

**Town of Marbletown
Stone Ridge, New York 12484
Zoning Board of Appeals
Monthly Meeting
May 29, 2018**

Minutes

Agenda: Chairman Husta called the meeting to order at 7:10pm and read the Agenda into the record

Attendees:

- Present: Will Husta, Chair, Paris Perry, Vice Chair, Andrew Nilsen Tom Smiley
- Alternate Kathie Grambling, Alternate Kevin Frederick
- Absent: Brian Taylor

Consultants Present: Bonnie Franson

Announcements: None

Public Hearings:

Old Applications:

- Cypress Creek- large Solar Array at 2585 Route 209 R1 zoning tax map number 55.3-3-8.100

New Applications: None

Public Hearings: None

Old Business:

- Cypress Creek/New beginnings large Solar array at 2585 Rte 209 R1 zoning tax map number 55.3-3-8.100
Tom Smiley Point person

Brian Stumpf; Doug Warden, Esq. Tracy Ruger were present to represent the file

The Board reviewed the memo prepared by Bonnie Franson, Planner, a copy is attached to these minutes, with the Applicant and its Consultants. The Applicant will submit revisions addressing the outstanding items noted.

Determinations:

James and Karin Reynolds 94 Brink Farm Road in the R-1 zoning district at tax map number 62.3-2-13.200 containing 23.90 acres

Appeal requesting an Area Variance to allow the 3 accessory structures constructed in 2006 without proper permitting to remain in the front yard

Conditions:

1. This Front Yard Variance is conditioned on compliance with the Setback Variance conditions.

052918 ZBA minutes

Determination: At a regular meeting of the Zoning Board of Appeals it was motioned by member Paris Perry that, as empowered by all applicable regulations to do so, the granting of the requested Area Variance: to allow the three accessory structures to remain within the second front yard is warranted; the motion was seconded by member Kathie Grambling and was thereupon called to the following vote of the members assigned to the application:

Will Husta-Aye
Paris Perry-Aye
Andrew Nilsen-Aye
Brian Taylor Absent
Tom Smiley Absent
Kevin Frederick-Aye
Kathie Grambling-Aye

The motion having been made, seconded and voted upon was approved/denied by 5 ayes; 0 nays; 0 abstentions; and 2 absent.

James and Karin Reynolds 94 Brink Farm Road in the R-1 zoning district at tax map number 62.3-2-13.200 containing 23.90 acres Appeal requesting a setback Area Variance request from the CEO's denial of 3 accessory structures constructed without building permits

Conditions:

1. The 96 sq. ft. shed shall be moved to a location at least 10 feet south of the south edge of the mapped 50 ft. ROW as shown on the annexed site plan.
2. The northern most edge of the 618 sq. ft. shed shall be moved to be in-line with the northern most edge of the 816 sq. ft. barn as shown on the annexed site plan.
3. The 618 sq. ft. shed and/or 96 sq. ft. shed can be removed as an alternative to re-locating them.

Determination: At a regular meeting of the Zoning Board of Appeals it was motioned by member Kathie Grambling that, as empowered by all applicable regulations to do so, the granting of an Area Variance with conditions for the 816 sq. ft. barn of 3 feet, 6 inches from the required front setback requirement of 50ft from the centerline of the ROW along with meeting the conditions for the re-location or removal of the 618 sq. ft. and 96 sq. ft. structures is appropriate; the motion was seconded by member Kevin Frederick and was thereupon called to the following vote of the members assigned to the application:

Will Husta-Aye
Paris Perry-Aye
Andrew Nilsen-Aye
Brian Taylor-Absent
Tom Smiley-Absent
Kathie Grambling-Aye
Kevin Frederick-Aye

The motion having been made, seconded and voted upon was approved/denied by 5 ayes; 0 nays; 0 abstentions; and 2 absent.

