

**PLANNING BOARD
TOWN OF MARBLETOWN
ULSTER COUNTY
COTTEKILL, NEW YORK
(845) 687-7500 Ext. 171**

MINUTES OF October 29th, 2020 **Special Meeting** of the Town of Marbletown **PLANNING BOARD**, held via Zoom.

Chairman Proctor called the meeting to order at 7:00PM.

Chairman Proctor asked everyone to stand for the pledge to the Flag.

PRESENT:

Dan Proctor, Chairman
Paris Perry, Vice Chairman
Dave Cobb
Harry Hansen
Max Stratton
John Kostides

ABSENT:

Larry Ricci

Also present:

Shaye Davis, Secretary. Sharon Klein, alternate. Liz Axelson, CPL.

ZBA2019-05SUP – Now PB2019-05SUP – Continued Application

Special Use Permit

Bennett Solar – Juliette Bennett & Scott Greathead

Applicant is proposing to install a large-scale solar system on 12.4 acres of property.

170 Kripplebush Road, Stone Ridge, NY 12484

Zoning District: A-3, SBL: 69.1-5-20, Acreage: 31.10

Chris Otness from Summit Ridge Solar and Ryan Farnum from Creighton Manning Engineering were present on behalf of the application.

Mr. Perry gave an update on the application.

The Board opened the meeting for public comment.

Mr. Hansen stated that he felt the project was too large for the hamlet with the viewshed concerns for being adjacent to a historic district.

Stuart Leigh stated that the viewshed from the schoolhouse was a major concern and asked if trees could be added or if the panels could be shifted.

Iris Bloom stated that she was happy about the choice to help the community with the solar project and that they were using pollinators.

Donna Stein stated that she admires the Community and how they are trying to become more efficient.

Anna Castonguay stated that she supported the project.

Barbara Valacore stated that she doesn't live in the area, but she drives past the location daily for work. She stated that she supports the project fully.

Meryl stated that she was not anti-solar, but the location was not ideal. She was concerned about the viewshed.

Tim Guinee stated that he was in support of the project and would help by buying extra trees to help with the screening.

Greg Williams stated that he was in favor of the project.

Ernest Tollerson stated that he was in favor of the project.

NY for Clean Power's Betta Broad was in favor of the application.

David Weinraub expressed his concern on the viewshed.

Francisco read from his letter he submitted to the Board addressing his concerns.

Gareth Hougman stated that he was the President of the Stream Conservancy and that he supported the project in full.

Felicity Fellows stated that she supports the project in full.

Ramsey Adams stated that he supported the project.

Jeanne Shaw stated that she was in favor of the project.

Melissa Short stated that she was in favor of the project.

Laura Cunningham stated that she was not in favor of the project.

Mr. Stratton motioned to close the public hearing. Mr. Cobb seconded the motion.

All in favor. Motioned Carried.

6 ayes, 0 nays, 0 abstain, 1 absent

The Board reviewed the prepared decision.

Ulster County Planning Board: Special Use Permit Recommendations

Motion to accept the Ulster county Planning Board's comments of "Required Modifications" as listed below:

Recommendations

Stormwater Monitoring/Maintenance

Given the clearing and grading that will occur as this site is developed, it is important that monitoring and inspections of the sites' stormwater facilities and erosion and sediment control measures occur both during construction and post completion of the project.

Required Modification

As a condition of approval, regular site visits by the Town's stormwater inspector should be conducted to ensure the site remains within compliance and that no unexpected stormwater seepages occur.

By the following vote:

Ayes: 6 Nays: 0 Absent: 1

Motion made by Dan Proctor

Seconded by John Kostides

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Findings from review of the application

Standards for large-scale solar systems as a special use.

D. Prescribed standards. In addition to the above general provisions, the following uses shall comply with the following prescribed standards:

(17) Standards for large-scale solar systems as a special use.

[Added 8-1-2017 by L.L. No. 6-2017]

(a) Location and siting.

[1] Large-scale solar energy systems may be permitted, upon the issuance of a special use permit by the Planning Board, within the A-4, A-3, A-2, I-1, I/B, B-2 and R-1 Districts, subject to the requirements set forth in this section, including site plan approval.

