negative declaration.

Need 11 copies of plans and mylar. Subject to escrow account balanced out.

Conditional Final Resolution of Approval motioned by Frank Gilbert. Seconded by Steve Denes. Motion carried 6-0.

SURESKY & SONS, INC. – SITE PLAN

Jay Samuelson Engineering Surveying Properties present for Suresky.

Al Fusco submitted letter:

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October 5, 2015

Donald Serotta, Chairman
Town of Chester Planning Board
1786 Kings Highway
Chester, NY, 10918

Re: RI Suresky & Sons Inc.
Orange County, New York

Dear Chairman Serotta,

We have performed a final review of the plans for Suresky & Son. They have complied with most of the Town Planning Board requirements with the following exceptions:

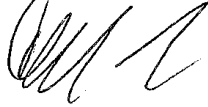
1. Town Code 98-19I: Buffer strips and landscaping requires the following:
“Landscaping for all buffer areas shall be designed by a licensed landscape architect and shall be guaranteed for a period of three years. Thereafter it shall be maintained by the property owner as a condition of approval. A landscape bond for a period of three years shall be provided to the Town in the form of cash or confirmed and irrevocable letter of credit acceptable to the Town Attorney to insure the installation and maintenance of the landscaping. Release of said bond shall be on the recommendation of the Building Inspector or authorized landscape professional designated by the Town.”

We recommend that this section of the code become a note on the landscape page replacing the note guaranteeing plant material for 1 year.
2. Site plan infrastructure to be inspected by the Town Engineer prior to construction on escrow account to be set up for that purpose.
3. A \$10,000 bond is to be set up with the Highway Department for road repairs; to be returned upon sign off by Highway Superintendent.

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Please advise if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'AAF', is positioned above the typed name.

Alfred A. Fusco, Jr., P.E.
Fusco Engineering & Land Surveying, P.C.
AAF/cam

Cc: Tanya McPhee
David Donovan, Esq.

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Al Fusco referred to section 98.19 (i) about the buffer strips, note on plan that applicant will maintain landscaping for 1 year. The code is 3 years. Applicant plans on keeping property for long term for investment, however note needs to be placed on plan, and the other note taken off. Infrastructure will be inspected by the town engineer prior to construction. \$10,000 bond for Highway Department. Will be returned as soon as CO is issued.

Chairman polled board for comments:

Steve Denes asked to see Lighting plans 9-16-15. Inquired which way lighting will be facing. Mr. Samuelson explained lighting will be facing down.

Chairman Serotta asked if lights are on 24hrs p/day. Jeff Muscemeci from Suresky answered from dusk to dawn, with possibly alternating at different times.

Dave drafted Resolution of Approval. Specific conditions:

1. Compliance with Al Fusco's letters from September 15, 2015 & October 5, 2015.
2. Compliance with Karen Arent
3. Compliance with all map notes
4. Need proof of filing of Notice of Intent
5. Stormwater maintenance plan - formal agreement in the code and that has to be executed.

Need 8 copies of site plans to sign. Escrow accounts to be reconciled, all of Al's bills in.

Motion for Negative SEQRA Declaration made by Frank Gilbert. Seconded by Bob Conklin. Motion carried 6-0.

Motion for Conditional Final Resolution of Approval made by Bob Conklin. Seconded by Ernie. Motion carried 6-0.

WARWICK RIDGE –

Jay Samuelson Engineering Surveying Properties present for Warwick Ridge. Applicant decided that they are no longer going to sectionalize the sub division. Refile the whole map as a full sub division. Wants to go back to the original plan, do they need to be re-approved. Needs to know if there is anything they need to do to proceed.

Dave Donovan asked if there were any conditions on the original Resolution that no longer apply. The conditional approval from November 3, 2010, there were 3 letters from the office of McGully. They were waiting on finalized plans that they got this

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afternoon. Dropped off package this afternoon with response letter, responding to all of the conditions. The only outstanding issue, which the Town Board trying to decide on how to handle the maintenance of the storm water facilities. Whether it's going to be a drainage district (town will take care of thru general fund) or the responsibility of the homeowners. This is an on-going conversation at the town board.

The only issue is note #4. Wants to make sure 1 homeowner doesn't get stuck with responsibility and is shared by the other homeowners in the development.

Elias Mulrab property owner, whichever way the town wants to go whether it creates a water district, or he has to put up a bond or obligating himself to take care of it for 10yrs. He is prepared to do something like that, but would like to see the project go forward and file the map and sell lots. Keep the one lot that has the easement so no one gets stuck with it for the time being or he can put up a bond for the next 5 yrs.

Motion to rescind Approval for Phasing from May 6, 2015 made by Frank Gilbert. Seconded by Bob Conklin. Motion carried 6-0.

Motion to reinstate Approval from November 3, 2010, with a substitution, deleting paragraph 4 and substituting it with paragraph 6 from the phasing approval. Motion made by Bob Conklin. Seconded by Frank Gilbert. Motion carried 6-0.

DURMA FARMS – WORK SESSION

Needs public hearing. Will get a mailing list of people within 500ft and you will have to go post in the Times Herald Record. Need paper plan and a PDF to be able to file with Orange County. Orange County requires 3 things:

1. Plan
2. Application
3. Short EAF form

Motion for Public Hearing on November 18, 2015 made by Bob Conklin. Seconded by Frank Gilbert. Motion carried 6-0

SUN EDISON – SITE PLAN

Mark Fellenzer, Fellenzer Engineering present for Sun Edison. Along with Ryan Fellenzer, Bryan Hurley and John Dimkowski from Seimans. Solar farm project. Will take up approx. 11 acres. And will be adjacent to Goshen but solely in Chester. There will be buffers and panels will stand approximately 12ft above ground. Will not be rotated, will only be rotated seasonally and are fixed location. Grass will be planted underneath,

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reflection don't really change. Very little seen. Would fence the site for security and animals.

