

**Town of Marbletown  
Stone Ridge, New York 12484  
Zoning Board of Appeals  
Monthly Meeting  
July 25, 2018**

**Minutes**

**Agenda:** Chairman Husta called the meeting to order at 7:15pm and read the Agenda into the record

Attendees:

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

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

David Wightman ; Doug Warden, Esq. Heather Valiant were present to represent the file

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

The Board Secretary will send a complete packet regarding species to both NYSDEC and NYSFWS for comment regarding noise

Determinations:

None

**Action Items:**

072518 ZBA minutes

**Paris Perry** motioned to pay voucher for Planner Franson's work on Cypress Creek in the amount of \$1472.50; Brian Taylor 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-Aye

Tom Smiley-Aye

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:**

**Paris Perry** motioned to **adjourn the meeting**. **Tom Smiley** seconded the motion that was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Aye

Tom Smiley-Aye

Andrew Nilsen-Aye

Kevin Frederick

Kathie Grambling-Aye

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

**Meeting adjourned at 9:00pm.**

Respectfully Submitted,

Maggie Colan, Secretary

DENNIS M. LARIOS, P.E.  
Lic. No. 58747

CHRISTOPHER J. ZELL, L.L.S.  
Lic. No. 49629

**BRINNIER and LARIOS, P.C.**  
**PROFESSIONAL ENGINEERS & LAND SURVEYORS**  
67 MAIDEN LANE  
KINGSTON, NEW YORK 12401  
-  
TELEPHONE (845) 338-7622  
FAX (845) 338-7660

DESIGN  
REPORTS  
SUPERVISION  
CONSULTING SERVICES

SUBDIVISIONS  
TITLE SURVEYS  
TOPOGRAPHIC SURVEYS

July 24, 2018

Mr. Will Husta, Chairman Zoning Board of Appeals  
Town of Marbletown  
Town Hall, P.O. Box 217  
Stone Ridge, New York 12484

RE: Review Revised SWPPP  
New Beginnings Solar Facility  
Town of Marbletown

Dear Chairman Husta and ZBA Members:

Our office reviewed the revised Stormwater Pollution Prevention Plan (SWPPP) for the proposed New Beginnings Solar, LLC large scale solar energy system located at 2585 NYS Route 209 in the Town of Marbletown. The project is a 2 megawatt (MW) solar energy facility containing approximately 20 acres of ground-mounted photovoltaic cell (PV) panels. The following documents were reviewed:

- Stormwater Pollution Prevention Plan for Compliance with New York State Department of Environmental Conservation General Permit GP-0-15-002 for Stormwater Discharges from Construction Activity prepared by TRC Environmental Corporation, no date on report cover.
- 12 drawing set titled Preliminary Civil Drawings, New Beginnings Solar, LLC prepared by TRC Environmental Corporation dated Revision B June 12, 2018
- New Beginnings Solar, LLC Decommissioning Plan prepared by New Beginnings Solar, LLC dated August 23, 2017

We reviewed the documents for consistency with the New York State Stormwater Management Design Manual (NYSDEC, January 2015, Design Manual) for both construction and post construction conditions. The revised SWPPP satisfactorily addressed the Brinnier and Larios June 22, 2018 Comment Nos. 2, 3, 5 and 7. Our comments on the above referenced documents are as follows:

Stormwater

1. On page 31 of the SWPPP under Step 6 please add a narrative which explains that the stormwater management pond located on the northwest side of the solar array (stormwater pond 5P proposed in Subcatchment 4S-A) is for stormwater detention purposes. This pond is designed to handle up to the 100 year design storm but is not designed to meet all of the NYSSMDM Chapter 6 criteria for a micropool extended detention pond.
2. Please include a MS4 SWPPP Acceptance form in Attachment A.
3. In Attachment A, NOI Questions 10, 15 and 17 should be revised as discussed during our July 24, 2018 phone conversation. On NOI Question 39, add text similar to the following "The stormwater detention pond located on the northwest side of the solar array is designed for detention of up to the 100 year design storm but has not been provided with all of the NYSSMDM Chapter 6 micropool extended detention design elements because these are not required for a solar array."

