

TOWN OF CHESTER
PLANNING BOARD MINUTES
April 6, 2016

Meeting called to order 7:02pm

Members present: Chairman Serotta, Bob Conklin, Barry Sloan, Steve Denes, Carl D'Antonio, and Frank Gilbert

Also present: Dave Donovan-Attorney, Alexa Burchianti-Secretary, Al Fusco-Engineer

A motion was made to adopt the minutes from February 3, 2016 and March 2, 2016 motion made by Carl. Second by Bob. Motion passed 6-0

Next meeting of the Planning Board is scheduled for May 4, 2016. The April 20, 2016 meeting is cancelled. Primo Lawsuit was dismissed by the judge against the Planning Board.

Hills of Chester – 90 Day Extension

In need of a 90 day extension. They have a few lots left in Goshen then they will start in Chester.

Motion made by Bob. Second by Carl. Motion granted 6-0

Sugarloaf Station LLC – Architectural Review

Ed Mullins owner of the train station in Sugarloaf at 1398 Kings Hwy. wants to repaint the train station back to the original color. The original colors were yellow, with green trim and burgundy/reddish window frames.

Just wants to do the train station for now. Replaced the roof a few months ago. He will eventually do the caboose when he finds a contractor to fix and restore it.

Polled board for comments:

No comments or issues.

Motion made by Steve. Second by Carl. Motion granted 6-0

Lighthouse Solar – Architectural Review

Jessica Berry from Lighthouse Solar – for Arthur Tolis 70 Ralphie Lane.

Pictures taken from Debbie Court where you can see (barely) up on the hill. They want to put solar panels on the back of the roof and on the garage. All the panels are black on black and non-reflective glass.

Polled board for comments:

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No comments or issues.

Motion made by Frank. Second by Bob. Motion granted 6-0

Carol Kobetitsch – Work Session

Proposed restaurant on Bonnie Brook, 17 Acres, AR3 Zone. Has a lease to purchase on the property until the end of 2016. Carol has been in front of the board. The first phase is to put a restaurant on the property.

The comprehensive committee agreed and recommended to let old buildings to be turned into another use. (readapted use of older buildings and barns) on a case by case basis. The problem is no zoning has been changed or updated for this.

Carol would like to start the site plan process. While the process for zoning is taking place. Carol is also lobbying the Town Board. The purchase lease has a 2016 end date to get something going.

Dave: If we entertain the application even though there is no use in place for zoning you would have to be sensitive to the fact that this could take time and money on your part as well, as still no guarantee that all would be approved. Even if the Town Board is good with everything there is a process, one of which is a public hearing. If the public objects the Town Board has the right to abandon the project they are not obligated. After that if the Planning board is willing to go forward with it, you could lose a lot of money. Carol: I fully understand. I would lose money either way. I would rather try and get this started.

There is only an old 1700 Farm house that is gutted except for 1 room.

Chairman Serotta: We are not easy on site plans. You would have to do a survey, show parking requirements, improve the road, safety, lighting, landscaping, septic. You will more than likely have to go to DEC for a permit as well. You will need a firm to do all this. You would realize this is all on you, we would like to see you succeed.

Polled Board for any comments or objection to let her continue in front of the Planning Board:

Barry: no objection just as long as she knows what she's getting involved in. It's not going to be finished by the end of the year.

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Carol: I understand, as long as I have some kind of progress done this year, then she can renegotiate her lease.

Carl: Wish you well

Frank: Good Luck as long as you understand what you are getting yourself into.

Chairman Serotta: Ok, you have to find someone, and they will get you started and they will apply to be in front of us.

Siemens SunEdison – Site Plan Review

Amador Laput from Fellenzer Engineering for Siemens SunEdison

Caught Frank up to date he was absent for the 2nd public hearing, we have asked them to many thing. Reflectivity studies etc. There was a turnout of residents from Brennan Court that expressed concerns. Chairman Serotta sent Karen Arent back out again and she issued a letter.

Karen Arent letter:

Polled Board for comments and questions:

No comments or questions.