Action Items:

Paris Perry motioned to pay voucher for Planner Franson's work on Cypress Creek in the amount of \$877.50; Kathie Grambling seconded the motion and was thereupon called to the following vote of the members assigned to the application:

Will Husta-Aye
Paris Perry-Aye

Andrew Nilsen-Aye
Brian Taylor-Absent
Tom Smiley-Absent
Kathie Grambling-Aye
Kevin Frederick-Aye

The motion having been made, seconded and voted upon was approved/denied by 5 ayes; 0 nays; 0 abstentions; and 2 absent.

Official Actions – Close:

Kathie Grambling motioned to **adjourn the meeting**. Kevin Frederick seconded the motion that was thereupon called to the following vote:

Will Husta-Aye
Paris Perry-Aye
Brian Taylor-Absent
Tom Smiley-Aye
Andrew Nilsen-Absent
Kevin Frederick
Kathie Grambling-Aye

Motion carried by a vote of 5 ayes, 0 nays, 0 abstentions and 2 absence

Meeting adjourned at 10:25pm.

Respectfully Submitted,

Maggie Colan, Secretary



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To: Will Husta, Chairman
Marbletown Zoning Board of Appeals

From: Bonnie Franson, AICP CEP, PP

Re: New Beginnings Solar, LLC Special Use Permit and Plan – SEQRA Review

Date: 5/29/2018

cc: Maggie Colan, ZBA Secretary

The following has been submitted by the applicant:

- New Beginnings Solar LLC Site Plan, prepared by TRC Environmental Company, last revised December 4, 2017, consisting of the following sheets: C-100, C-150, C-200, C-300, C-301, C-400, C-5--, C-501, C-502, C-600, L-100.
- Notebook submission consisting of a Response Letter prepared by Cypress Creek Renewables (CCR), dated May 14, 2018, with various attachments including:
- Stormwater Pollution Prevention Plan prepared by TRC Environmental Corporation (TRC), dated December 2017, with various attachments;
- Full Environmental Assessment Form, Part 1, with section F Narrative dated May 15, 2018, and attachments including:
 - TRC correspondence to USFWS dated November 6, 2017 (previously submitted and not revised)
 - NYS DEC Natural Heritage Program correspondence to TRC dated June 21, 2017
 - USFWS letter regarding potential regulated species in the project vicinity dated April 24, 2017, and updated letter dated November 3, 2017;
 - Species Conclusion Table, dated November 6, 2017 (not updated);
 - USFWS letter dated March 7, 2018. Said letter references a 2/2/18, and 3/1/18 emails not submitted to the ZBA;
 - NYSDEC letter to TRC dated June 21, 2017, listing potential sensitive species in the project vicinity;
 - TRC letter to NYSDEC Region 3 dated November 6, 2017, with species table attachment, and NYSDEC response letter dated December 12, 2017;
 - Correspondence with the State Historic Preservation Office dated August 21, 2017 and TRC response dated October 31, 2017 (previously submitted);
 - Wetland and Waterbody Delineation report dated August 2017 (previously submitted);
- Study of Acoustic and EMF Levels from Solar Photovoltaic Projects located in Massachusetts prepared for Massachusetts Clean Energy Center, undatd;
- Visibility Assessment, prepared by TRC, dated April 2018;
- Agricultural Data Statement dated May 1, 2018;

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- Emergency Action Plan dated November 6, 2017;
- GlareGauge Glare Analysis Results prepared by Forge Solar, dated May 16, 2018.

The above referenced materials for the proposed New Beginnings Solar, LLC, solar installation, have been reviewed and the following comments are raised. For ease of comparison, we have included our response after the original comments contained in the NP&V comment letter dated March 28, 2018. New comments are provided in bold font. These are in addition to any comments raised by the ZBA members, and the engineering consultant reviewing the plans. In the future, it would be useful for the applicant to indicate what submissions are new

EAF Comments

1. A - Projection Description. The response letter indicated that the narrative has been revised to refer to a 2,000 kW AC solar photovoltaic system, but the language has not been revised as indicated on the EAF.

Applicant has addressed this comment in the updated EAF.