Planning Board Determination of Compliance: *Project complies as it is in the A-3 district and the PB conducted Site Plan approval*

[2] Large-scale solar energy systems shall not be permitted to be constructed on areas of the first four prime farmland soil types as designated by the United States Department of Agriculture:

- *[a] Ba-Barbour loam.*
- *[b] CnA, CnB-Chenango gravelly silt loam.*
- *[c] Te-Teel silt loam.*
- *[d] Un-Unadilla silt loam.*

Planning Board Determination of Compliance: *The project does not have these four soil types. It has BHE, BnC, MgB, Re, VoA*

[3] In its review of the location and design of a large-scale solar energy system, the PB shall review and consider its potential impact on the visual environment of scenic and historic resources as defined in the adopted Town Plans, particularly: designated historic structures and districts, scenic vistas which have been deemed significant to the community and the region, views from public roads and places of public assembly, and the extent and visual impact of extensive clear-cutting of forested lands.

Planning Board Determination of Compliance: *The project was classified a Type I project by the*

Planning Board due to its proximity to historic resources. Through the SEQRA and Special Use Permit process, the Board has worked with the Applicant and reviewed several versions of a visual analysis from various vantage points of concern from the Planning Board as well as from the public. Mitigation for the interconnect of 5 poles has been changed to ground pads at the road located behind a wood barn on Route 2. The Planning Board will require at least one site visit to ensure the proposed screening meets the intent and need of the requirements before the C of O is given. Shown on Sheet C-15.

[4] The distance from the proposed site of a large-scale solar generation facility larger than 200 kW (DC) to a three-phase distribution line shall not exceed one mile. The distance from the proposed site of a large-scale solar generation facility under 200 kW (DC) to a distribution line shall not exceed 1/2 mile. Distance from the proposed site shall be measured along a straight line from the nearest property boundary of the generation site to the distribution line.

Planning Board Determination of Compliance: *This facility is required to be less than one mile (5280 feet) from the connection point. The facility is proposed to be 1,580 feet, which complies Shown on sheet C-5.*

[5] No clear-cutting shall be done prior to the issuance of a special use permit. If clear cutting occurs that exceeds what is determined in the special use permit review, the applicant shall be required to supplement planting.

Planning Board Determination of Compliance: *The Board is not aware of any disturbance/clear cutting being done at the site, which was looked at during SEQRA. Area of no disturbance are shown on Sheet C-3, C-6*

(b) Special use permit standards.

[1] Height and setback. The height of the large-scale energy system shall not exceed 20 feet when oriented at maximum tilt, except when utility engineering standards require that utility poles or towers to connect the solar facility to the utility grid be of greater height. Setback requirements for all solar generating equipment and supporting facilities shall be a minimum of 50 feet from all street or property lines.

Planning Board Determination of Compliance: *The only structures that will have any height are the solar array panels. They will range from 12 feet to 15 feet in height. There are no utility poles present for this project. All facilities are setback a minimum of 50' from all street and property lines. Shown Sheet C-5*

[2] Area of use. The area used for all facilities and appurtenances of a single large-scale solar energy system shall be a maximum of 25 acres. Multiple solar energy systems may be clustered on the same or adjacent properties but the cumulative impact of all such units must be evaluated at the time of the initial approval. The PB may exceed the twenty-five-acre maximum if circumstances would not cause adverse impacts on views and neighboring properties.

Planning Board Determination of Compliance: *Total fenced area for all of the proposed facilities is 12.05 Acres which is less than the 25 Acre maximum allowance. The proposed array layout is delineated on sheet C-5. This will be fully enforced by the CEO and the Town Engineer through construction.*

[3] Lot coverage. Notwithstanding the provisions of the Density Control Schedule, a large-scale solar energy system shall be allowed up to 50% coverage of the lot on which it is to be installed. The surface area covered by solar panels shall be included in total lot coverage.

Planning Board Determination of Compliance: *The final site plan shall show the exact proposed lot coverage of all structures, including and not limited to the panels, equipment shelters and storm water measures. The solar system will cover 12.05 acres out of the entire 31.10 acre parcel which is less than 50% lot coverage. There are no existing structures on the site and the proposed lot coverage for the proposed solar facility is approximately 38.7%.*

[4] No light, noise, vibration, glare or similar effect which exceeds that normally generated by other uses permitted in the district shall be discernible at or beyond the property boundary

Planning Board Determination of Compliance: *The Board has reviewed and either mitigated or found there to be no light, noise, vibration, glare (Arrays are Blue Si3N4 anti-reflecting coating) or similar effect that exceeds other uses in the area. NYSERDA states that windows and water surfaces have more glare than solar panels.*

[5] A minimum fifty (50) foot perimeter buffer, except for the area of roadway access, consisting of natural and undisturbed vegetation or landscaping, as may be required by the Planning Board, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent properties and Town, county and state roads.