Chairman Serotta had Dave draw up a resolution of approval. Unfortunately Alexa called me the other day and was checking the stock market and found out that SunEdison is on the verge of declaring for Chapter 11 Bankruptcy. Which was sent out to everyone. Which made me a little bit nervous. I asked Dave to make a few comments about that. This kind of blindsided us about that. Our biggest concern is the decommissioning of the plans and bonding. Everything else is ok. But what is the Town of Chesters risk? and the Johnson Farm at risk. We don't want to get stuck with something half built.

Amador Yes, this was big news this week, we are concerned as well. The reorganization will still maintain all the equipment. We agreed that we will change the bonding language and don't want the town to feel like they are going to be stuck.

Chairman Serotta: Mr. Johnson are you aware that SunEdison is declaring bankruptcy?
This made us nervous. Mr. Johnson: Yes, I just found out.

Brian (from SunEdison): We appreciate the collaboration so far. I wanted to provide a little bit of background of SunEdison. Sun Edison as a company is the largest renewable energy company in the world. They made a number of large acquisitions at a higher

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stock evaluation. The combination of the debt load and declining stock market price put them in a crunch. So what they are doing right now is deleveraging. They are unloading non-core functions there non-core business areas. They are a solar development company at their core in a commercial distributed generation market. They unloaded assets related to Latin America, India, they have gotten out of the residential acquisitions. Am very confident that a SunEdison entity either under the name of SunEdison or some acquired by another entity will emerge from this process. Additionally in the US in the distributed generation market New York is there largest DG portfolio. So this is core to Sun Edison. There is value in what they are doing so I am confident that there will be some resolution to this in the year term. Walking you through for just a moment on how the projects are financed. These projects do not sit on SunEdison's balance sheet. They are put up into special purpose entities in which financing from 3rd parties is sourced to fund the project. Bank of America, tax equity, debt combinations structures come in to special purpose entity. These special purpose entities because there is a significant amount of cash coming in from 3rd party financing are set up as bankruptcy remote in relation to SunEdison. SunEdison is an operator of the asset to the special purpose entity. They have an operating agreement with the special purpose entity. The ultimate credit backing the SPE is the financing source. The asset will be set up to be bankruptcy remote and will be set up to be able to be in place in the event of a SunEdison bankruptcy. Ultimately banks aren't going to be willing to put their money into deploying an asset that only gets 75% built. Or that gets abandoned in the first year. Or even in year 10 these are long term assets that are being financed. We can provide you with assurances on how it will be financed ultimately as it relates to the long term liability of that asset. As it relates to right now, the project is not going to advance without 3rd party financing and funding to this SPE. So I just want to make it very clear that the project will not move forward if it ultimately doesn't get financing, we believe it will, we are highly confident that this project is going to move forward there is some uncertainty in the near term but the nature of the financing should provide you with assurance of the bank ability of the bond and we can have further discussion as needed on that.

Al: What is near term? One month 2 months? Brian: It's hard to tell prior to construction for sure.

Barry: I'm sorry what was your name? Brian: Brian Barry: are you an attorney or an accountant? Brian: No I work for Siemens I am the National Solar Program Manager. Barry: If you don't have financing, how do you know this project is going to go forward? If you go before bankruptcy court they are going to throw out every contract you have and say especially one like this that hasn't been signed yet. Brian: There are contracts in place right now. We are confident that this core portfolio projects will move forward.

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When it ultimately moves forward it will either be with SunEdison or with another entity but it will be from a bankable party. So any bond that you receive will be bankable. Barry: is it going to be an irrevocable letter of credit? Al: It will be acceptable to the Town.

Dave: We should recognize that this is a risk that is always present. We happen to know because this was hit with a splash that this is presumably going to happen, generally you don't advance this far then pull back. So we have to presume that the reorganization is going to happen so, that's the risk with any development. We've seen people go bust because of the economy. Barry: we have never had one possibly going bankrupt while they are in front of the board. Dave: correct you are right. My concern what happens after? The issue I have that we need to figure out how to resolve is what we don't know is whether or not is if there is a bankruptcy filing and there is a bond in place, if in 5 years it's not profitable and they file for bankruptcy the court can pull that bond? And bring that bond back into the bankrupt estate. Brian: That's why I explained the SPE for bankruptcy remote. They are all set up for bankruptcy remote.