2. B - Governmental Approvals. Please note that the NYSDOT should also review any upgrades to the proposed driveway entrance. The NYSDOT may prefer that a stabilized surface be provided at the entrance. It is unclear whether the entire driveway will consist of pervious surface area, including at the access point. In addition, as the access point is within the 100-year floodplain, a stabilized entrance may be necessary to avoid washout. Reference to the floodplain development permit should be added to the approvals.

Applicant has noted that NYSDOT will be notified for review of the plan their comment response letter, but NYSDOT is not added as a listed agency within the EAF, nor is the floodplain permit listed as an approval. The Per §115-12 of the Marbletown Code, "It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 115-6, without a valid floodplain development permit." Please add the two agencies to the EAF under Section B, or provide an explanation as to why they do not need to be added.

4. C.4 – Existing Community Services. Exhibit F has not been submitted to us, so we cannot confirm that the correction has been made to the Marbletown Fire Department being the nearest service responder, not the Spring Lake Fire Department.

Applicant has revised the document to make reference to the Marbletown Fire Department, and the attached ERP includes a map to Marbletown Fire House. The date of the ERP was not revised, although the data are updated. Has the ZBA consulted with the fire department for its input?

5. D.1.b. The area of disturbance is now calculated as 24.8 acres. This is just 0.2 acres shy of the maximum disturbance area. The Town Engineer should review the digital files to confirm the disturbance area meets the maximum allowed by the Solar local law, i.e., 25 acres. The limits of disturbance calculation is not provided on C-100 as indicated in the response letter – the map on which "disturbed area" appears is C-200.

This comment is addressed. However, note that the table on C-200 states 25 acres of disturbance will occur while the EAF states 24.8 acres.

6. D.2 – Project operations. The amount of material to be removed from the site, if any, should be provided. If no export of material is proposed, indicate “0”.

In addition, the Planning Board should be aware that the applicant has indicated “rock grinding” may be required. The location of rock grinding on the site should be shown. Has any geotechnical evaluation of the site been conducted, to determine the locations of shallow depth to bedrock and the extent of rock removal? Will the rock be used on site or exported? Rock grinding will also have a temporary noise impact which should be discussed.

Applicant response indicates that geotechnical investigations have not begun and will be conducted before building permits and further evaluation of rock grinding will be considered. The ZBA should determine whether or not they would like the geotechnical evaluations performed as part of the SEQRA review process. Regardless, the applicant should still provide an estimate of material removal based on the grading plans that have been submitted.

What is the CDG plant referenced in the EAF? In general, this section regarding dredging or excavating appears to be addressing the stormwater facility only.

Applicant notes that “CDG” references a Community Distributed Generation Plant.

7. D.2.n – the question regarding site lighting should be answered “yes” as a light will be installed on the property as per the response letter and site plan.

Comment addressed.

8. E.2.e - The ZBA noted that the drainage information on the EAF did not add up to 100 percent. The response was that there was no drainage rating for Stockbridge-Farmington-Rock outcrop. However, the USDA Web Soil Survey mapper indicates that the soil is well-drained. Further, the wetland delineation report attached to the EAF indicates that the soil is well drained. The EAF should be updated regarding this soil type.

Why did the applicant change the drainage status of the soils? Significantly more soil area is not classified as well drained, compared to the previous EAF.

9. E.3.g – the Archaeological Assessment is not attached, as indicated in the EAF.

CCR response indicates it is being revised. See comment below regarding archaeological assessment that is embedded in the SWPPP report.

General SEQRA Comments

As a general comment, consultations were made with outside agencies prior to the applicant submitting a detailed site plan. As a result, concern exists that the full extent of the disturbances to the site have not been disclosed to those agencies. See additional comments below.