Planning Board Determination of Compliance: *This facility is generally surrounded by woodlands It is over 900 feet from the road and has an elevation of 50 feet from the road. Low-*

growing plantings that do not shade the panels can be added as needed to satisfy the requirements and as prescribed by the Planning Board. Shown on Sheets C-5, C-6, L-1.

[6] A land grading and vegetation clearing plan shall be prepared. Clear-cutting of all trees in a single contiguous area shall be limited to the area of the equipment compound plus the area of an emergency access roadway and the area required for solar access as measured from 8:00 a.m. to 6:00 p.m. on December 21 and shall not exceed 20% of new clear-cutting. Clear-cutting shall be done in such a way that also prevents shading of panels.

Planning Board Determination of Compliance: *There is no grading proposed for this project. The panels will be installed on the existing grades in the areas shown on the plans. There is no clear cutting required for this project. Shown C-3, C-6, C-7.*

[7] Noninvasive ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, and non-fertilizer-dependent.

Planning Board Determination of Compliance: *The Board agrees that the proposed mix of seed is consistent with the requirement and the Town's desire to continue to create areas of pollination for native species. All ground cover plantings shall be non-invasive. shown on sheet C-6.*

[8] All local stormwater regulations shall be complied with. The applicant shall comply with the State Pollutant Discharge Elimination System guidelines. If determined to be necessary, a SWPPP (Stormwater Pollution Prevention Plan) shall be prepared and a stormwater, erosion, and slope analysis of the land shall be assessed by a New York State licensed professional engineer.

Planning Board Determination of Compliance: *This project will comply with all stormwater regulations. A SWPPP was prepared specifically for the construction phase sediment control. Despite the fact that no grading is proposed, perimeter sediment controls will be provided to capture any sediment that may be generated as a result of construction traffic and other on-site activities. Shown on sheet C-7*

[9] All large-scale solar energy systems shall be enclosed by a continuous wildlife-friendly fence at least six feet high equipped with a self-closing mechanism to prevent unauthorized access. Such fence shall be set back at least 25 feet from all property lines and shall have five-inch by twelve-inch openings at ground level, spaced no more than 100 feet apart, to allow unencumbered travel by small animals. The type of fencing and the need for further landscaping to mitigate visual impacts shall be considered by the PB during its review.

Planning Board Determination of Compliance: *The fence proposed by the Applicant, sheet C- 9 and is black in color, meets the standard required for height and setback. Further need of vegetative screening of the fence will be reviewed after installation by two Board members.*

[10] Signs. A sign no greater than two square feet indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number shall be posted. All signage shall be maintained in legible condition and contain accurate information. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. No signage of any kind shall be allowed to be attached to solar panels or support structures, except any required safety warnings.

Planning Board Determination of Compliance: *The Board determination of compliance: The proposed signs compliance with this plan is shown on sheet C-9.*

[11] A decommissioning plan, as detailed below, shall be prepared and compliance made a condition of the issuance of a special use permit under this section.

Planning Board Determination of Compliance: *A decommissioning plan for this facility will need to be approved by the Town Board and compliance with this plan will be a condition of the SUP approval.*

(c) Registration of large-scale solar energy production facilities.

Planning Board Determination of Compliance: *The owner and developer of this facility will comply with all of the conditions for registration of this facility as prescribed below.*

- [1] Purpose. In order to ensure that all large-scale solar energy production facilities are properly maintained, all owners of large-scale solar energy production facilities located in the Town of Marbletown shall be required to register the facility upon granting of a certificate of occupancy. The Town Board shall establish the fee structure for the registration which may be amended by resolution from time to time. Registration shall be effective for a three-year period, with renewal required prior to the expiration date.*
- [2] Registration requirements. The owner shall provide and certify to the Town the following:*

- *[a] The name, mailing address, phone number, email address, and an emergency contact name for the corporation or owner of the solar energy production facility and any lessees.*
- *[b] Inspection of facilities. The owner and any and all lessees, renters, and/or licensees of large-scale solar energy production facilities shall agree in writing to allow the Code Enforcement Officer access to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification, and maintenance of such facilities, including, but not limited to, solar panels, support structures, and buildings or other structures constructed or located on the permitted site to verify accordance with any applicable technical, safety, fire, building, and zoning codes, laws, regulations, and other applicable requirements.*