Barry: Mr. Johnson have you consulted your attorney? Mr. Johnson: Not yet, No. Barry: I think you should, just my opinion, I've dealt with a few companies that went through bankruptcy this contract could be voided in the court. I'm not saying it will be, but it could be. Dave: But if it is that's going to happen, I would anticipate that that's going to happen before there is any construction. If that's at play, you're not going to start putting anything in the ground without any financing. And if it is voided I don't think anything would happen.

Chairman Serotta: I think Mr. Johnson has to be careful with what he does. Our primary concern is to protect Mr. Johnson and all of the residents, and the Town of Chester to hold us harmless. He's not doing this intentionally to harm the Town of Chester. He's doing this to make some money and that is good we are for that. This can happen on any project.

Al: The biggest protection Dave handled it in #4 is that the bond is acceptable to the Attorney and the Engineer. I did not accept the bond that they proposed. So they have to propose another bond and the form has to be suitable to the attorney.

Chairman Serotta: Our main concern is to make sure that if the put poles in the ground and start construction then they never finish or do anything else that there is enough money to restore the property to its original condition. And not force Mr. Johnson to do it or me, or other residents

Al: What is Siemens role in this? We know they are a major player in this project. Is there a possibility for them to step forward? Brian: I don't know the answer to that; we

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would be willing to work with you on bond structure. The project wouldn't start without financing. The bond would be coming from the SPE and or SunEdison.

Al Fusco Letter:

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- 233 East Main Street
Middletown, NY 10940
Phone: (845) 344-5863
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Phone: (845) 956-5866

April 5, 2016

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

Re: Siemens Solar
Johnson Farm Subdivision

Dear Chairman Serotta,

PROJECT:

Name: Johnson Solar Array
Applicant: Sun Edison LLC
Acreage: 83.8 Acres
SBL: 1-1-4
Zone: AR-3
Material Reviewed: Fellenzer correspondence dated 3/23/16
Fellenzer plans 10/10 dated 3/23/16
Reports – Home Values

We have reviewed the latest submission and offer the following:

1. Engineer's comments addressed.
2. Bond proposal for reclamation starting year 10 is not acceptable; must be reviewed.
3. Town landscape architect verified compliance.
4. Set up budget for Town site inspection.
5. Require as-built drawing and certificate by Professional Engineer after final construction for C.O.
6. Board comments.

Action:
Review bond.

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: Alexa Burchianti

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Al: Last plans were submitted. Previously comments were addressed and are satisfied . my only issue is the bond it needs to be done from day 1. Karen's letter said that screening was adequate but we need to set up bond for site inspections while the project is in progress. We did require as built drawing and certificate from professional engineer after final construction before CO is issue by the building department.

Nothing can happen until the Town Attorney signs off on it.

Polled board for comments:

Barry: So Dave is going to add Town's Attorney? Chairman: Correct

Bob: If another applicant takes over is it transferable? Dave: Yes,

Chairman: Mr. Johnson please make sure you are covered on your contract.

Motion made to make Negative Declaration by Frank. Second by Bob. Motion granted 6-0

Motion made for Conditional Final Site Plan Approval by Steve. Second by Barry. Motion granted 6-0

Eighteen-Eight Group – Site Plan Review

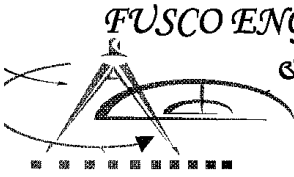
James Dillin-Professional Land Surveyor

The property is located in the IP zone on Black Meadow Road owned by Jim Theodoreu.

It is directly across from the Village of Chester municipal well. It is 23 acres. There are some wetlands on the property. They have marked out federal wetlands, which hardly effects them. No buffer required. There is a designated 100 year flood plane on this property which I James believes is 474. Most of the property being developed is above the 474 number. They are proposing to put in a 9600 sq. ft. building which would be elevated 2 feet above the flood plane. All amenities will be above the flood plane including the septic. There was some questions about a flood district that it is involved in, prepared a narrative which was submitted to the board addressing the concerns of the flood plane.