1. Noise analysis. The analysis of noise should be done in accordance with NYSDEC noise policy – refer to http://www.dec.ny.gov/docs/permits_ej_operations_pdf/noise2000.pdf. The response only notes that the noise may be in the range of 60 dBA, but there is no evidence supplied to indicate this is the typical sound level of inverters. In addition, the response does not address what existing ambient noise levels are, as they have not been measured. The net decibel change in ambient noise level is indicative of potential impacts, in addition to the maximum sound levels. See below excerpt:

c. Thresholds for Significant Sound Pressure Level (SPL) Increase

The goal for any permitted operation should be to minimize increases in sound pressure level above ambient levels at the chosen point of sound reception. Increases ranging from 0-3 dB should have no appreciable effect on receptors. Increases from 3-6 dB may have potential for adverse noise impact only in cases where the most sensitive of receptors are present. Sound pressure increases of more than 6 dB may require a closer analysis of impact potential depending on

Rev. 2/2/01

The DEC Policy System

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February 2, 2001

existing SPLs and the character of surrounding land use and receptors. SPL increases approaching 10 dB result in a perceived doubling of SPL. The perceived doubling of the SPL results from the fact that SPLs are measured on a logarithmic scale. An increase of 10 dB(A) deserves consideration of avoidance and mitigation measures in most cases. The above thresholds as indicators of impact potential should be viewed as guidelines subject to adjustment as appropriate for the specific circumstances one encounters.

The response indicates that 65 decibels is the range of normal conversation. However, the DEC noise policy states:

Establishing a maximum SPL at the point of reception can be an appropriate approach to addressing potential adverse noise impacts. Noise thresholds are established for solid waste management facilities in the Department's Solid Waste regulations, 6 NYCRR Part 360. Most humans find a sound level of 60 - 70 dB(A) as beginning to create a condition of significant noise effect (EPA 550/9-79-100, November 1978). In general, the EPA's "Protective Noise Levels" guidance found that ambient noise levels \neq 55 dBA $L_{(dn)}$ was sufficient to protect public health and welfare and, in most cases, did not create an annoyance (EPA 550/9-79-100, November 1978). In non-industrial settings the SPL should probably not exceed

It is recommended that additional analysis be prepared to confirm that the inverters will not result in any noise impacts, in accordance with NYSDEC policy.

The Applicant has submitted a study of solar noise levels at utility scale PV arrays with a 1,000-3,500 kW capacity. This study analyzes three sites, two of which are comparable to the proposed site in that they are surrounded by forest, but are both less than 2,000kW with the third example being 3,500kW. Measurements were made at intervals parallel and perpendicular to the inverters and at the boundary of each array, at 50, 100 and 150 feet from the boundary. All studies show a dBA below or well below 55 at every boundary line of each array. It appears that the nearest home to the array boundary is over 200 feet through the forest at 377 Pine Tree Lane. The analysis was not done in accordance with NYSDEC methodology. At a minimum, there should be a narrative which compares the distances of the proposed inverters to each sensitive receptor, and why the Massachusetts study is representative. The ZBA should determine whether the information submitted is adequate for purposes of SEQRA, i.e., that noise will not result in any significant adverse impacts. The applicant has stated additional noise analysis can be conducted.

2. Archaeological Analysis. The archaeological analysis needs to be submitted to the ZBA, as the lead agency. In particular, the area of potential effect (APE) needs to be reviewed to ensure that it matches the area of disturbance shown on the site plan. According to SHPO data submitted in Attachment D, NYNHP correspondence, the submission states that only 20 acres are being disturbed. In addition, the submission was made in July 2017, before detailed site plans were prepared. The response letter indicates that Phase I report will be finalized and provided to SHPO. Please submit to the ZBA as lead agency, in order to also verify that the Area of Potential Effect matches the limits of disturbance.

Applicant has indicated that the Phase 1 is being revised to reflect changes in the project design and will be submitted at that time. However, the ZBA should note that an archaeological report is embedded in the SWPPP section, prepared by Karen Mack. It also notes that there are precontact archaeological sites within the Project parcel. The previous report evaluated a 17-acre disturbance site.