[3] Notification of termination of use. The owner shall sign a letter of commitment, which shall commit the large-scale solar energy production facility owner and its successors and assigns to notify the Building Inspector, in writing, within 30 days of the discontinuance of use of the facility. Failure to notify and thereafter remove the facility and all appurtenances shall be deemed a violation punishable under applicable provisions of the Town of Marbletown Zoning Law. Notwithstanding this provision, the Building Inspector shall have the right to independently investigate any discontinuance of the facility and render a written determination setting forth the extent, duration and facts evidencing the violation and the discontinuance of the facility. Upon rendering said written determination, written notice of the determination shall be provided to the owner and the lessees of the facility and the owners of the real property upon which the facility is situate by certified mail, return receipt requested. Sixty days after proven receipt of the notice of the determination by the facility owner, any lessee of the facility and the owners of the real property said facility is situate thereon, the Building Inspector and the Town of Marbletown may commence legal proceedings and have the facility removed from the site in accordance with all applicable law.

- *[4] Renewal of registration. Registrations shall be required to be renewed beginning with a period of time 90 days prior to expiration until the anniversary date of the*

registration.

- *[5] Changes in registration information. The owner shall provide notice to the Town of any changes in registration information within 30 days of such change.*
- *[6] A decommissioning plan shall be prepared. Compliance with this plan shall be made a condition of the issuance of a special use permit under this section. As part of the decommissioning plan, a decommissioning cost estimate will be developed. Based on the decommissioning and reclamation costs and the proposed salvage value, the ZBA shall determine, with advice from a Town engineer and attorney, if a bond needs to be submitted. If a bond is determined to be required, the amount and type shall become conditions of approval.*

(d) Safety.

- *[1] Solar energy systems shall be maintained in good working order.*
- *[2] If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town of Marbletown and other applicable laws and regulations.*
- *[3] Information required in Subsection D(17)(b)[4] and [6] above must be provided to the fire department that is obligated to respond to a call from that location.*

(e) Decommissioning plan for solar energy systems.

- *[1] The decommissioning plan shall specify that after the solar energy system will no longer be used or if operation is discontinued, it shall be removed by the applicant or any subsequent owner and shall include a signed statement from the party responsible for*

completing the decommissioning plan acknowledging such responsibility.

- *[2] The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction.*
- *[3] The plan shall demonstrate that disposal of all solid and hazardous waste will be in accordance with local, state, and federal waste disposal regulations.*
- *[4] The plan shall include an expected timeline for execution.*
- *[5] The plan shall include a cost estimate detailing the projected cost of executing the decommissioning plan prepared by a professional engineer or contractor. Cost estimations shall take into account inflation and salvage value. Said plan shall provide that owner and/or facility operator shall provide financial security in a form and amount acceptable to the Town Attorney to secure the expense of dismantling said facility in its entirety and restoring the site.*
- *[6] Removal of solar energy systems must be completed in accordance with the decommissioning plan. If the solar energy system is not decommissioned*

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after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.

[7] Upon recommendation of the Building Inspector, the Town Board may waive or defer the requirement that a solar energy facility be removed if it determines that retention of such facility is in the best interest of the Town.

Bases for deliberation; general provisions. Before issuing a special use permit, the Planning Board shall take into consideration the public health, safety, morals and welfare, and shall assure itself of the following:

- (1) *That there shall not be any detrimental effect by the establishment of such use on other uses within the district.*

Planning Board Determination of Compliance: *The installation of the proposed solar array will not have a detrimental effect on other uses in the district. There was a potential for visual impacts, which was mitigate with pads used for the interconnection of the system at the road on Route 2 and placing utility wires underground every where on the project site. Neighbors visual impacts will be mitigated with new plantings that will be maintained throughout the live of the project.*

- (2) *That such use will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, fences, and parking areas will not discourage the appropriate development and use of adjacent lands.*

Planning Board Determination of Compliance: *The installation will be in general harmony with other uses in the district and will not discourage the development and use of adjacent lands.*

- (3) *That all structures, equipment and materials shall be reasonably accessible for fire and police protection.*

Planning Board Determination of Compliance: *The existing gravel access drive will be improved as needed to provide access from Route 2 for police and fire to enter the site. As required, the arrays will be fenced and there will be 16' access gates to the array areas. The gates will be locked and a lock box will be available for emergency responders.*

- (4) *That the use meets the prescribed requirements for the district in which located, including minimum yard requirements for the district in which located or as further specified in this section and including maximum height, required off-street parking and sign regulations and the following prescribed provisions.*

Planning Board Determination of Compliance: *All minimum yard requirements and other prescribed development standards have been met by this design.*

Draft findings were prepared by the Board and were read and discussed by the Zoning Board of Appeals at a public meeting.