Al Fusco Letter:

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FUSCO ENGINEERING
& LAND SURVEYING, P.C.

Consulting Engineers

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

Alfred A. Fusco, III, General Manager

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April 4, 2016

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

Re: Eighteen-Eight Group LLC

Dear Chairman Serotta,

PROJECT:

Name: Eighteen-Eight Group LLC
Applicant: James Theodoreu
Acreage: 23.3 Acres
SBL: 6-1-102
Zone: IP
Material Reviewed: Plans dated 3/29/16 – Dillin/Deutshe
Elevation Certificate
Review letter

COMMENTS:

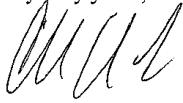
1. We have received the elevation certificate as requested.
 2. Area of disturbance shows over 1 acre; therefore, a SWPPP must be submitted.
 3. Show driveway cross section.
 4. Set up joint inspection with Town Engineer for soils witnessing.
 5. Project should have additional landscape features and details.
 6. Identify sign, if requested.
 7. Show width of drive, parking shall have size and dimension, backup area, and handicapped signs.
-
8. Signed and sealed, stamped plans by Surveyor and Engineer.
 9. Board comments.

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Action:
239 GML
Public Hearing
SEQRA Review

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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The biggest problem with flooding is black meadow road. The elevation certificate has been filled out which would also submit when they go for building permit so they stay in compliance.

Chairman Serotta: there is another application your neighbor that is in front of us also. That has been in front of us for a while. It's is just a little strange, it doesn't seem like this property is any different than the other, and we find out that your property is 2 feet higher somehow, I understand surveys all stuff like that but when it comes down to inches I get a little nervous. And also when we turned away his first plan and just breezing through on the second plan. We need to address that and at least make sure that both applicants are treated fairly.

Al: Asked for an elevation certificate because we were concerned with Zircar. We wanted to make sure the elevations were above the flood planes. We did receive it. And it did show the building will be 2ft above the flood plane. We madge every effort to treat the 2 applicants exactly the same since they are next door to each other. And very similar projects. The area of disturbance is over an acre so we will need a Storm Water Prevention Plan (SWPP) through this. Another thing I asked for was a driveway cross section, detail should be shown. Witnessing of soil test for the septic system. The landscaping was a little light on the plan. No sign was shown, if you're going to have it. We wanted some dimensions, parking, back-up area, indicate handicap signs where appropriate. Sign sealed and stamped plans. Which was just received right now. SWPP is the biggest thing we need at this point.

Chairman Serotta: Is the Septic system above the flood zone on here? Al: Yes it is.

Dave: Jim you should look at 98.30 (f) (b) 4 (c) & (d)

Jim: on the elevation certificate it is sent to federal government for review. To be doubly sure of my data. Ran it manually. Took the 1929 data then convert it to 1988 and new gps shot with the opus report from the satellites and we have the exact same elevation. I am very confident that we have the right data here.

Chairman Serotta: Are parking caps up to par? Al: Yes. You are in the target areas of the Cricket frogs, bog turtles there are bats in this area. You will have to submit to the DEC and show us what their comments are. We hold everyone at the same standards. Al: We should ask for a full EAF.

Poll board for comments:

Steve: You have 12 parking spots on the plan. But believe the plan says 15 employees.

James: There are only 3 employees.

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Chairman Serotta: Black Meadow Road is not a county road. But you are on a village boarder. 239 will go to OCDP and the Village. Especially because the Village well is right there. Wait till you get do the full EAF.

Barry: Is there any finishing of the stainless steel? James: I don't believe so I will check. Barry: Tom Becker is going to want to know if there are any chemicals stored on the property that could leach into the well. James: I will have Mr. Theodoreu expand on his explanation. Chairman Serotta: He only gave us a one liner that he deals with stainless steel. Barry: On the East side of the building are there going to be lights on that side? James: No, no lights on that side. Barry: Landscape Plan? James: Yes, there are a few trees going in, but Al made a comment that the landscaping was thin and need a landscape plan. Barry: Would like to see it on East side of the building and screen anything that can be seen. Dumpster? You showing that the dumpster is enclosed. Is that accessible from your loading dock? James: That's a flat loading dock. It comes in on building grade. So the pad is on the same level.