3. Visual Impact Assessment.
 - a. The response letter indicates that a map of the potential sensitive sites will be prepared – it has not been provided at this time. Note that materials have not been submitted for the record that indicate that the project site will not be visible from various scenic and public vantage points. A visual assessment should be specifically submitted, documenting with photographs, cross sections, and other means, that the project site will not be visible. This is particularly important relative to the Town's rail trail right-of-way. The applicant indicates that a significant vegetative buffer is being provided (250 feet). However, distance alone does not demonstrate that the site will not be visible – it depends on the vegetation located between the site and sensitive vantage point. For example, the below is an image taken from an aerial photo available from Google Earth. In this location, while there are trees, it does not appear that there is significant understory. In addition, the trees are deciduous, and not coniferous, and would not provide the same level of screening as coniferous trees. The applicant, to be able to support the conclusions with regard to visual impacts, should submit a visual assessment with photographs providing evidence that no significant impact will result.



The NP&V comment letter indicated that materials had not been submitted for the record that indicate that the project site will not be visible from various scenic and public vantage points. The Applicant submitted a Visibility Assessment dated April 2018. The Assessment also included the NYSDEC Visual EAF Addendum. In the form, various potential vantage points of concern are noted, but no analysis of those points, e.g., a line of sight profile, or narrative discussion of impacts is presented. For example, the Visual EAF notes that a National Register site is located within $\frac{1}{4}$ to $\frac{1}{2}$ mile of the site. This would be the Bevier Stone House. The Applicant has not submitted a line of sight profile, or any additional analysis of the scenic sites that are in close proximity to the property – views from the rail trail and individual residences were examined only. This is not consistent with the intent of SEQRA.

With regard to the view points, why were they taken in the middle of the array, instead of the nearest edge? While they may be the highest point, they are not necessarily the closest location to an off-site vantage point including residences. Further, the graphics are not scaled to confirm distances, and distances need to be extrapolated comparing the figures in the visibility assessment with the site plan. Distances should be provided on the visibility maps to the nearest structures.

What millimeter lense was used to take the photos – this needs to be known to determine if it represents what the human eye would see.

The applicant should include visual analyses from the resources included in the Visual EAF Addendum, including a line of sight profile and discussion

- b. The Solar local law requires that a minimum 50 foot perimeter buffer be provided, except for the roadway access. Screening and landscaping is to be provided around all mechanical equipment and solar panel arrays screening them from adjacent properties, and the Town, county and state roads. The applicant does not propose any vegetative buffers. However, special attention should be paid to the entry point visible from Route 209. Here, as per a review of Sheet C-200, various poles and equipment and a retaining wall will be introduced – this is the point of connection. In

addition, additional grading and vegetative removal will occur as per the limits of disturbance shown on the plan. The applicant should indicate what improvements are above ground and visible, so that the ZBA can determine whether landscaping will be needed to screen views from Route 209.

Comment noted but not addressed at this time. The Applicant will continue to research potential impacts and provide a future update. Once a layout for the entrance area is decided, the applicant should provide a perspective image which helps to visualize the area and the cumulative change in view from Route 209.

- c. The ZBA should determine whether a Solar Glare Hazard Analysis Tool should be performed, from user prescribed vantage points.

The attached report includes a simple summary which states “Glare with potential for temporary after-image predicted” - this is insufficient. The report should include a narrative that defines terms, explains methodology and provides a summary of the outcome of the analysis for the benefit of the ZBA.

- 4. Ecological Report. The applicant has not prepared a comprehensive, detailed ecological investigation of the 25 acres that will be disturbed by this project. Note that the NYSDEC Natural Heritage Program responses only indicate what species “may” be present, and the letter is not to be substituted for on-site surveys. The conclusions are general, and not based on comprehensive species surveys of the site. It is unclear if a site investigation was conducted of the species during appropriate times of the year, or the investigation done coincided only with the time period of the wetland delineations. It is recommended that a comprehensive ecological investigation be prepared, which would address the following:

The applicant included a narrative for section F. within the EAF describing correspondence with the USFWS and NYSDEC and a May 2017 site visit. Correspondence indicates that the project area provides no suitable habitat for the bog turtle, and the Indiana bat and Northern long-eared bat is not anticipated to be impacted given the amount of tree removal, location, and conservation measures. The area to be impacted is limited within the screening area of the Northern Harrier and therefore further review is not required. The underlying tables on which the analysis was performed were not updated, and a comprehensive ecological investigation was not performed – it only addressed the species raised by the agencies, not those which may be otherwise present via field investigations.