Mr. Will Husta, Chairman  
Town of Marbletown ZBA  
Re: New Beginnings Solar, LLC

Page 2  
07/24/18

4. In Attachment D, the predevelopment hydrologic analysis for the 100 year storm event did not get updated with a Type II rainfall distribution. Please correct and insert the Type II rainfall outputs for consistency. If necessary, update Table 6-3 accordingly.
5. Please add a date on the front cover of the SWPPP.

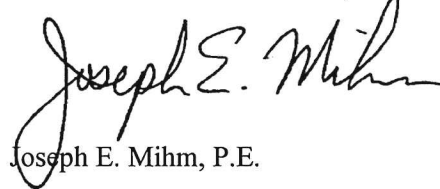
Decommissioning Plan

6. We reviewed the above reference decommissioning plan and costs. The decommissioning steps are reasonable. The unit prices given in the decommissioning cost estimate are reasonable except for the salvage value costs which are may vary based on the age and condition of the equipment at the time of decommissioning. We recommend that the salvage value costs not be included in the opinion of probable decommissioning costs.

We recommend that the Applicant address the comments given above and provide updated submittals to the ZBA for review and acceptance. Please do not hesitate to contact this office, with any questions or concerns.

Respectfully submitted,

**BRINNIER AND LARIOS, P.C.**



Joseph E. Mihm, P.E.

cc: Dennis Larios, Brinnier & Larios  
Bonnie Franson, Nelson, Pope & Voorhis, LLC  
Town of Marbletown Stormwater Officer



NELSON, POPE & VOORHIS, LLC

ENVIRONMENTAL • PLANNING • CONSULTING

www.nelsonpopevoorhis.com

---

**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:** 7/25/2018

**cc:** Maggie Colan, ZBA Secretary

---

The following has been submitted by the applicant:

- Cypress Creek Renewables Response Letter, transmitted to Marbletown ZBA, dated July 15, 2018;
- Cypress Creek Renewables Transmittal Letter, transmitted to Marbletown ZBA, dated July 16, 2018;
- Environmental Assessment Form, undated and unsigned, with attachments.
- Visibility Assessment, prepared by TRC, prepared June 2018.
- Sound Study-Project Specific Narrative, prepared by Cypress Creek Renewables, undated.
- New Beginnings Solar LLC Site Plan, prepared by TRC Environmental Company, last revised June 22, 2018, consisting of the following sheets: C-100, C-150, C-200, C-300, C-301, C-302, C-400, C-500, C-501, C-502, C-600, L-100.
- Packet entitled USFWS Correspondence, received July 18, 2018.
- Letter from TRC to NYSDEC Region 3, dated June 27, 2018, and received July 18, 2018, with attachments.
- Ecological Report, prepared by TRC, dated July 2018.
- Phase I Archaeological Assessment of the New Beginnings Solar, LLC Project, prepared by TRC, last revised July 13, 2018 (redacted and unredacted versions).
- New Beginnings SWPPP, prepared by TRC, undated, and received on July 18, 2018.
- SUP Checklist, undated.
- Solar Glare Hazard Analysis and Report Explanation, prepared by Cypress Creek Renewables, undated report and May 16, 2018 Glare Analysis.

More recently, NP&V prepared two comment letters dated 5/29/ 18 and 6/13/18 – this memo addresses items that have still not been addressed, as well as new comments.

#### Prior EAF and SEQRA Comments

1. 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

#### CORPORATE OFFICE

572 WALT WHITMAN ROAD, MELVILLE, NY 11747-2188

PHONE: (631) 427-5665 • FAX: (631) 427-5620

#### HUDSON VALLEY OFFICE

156 Route 59, Suite C6, SUFFERN, NY 10901

PHONE: (845) 368-1472 • FAX: (845) 368-1572



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. **This was a May 2018 comment - has still not been added to the EAF.**

2. Fire access. Has the ZBA received input from the fire department? **Applicant has not received feedback.**
3. Geotechnical investigations. The Applicant would need to return to the ZBA if blasting is proposed. Additional information regarding impacts associated with rock grinding have not been provided. **Applicant indicated it is reviewing Mohonk blasting plan and will add to next iteration of site plan, along with additional equipment as necessary. The site plan includes the notes.**
4. 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. **The revised July 2018 archaeological report now states:**

**Phase IB Results:**

In total, 490 STPs were excavated within the 24.6-acre APE. These STPs were placed along 84 transects within the solar array development area and along the proposed access road. One precontact period find spot consisting of a single lithic flake and one historic period find spot consisting of 4 cut nails and 1 piece of window glass associated with a foundation located outside of the APE were identified. Bracket holes placed around these two positive STPs did not produce any associated cultural material. Therefore, we conclude that the Project APE, as it is currently proposed, will have no adverse effects on any archaeological cultural resources.