Frank: Is there access outside around the building for fire? James: It's a flat site. Yes We will also refer this to Joe Mloch who is the building inspector. Also fire inspector.

Bob: I had the same thought about the perimeter around the building for firefighting purposes.

Only one or 2 deliveries a week. Don't want the tractor trailers backing out and turning around on Black Meadow Road.

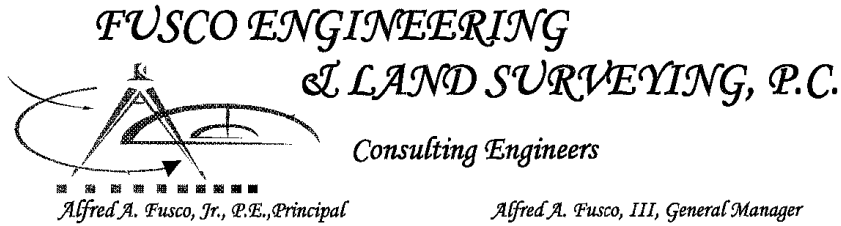
Zircar Ceramics – Site Plan Review

Karen Emmerich, Lehman & Getz for Phil Hamling owner of 203 Black Meadow Road

There is an existing building; the addition is approximately 9500sq ft. They have raised the floor elevation 476. Which is 2ft above the flood plane. That's really the change that was made from the last time the planning board saw the plans.

Al Fusco Letter:

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April 4, 2016

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

Re: Lands of Zircar Ceramics
Orange County, New York

Dear Chairman Serotta,

We have reviewed the material submitted for the above project and offer the following:

Project: Addition to wholesale light industrial
Acreage: 5 acres
Zone: IP
SBL: 6-1-101

COMMENTS:

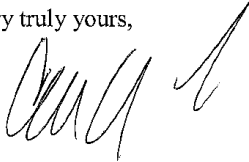
1. Area of disturbance on plan and notes are not consistent.
 2. Provide elevation certificate.
 3. Parking requires 53 spaces; 35 provided. Board to consider waiver or banked parking.
 4. Witnessed dye test for septic system at proposed usage.
 5. Show dry wells or other suitable drainage for roof top discharges.
-
6. Stamped plans by Surveyor and Engineer to be provided.
 7. Board comment.

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Action:
239 GML
Public Hearing
SEQRA Consideration

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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Al: The area of disturbance on the plan and the notes on the side are inconsistent. Not by a lot but we want them to be the same. Provide an elevation certificate, parking is right according to the codes. I don't know that they need the additional parking. I did put down that the board could consider a waiver or banked parking. There is existing septic but increased usage we ask for a witnessed dye test. I don't believe there is any drainage off the roof now. So maybe put some dry wells in.

Karen: for the existing structure or the new? Al: I'm more concern with the new. Because you are adding more impervious area.

Chairman Serotta: Rain Garden? Is that acceptable? Al: Yes.

Dave: What we have done in the past is banked parking. I don't know if the board has the power to do a waiver. The area is there you have is reserved for banked parking. Show for future use. And we put it on the building inspector that in the future if more is necessary it's there.

There are currently 3-8 people currently employed with the new addition will mostly likely add another 3 or 4 people.

Karen: we are showing on the plan existing about 7 and increasing to 17 and are showing 35 parking spaces right now.

Chairman Serotta: Unfortunately we go by square footage of a building to calculate parking spaces. We have 2 choices either identify, can you identify somewhere on the property that someday if more parking is required you can provide it. Then we can call that banked parking but you won't be able to build on it. If that is not acceptable then we can send you over to the ZBA and ask for a variance.

We will be submitting 239 to OCDP and the Village because of the well. Need elevation certificate. Need fill out long EAF and submit to Alexa.

Polled board for comments:

Phil raised the loading dock so there is an in and out. So there is no "u-turn" or backing out on Black Meadow Road.

Al: Please add the dimensions for the parking area and the tractor trailer area on the plans.

Also show the banked parking area.

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Meeting adjourned 9:03pm

Respectfully Submitted,

Alexa Burchianti
Planning Board Secretary