- a. Coarse vegetation types provided in Figure 3 are in black and white, and thus the vegetative types cannot be confirmed. Further, the map is generalized, and should provide the locations for the rock outcrops, the hemlock northern hardwood forest, the specific wetland habitat types, and more detailed ecological habitat descriptions to confirm that the sensitive habitats will not be disturbed. It should also include a full listing of species likely to inhabit the site, and those that were observed.

A colored coarse vegetation type map is given on page 25 of the EAF, figure 3 which shows agricultural field, fallow field, forested land, residential and wetlands. An Ecological Community Type map on page 16 of the EAF shows the location of the forests and swamps, though there is no reference to rock outcrops. The response notes the types of species that may be present but

it appears to be a selective list – for example, it is unclear why only certain salamander species (non-regulated) are listed, and not those listed species which inhabit the same habitat. Is this narrative being added to an ecological evaluation of the site? At this time, it is only in the response letter. In our opinion, the ecological analysis is patched together from a variety of submissions, but no one comprehensive and cohesive ecological analysis has been conducted to date.

- b. The site plan submitted to the US Fish and Wildlife Service does not illustrate the stormwater basin, and does not show the maximum extent of disturbance.

The applicant has indicated that updated site plans will be submitted to USFWS. Has this yet been accomplished? The same should be provided to NYSDEC.

- c. The wetland report indicates that several prominent outcrops at the eastern edge of the site could provide suitable habitat for bat hibernacula. However, the USFWS and NYSDEC conclusion table makes no mention conducting an analysis to confirm whether or not the locations are hibernacula, and whether the proposed project could impact them. In addition, the analysis only deals with the removal of vegetation. Are the species sensitive to noise humming, glare, and other operational characteristics?

Not responsive. The applicant has indicated that in consulting with USFWS and NYSDEC the agencies concluded that no impacts to any potential hibernacula are expected. Additional explanation can be found in narrative F. of the FEAF. However, the narrative specifically indicates that they examined “known” hibernacula – it is unclear whether or not they examined the on-site resource to determine if there is evidence of it being used as a hibernacula. Further, there is no additional discussion as to whether or not the glare, noise, or other operational characteristics could affect that location. USFWS and NYSDEC would not have raised any concerns unless they were in receipt of the wetland report, which indicates hibernacula may be present on the ridgeline. Please provide information on the potential for hibernacula to be present on the site. Where is this ridgeline, and is it in the area of disturbance?

The applicant indicates that while no specific studies have been conducted as to the effect of the operation on bat species, similar studies conducted on compressor stations and active artillery ranges have shown the noise had no effect on bats. The applicant asserts that glare shouldn’t be an issue as bats are nocturnal. However, once the applicant clarifies the glare analysis the board may reassess this issue.

- d. During the site visit of May 3 and 4, 2017, would this be the time period when bald eagles would be present? Or does the area support a wintering population? The conclusion table does not address the seasonality of species occupation. The conclusion that bald eagles avoid locations with known human occupancy is not supported in general, and a single dwelling is not sufficient for a bald eagle to avoid an area. We have experience in Fallsburg with known nesting locations in close proximity to developed areas – this general conclusion regarding human occupancy is not supported.

The applicant states that nesting eagles would have been present during the time of the site visit and no signs of nesting were observed during that time, however, nesting is not the same

as foraging and the potential remains that foraging eagles may be impacted by construction. I have personally observed Bald Eagles foraging adjacent to the Esopus River along Route 209 and within the trees adjoining Route 209. NYSDEC has time limits for outdoor work when bald eagle species are present.

- e. The letter to the NYSDEC indicates 22 acres will be disturbed, which is not consistent with the 24.8 acres indicated on the plans. It also does not indicate that ground disturbance will occur with the stormwater management system.

Applicant indicates they will update the submission to the NYSDEC.

- f. Will the northern harrier likely use the grassy species underneath the solar panels? Was the site visit conducted during a time period when the northern harrier would be present?

Comment addressed.