**This comment is addressed and both documents indicate the disturbance is 24.6 acres. If the ZBA is in agreement, this can be entered into the CRIS system by the ZBA Secretary and SHPO will conduct its review of the revised report for SEQRA purposes.**

5. Archaeological report. The Applicant was to provide an updated report and obtain a sign off from the State Historic Preservation Office (SHPO). This has not been received, to our knowledge. Note that the Cultural Resource study in the SWPPP indicates that approximately 17 acres were examined as part of the Potential Area of Effect (APE). However, the total area of disturbance as per the EAF is 24.8 acres – the discrepancy needs to be addressed with SHPO. **The archaeological report has been completed. It is our opinion that it can be uploaded to the CRIS system.**
6. Glare analysis. The Glare analysis specifically stated that the *"In order to help mitigate the potential for low intensity glare within the yellow range, Cypress Creek is considering our options to further buffer the site at sensitive areas in order to filter glare from the surrounding receptor points."* Our comment noted that the Applicant has not submitted any proposed mitigation measures. The

Applicant's response letter states that no additional screening is proposed due to adequate existing vegetation. Any additional mitigation will be determined by the Zoning Board. Yet, the glare analysis continues to state: "In order to help mitigate the potential for low intensity glare within the yellow range, Cypress Creek is considering our options to further buffer the site at sensitive areas in order to filter glare from the surrounding receptor points." **The ZBA needs to discuss the need for buffering – if none is necessary, the report should be revised to eliminate any discussion of mitigations.**

7. Noise analysis. **The Applicant has addressed previous noise comments. The ZBA should discuss any final noise concerns regarding blasting and/or rock grinding and impact on potential bald eagle habitat and any on-site hibernacula.**
8. Visibility Assessment. NP&V had comments with regard to the June 2018 Visual Assessment, specifically with regard to the VP1 and the rail trail. **The Applicant states that the comments were addressed in the Visual Report dated 06.06. This cannot be the case, as the comments represented the review of the 6/6/18 Visual Assessment. No response has been provided.**
9. Rock grinding. In addition, the ZBA 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. **This is not addressed. Specific information regarding equipment, and equipment needed for blasting and on-site storage should be addressed.**

#### **Additional SEQRA Comments**

1. Ecological Report. We reviewed the report, and have the following comments:
  - a. The site visit was conducted over the course of two days in May 2017. No further ecological analysis was conducted, although the application has been in front of the Board during several seasons.
  - b. It's unclear if the potential hibernacula are located in the rock outcrops shown on the map, or if they are not shown on Figure 2.
  - c. On p. 11, the Ecological Report indicates that a native wildflower and/or grass seed mix will be used. The site plan does not show the installation of wildflowers. Does the Planning Board seek to include a more robust mix of native plants?
  - d. The Ecological Report does not discuss the potential impact of blasting on any hibernacula or bald eagle. It's unclear where the blasting would occur relative to potential hibernacula. Blasting notes have been placed on the site plan.
  - e. The species/community conclusions table has not been updated to acknowledge the presence of red swamp habitat on the site.
  - f. Has the species/community conclusions table been updated to address any nests in close proximity to the site?

2. SWPPP. The Applicant must address the comments provided by Brinnier & Larios.
3. Decommissioning plan. The applicant needs to address any comments raised by the ZBA and its consultants regarding this document.

**Site Plan Comments**

1. On Sheet C-200, General Note 3 should be revised to indicate that no disturbances shall be allowed within the 50-foot buffer shown on the plan. The note allows locations to be shown, and may be too open ended, in terms of allowing relocation of equipment.
2. Sheet C-400 – why are residences identified as “possible”?
3. Sheet C-500 – was a wildlife friendly fence to be used? A detail is not provided.
4. Where are the potential rock grinding locations?