They have retained Gardner Barone of Blustein, Shapiro, Rich and Barone law firm. Preliminary discussion has been made between Mr. Barone and Dave Donovan. Case law on these being public utility structures. Mr. Fellenzer thinks it's appropriate and would think this Planning Board would want to be lead agency for the project. Obviously up to the Planning board for that decision. Looking for Letter of Intent if intending on taking that role.

Second, is how does this fit in our zoning, and the definitions in our zoning. They are seeing it as a permitted use by special use permit in the AR3 Zone as a Public Utility Structure.

Tonight asking you to consider being lead agency on this project, hopefully feel that this is a public utility structure, and can continue the process entirely in front of this board and not find the need to go to zoning board of appeals for an interpretation.

Dave said there is no reason this board not to be lead agency even if you determined to wanted interpretation from the ZBA. The point that Mr. Donovan recommended an uncoordinated review which you don't have to circulate your intent and just declare yourselves to be lead agency so we can provide a Resolution to allow you to move forward to obtain whatever financing or credit.

The AR3 zone is a public utility structure, the zoning ordinance does not define a public utility structure.

Chairman Serotta: Is there a benefit or a way that the Town Hall can get credits out of it? Assuming in the form of power distribution? Mark is to follow up.

Frank Gilbert: Credits allocated to any entity in Orange and Rockland territory. Lead Agency, yes. Public Utility, Yes.

Carl D'Antonio: 2 mega watts how much power does that generate? It could power anywhere from 200-1000 homes on an annual basis, Mark will get back to us with a number.

Steve Denes: Green benefits, in addition to substance of benefit that may come to the town, in terms of any revenue or credits. There will also be the intangible benefits as

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well, global warming issues, not such a great reliance on fossil fuels, no carbon dioxide emissions, cutting down the need for cross country power lines.

Ernie Damiani: Lamont Daugherty? How does that work?. The power is generated and goes into the Orange & Rockland grid, the energy or (credits) are sold to O&R to service their load. Rather than buying from O&R they are essentially buying this solar grid. Is there a contract with Lamont Daugherty and the generator to buy electricity or just energy credits? To buy electricity which, produced credits on behalf of Lamont Daugherty. How does the 15yr tax deferral work? Established by state law, it's an incentive provided to solar projects to defer additional costs impact to encourage development of solar.

Frank Gilbert: Most public utilities are licensed by the federal government. They are regulated. These assets are regulated by the public service commission. That is one of the things referenced in the case law. The mechanism by which this whole thing is set up is established by the public service commission, and regulated by them. They established the rules by which the systems can be installed, and how they interact with the utilities.

Motion made to send to the Application to the ZBA for an interpretation by Ernie Damiani. Seconded by Carl D'Antonio.

The vote was as follows:

Against

Chairman Serotta
Bob Conklin
Frank Gilbert
Steve Denes

For

Carl D'Antonio
Ernie Damiani

Motion fails 4-2

Motion made Declared to be Lead Agency by Bob Conklin. Seconded by Frank Gilbert.
Motion carried 6-0

Letter submitted by Al Fusco:

**TOWN OF CHESTER
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Alfred A. Fusco, Jr., P.E., Principal

Alfred A. Fusco, III, General Manager

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Phone: (845) 956-5866

October 6, 2015

Donald Serotta, Planning Board Chairman
Town of Chester
1786 Kings Highway
Chester, NY, 10918

Re: Siemens Solar

Dear Chairman Serotta,

PROJECT:

Name: Johnson Solar Array
Applicant: Sun Edison LLC
Acreage: 83.8 Acres
SBL: 1-1-4
Zone: AR-3

We have reviewed the application and offer the following comments:

1. Planning Board Attorney to advise on use.
2. Project requires screening or buffer not to interfere with sun but scenic vistas information to include maintenance of buffers and screening.
3. The array has a useful life guarantee required for restoration of the land after useful life. Entertain bond, commitment, etc.
4. List adjoining owners on plan.
5. Show required buffers (state, federal, or local). Show wetland delineation.
6. Certified survey signed by Licensed Land Surveyor with metes and bounds descriptions including existing or proposed easements, right-of-ways, including width and right of access and utility placement.
7. Locate all waterways and details including intermittent streams.
8. Topography: contours 100' from property on USGS datum.
9. Need erosion and sedimentation control plan.
10. Need habitat assessment.
11. SHPO letter of no effect, impact for cultural resources.
12. SWPPP.
13. Board should consider requiring Long Form EAF.
14. Complete bulk table.
15. Detail soils report with footing and/or foundation calculations and details.
16. Clarification of real estate exemptions.
17. Additional comments will be generated as material is submitted.
18. Board comments.

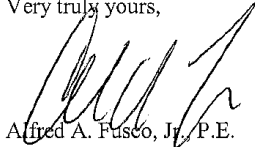
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Action:

Pleasure of the Board

Please advise if you have any questions.

Very truly yours,



Alfred A. Fusco, Jr., P.E.

Fusco Engineering

& Land Surveying, P.C.

AAF/cam

Cc: Planning Board Attorney

Town Attorney

Supervisor

Highway Superintendent

Town Clerk

Building Inspector

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Al Fusco went over letter.

Meeting adjourned 9:30pm

Respectfully Submitted,

Alexa Burchianti
Planning Board Secretary