- g. Are the on-site wetlands indicative of a red-maple hardwood swamp? The wetland delineation report states that Wetland W-2, consisting of 2.06 acres, is a palustrine forested wetland with a dominant species of red maples. The evaluation states that the site does not include the Rosendale occurrence, but the evaluation does not indicate if there is red maple swamp present on the site. Also, what species could be present in the wetlands? There is no discussion.

Comment addressed. The wetland is indicative of a red-maple hardwood swamp but is outside of the limits of disturbance and not likely to be impacted by construction.

Site Plan Comments

- 1. The ZBA noted that adjoining residences should be indicated on the site plan. Boxes are shown, but the boxes should be labeled residences, where applicable, in order for the ZBA to assess the location of those dwellings relative to disturbances, to the extent practicable.

Comment addressed.

- 2. Lot coverage. As per Local Law 6 of 2017, the surface area of solar panels are to be included in the determination of total lot coverage. A calculation should be provided on the plan, to demonstrate that five percent lot coverage is proposed.

Comment addressed.

- 3. Agricultural data statement. Has the agricultural data statement been submitted – it was not included in our materials.

Comment addressed.

- 4. Owner name. The Solar local law requires that the owner's name, address and phone number are to be included on the plan. Note that New Beginnings Solar LLC is not the present owner of the property.

The applicant indicates that this will be done but the name on the site plan remains Cypress Creek.

5. Deed overlap. What is the status of the deed overlap? Is there any dispute with the adjoiner? The proposed access road travels through the deed overlap area. This should be discussed.

Applicant indicates that this is still in discussion.

6. Cut retaining wall. A detail of the cut retaining wall should be provided on the plans.

Applicant indicates that this will be added but it does not appear so on the site plan.

7. Appearance at the entrance to the solar facility. As mentioned previously, the ZBA should be provided with images of the various poles and installations to be made at the driveway, to determine whether screening is necessary.

While details are provided on sheet C-105, images would benefit the ZBA to assess visual aesthetics. Once a layout for this area is decided, the applicant should provide a perspective image, in color, which helps to visualize the area and the cumulative change in view from Route 209.

8. Stormwater basin. Should the basin be contained within the fenced area? How will the basin be accessed if it is not within the fenced area?

There will be little vegetation between the adjoining lot and the proposed stormwater basin. The stippling does not portray the actual vegetative conditions by the basin. The ZBA should assess whether or not additional screening is required, based on the proposed location of the basin along the lot line and the nearest location of any buildings on the parcel.

Applicant indicates it is being evaluated with updated survey. This should be addressed in the next submission.

9. Landscaping. As mentioned previously, the landscaping plan does not include any supplemental plantings. This needs to be discussed, relative to the site's potential visibility from various scenic and public vantage points.

As discussed above, supplemental evergreen plantings should be included where the site is visible from the rail trail. The landscape plan included offers little detail in the way of supplemental plantings within the vegetative buffer. Native plantings which might enhance the understory should be considered.

10. Inverter. The location of the inverter and all equipment is to be shown on the plan, as required by the Solar local law. Please label all equipment shown on the site plan.

The equipment pads are now shown on page C-200 and the detail sheet on C-500 indicates that the inverter is located on the equipment pads.

11. Decommissioning plan. The decommissioning plan does not show any relevant or useful data with regard to how the site will be decommissioned. It only shows the site in its existing natural condition, except for adjustments made to the tree line. It appears to show all mechanical equipment associated with the interconnection will remain, as well as the stormwater basin. The ZBA should discuss what

information should be provided as part of a decommissioning plan. Is the “plan” a narrative document, not necessarily a map?

The applicant has indicated that the decommissioning plan is typically a narrative document. This narrative has not been included in this submission. The stormwater basin, access road and mechanical equipment at the entrance of the parcel all seem to still be included on site plan sheet C-600.

12. Fencing. The response letter indicates 5” x 12” openings will be utilized. The map should include a detail of the fence on site plan sheets. The only detail is the fence associated with the access gate, and the fence shown on Sheet C-500 does not appear to show the same openings.

Comment remains relevant.