RESOLVED,

The Town of Marbletown Planning Board grants Special Use Permit to Summit Ridge Energy and Juliette Bennett and Scott Greathead for the lands situated at 170 Kripplebush Road, Accord, NY 12404 known as SBL: 69.1-5-20 and located in the 'A-3' zoning district for a 1.8 megawatt large scale solar project on 12.05 acres of the 31 acre parcel.

The Plans dated October 27th, 2020 are approved with the following conditions.

CONDITIONS of APPROVAL for the APPLICATION:

- 1) Address the remaining comments of the Planning Board's Engineering and Planning Consultant's as stated in CPL's October 28, 2020 review letter items 1 through 9 as follows:

"Plan/Code Comments

1. Add notation to the plan set stating, "No battery storage is proposed."
2. A revised draft template type document entitled "Decommissioning Bond" was submitted, in response to our prior comment per zoning section 200-46. D. (17)(c)[6], which would be periodically reviewed by the town. Address any comments by the Planning Board's Attorney.
3. Sheets ST-1 through ST-3, which provide further stream crossing details of the concrete box culvert to be embedded in the streambed, will be subject to engineering review.
4. Provide updated common revision dates on all sheets in the plan set, including sheet L-1, Planting Plan.
5. On the plan set provide the preparers' names, seals and signatures.
6. As per the submitted Wetland Delineation Summary, obtain:
 - a. an Article 15 Protection of Waters Permit from the NYSDEC; and
 - b. a Jurisdictional Determination (JD) and Nationwide Permit (NWP) from the US Army Corps of Engineers (US ACE).
7. Make a submittal via the Cultural Resource Information System CRIS, including:
 - a. the current plan set;
 - b. a description of any project changes made since the original submittal, including relocation of the access to be between two on-site buildings to mitigate visibility from nearby homes and historic buildings;
 - c. the sign off letter from the New York State Office of Parks, Recreation and Historic Preservation (NYS OPRHP) dated October 7, 2019; and
 - d. Obtain an updated signoff from the NYS OPRHP.

8. *As per the Ulster County Planning Board recommendation of October 7, 2020, regular site visits by the town's stormwater inspection shall be conducted to ensure that the site remains within compliance and that no unexpected storm water seepages occur.*
9. *In accordance with Zoning sections 200-68 and 200-77, all remaining reimbursable review costs shall be paid.*
”
- 2) *Payment of all outstanding fees to be paid in full prior to signature on Plat.*
- 3) *Obtain building permit from the Town of Marbletown Building Department.*
- 4) *Any and all associated map notes added to the plat.*
- 5) *Town Board approves the registration of the facility.*
- 6) *Town Board approves the Decommission Plan and Bond for the total project.*
- 7) *Two or three members of the Planning Board will visit the site to evaluate the visual impact of the project from different neighboring properties.*
- 8) *A new response letter from SHPO*

The Town of Marbletown Planning Board further grants the authority to the Planning Board Chairman to certify all conditions have been completed without further resolution and to sign and date the site plan maps.

EFFECT of APPROVAL:

1. *This Special Use Permit approval and associated conditions shall be binding upon the applicant and all successive owners of the land so long as such use(s) shall occur.*
2. *This approval shall remain effective as an authorization to secure the required permits and establish the use(s) for a maximum of one year from this date of approval and be considered null and void unless the applicant shall have submitted written request and the Zoning Board of Appeals shall have adopted such resolution granting an extension and provided the applicant has submitted proof of having diligently pursued the implementation of the plans.*

Draft resolution was prepared and was read, discussed and amended by the Zoning Board of Appeals.

Adopted October 29th, 2020, by the following vote:

Ayes: 5 Nays: 1 Absent: 1

Motion made by Mr. Stratton

Seconded by Mr. Cobb

TOMPB 8/17/2020
REGULAR MEETING

Mr. Perry motioned to adjourn the meeting at 7:57PM. Mr. Kostides seconded the motion.
All in favor. Motioned Carried.

6 ayes, 0 nays, 0 abstain, 1 absent

Respectfully submitted,

Shaye Davis, Secretary