

January 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Town Planning Board Chairman; Town Planning Board Members Larry Woodworth, Phil Race, and Joel Clester

Others Present: Mark Mullikin, Village Code Enforcement Officer; Matthew Sousa, Senior Planning Associate with MRB Group; Shawn Grasby, Town Code Enforcement Officer; Kitt Ceronie, Transfer Station Manager; Bill Manthey, Mount Morris Deputy Mayor; Joe Rawleigh, Town of Mount Morris Board Member; Beverly Sackett; Jim Olverd; Ken Steen; Dean Smith; Judy Claprood; and Stephen Morrison

The meeting was called to order by Chairman Jim Patrick at 6:35pm.

Town Code Enforcement Officer Shawn Grasby led the Pledge of Allegiance.

Chairman Jim Patrick, Board Members Larry Woodworth, Phil Race, Joel Clester, Town Code Enforcement Officer Shawn Grasby; Village Code Enforcement Officer Mark Mullikin, and Secretary Kaylee Leone introduced themselves and their titles to the other attendees.

Chairman Patrick called the board to review the meeting minutes from the November 15<sup>th</sup>, 2023 regular meeting. Chairman Patrick confirmed that each board member had time to review the minutes as asked if any changes were needed.

A motion to approve the minutes as written was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

Chairman Patrick outlined the agenda for those in attendance and detailed that the evening's meeting included one public hearing for a site plan review for Jim Olverd's 28 Mill Street property within the Village, one public hearing for a subdivision application for Active Hose Co. Inc, Living Stream Hose Inc., and Seymour Chemical Fire Co., Inc. located at 130 Chapel Street within the Village, review of an application for a subdivision in the Town, as well as a review of a site plan approval and two special use permits for Allegiance Solar located at 8244 Mount Morris – Nunda Road in the Town and a site plan approval and two special use permits for Flag Solar located at 8369 Mount Morris – Nunda Road in the Town.

## APPLICATION FOR SITE PLAN REVIEW

Chairman Jim Patrick began the public hearing for the site plan review for Jim Olverd's 28 Mill Street application. Chairman Patrick asked Mr. Olverd to provide a synopsis of the work and application.

Jim Olverd stated the buildings behind the old lumber yard at 28 Mill Street have been torn down as the previous buildings were not built upon good subbases and were too far degraded to save. Mr. Olverd plans to replace these torn down structures with new buildings. The new structural footprint will be within approximately 5% of the previous footprint. Mr. Olverd stated that he's also been before the Joint Town and Village Zoning Board of Approvals (ZBA) to get a setback variance as one of the larger structures was five feet onto the Greenway.

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Chairman Jim Patrick asked if Village Code Enforcement Officer Mark Mullikin had anything else he'd like to add to Mr. Olverd's remarks. Mr. Mullikin stated that everything was previously approved by the Joint Town and Village Zoning Board of Appeals and stated that he didn't take issue with any of the proposed uses (storage, BOCES diesel shop).

Chairman Jim Patrick opened discussion to the board. No further questions or comments were presented. Chairman Patrick opened discussion to the community. No further questions or comments were presented. Chairman Patrick closed the public hearing for Jim Olverd's 28 Mill Street Application.

Chairman Jim Patrick moved on to complete the shortform State Environmental Quality Review (SEQR). A motion to issue a negative declaration on the applicant's SEQR was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Jim Olverd's site plan for 28 Mill Street in the Village of Mount Morris was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

#### APPLICATION FOR MINOR SUBDIVISION

Chairman Jim Patrick opened the public hearing for the application for subdivision at 130 Chapel Street in the Village of Mount Morris submitted by Active Hose Co. Inc, Living Stream Hose Inc., and Seymor Chemical Fire Co., Inc. No fire department representative was present. Chairman Patrick invited Village Code Enforcement Officer Mark Mullikin to give a synopsis of what the application entails. Mr. Mullikin stated the existing property line between the already subdivided parcels is jagged and stated that the purpose of the minor subdivision application is to square off the property and to give the front parcel more space.

No further questions or comments were presented by the board. Chairman Patrick opened discussion to the community. No further questions or comments were presented. Chairman Patrick closed the public hearing for Active Hose Co. Inc, Living Stream Hose Inc., and Seymor Chemical Fire Co., Inc.'s 130 Chapel Street application.

A motion to issue a negative declaration on the applicant's SEQR was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

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A motion for approval of the minor subdivision application for 130 Chapel Street in the Village of Mount Morris was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

#### APPROVAL OF 2024 BOARD RULES

Chairman Jim Patrick began review of the board's 2024 final rules and ensured all board members had time to review the rules.

A motion to approve the Joint Town and Village of Mount Morris Planning Board's 2024 final rules was introduced by Phil Race and seconded by Larry Woodworth and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

#### MINOR SUBDIVISION APPLICATION REVIEW

Chairman Jim Patrick began the review of minor subdivision application for EDF Solar project. Chairman Jim Patrick gave floor to Town Code Enforcement Officer Shawn Grasby for synopsis. Mr. Grasby explained that EDF Solar is building a substation on Frost Road in the Town of Mount Morris. Because the substation needs to be turned over to the utility (NYSEG) the property needs to be subdivided. Mr. Grasby stated that he's sent the matter off to the town attorney, and that he believes that there might be some relief for cases of subdivisions involving utilities. Chairman Patrick confirmed with Mr. Grasby that because the parcel cannot meet the town code's requirements for subdivision that a variance might need to be sought.

Mr. Grasby stated that the attorney advised him to set the public meeting for the next board meeting in the anticipation that EDR solar/town will be able to act on variance if needed.

A motion to the set an anticipated public hearing for EDF Solar's application for subdivision at the next regular Joint Mount Morris Town and Village Planning Board meeting on Wednesday, February 21<sup>st</sup>, 2024, at 6:30pm was introduced by Joel Clester and seconded by Larry Woodworth and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

#### PRELIMINARY SITE PLAN APPROVAL RESOLUTION

Chairman Jim Patrick introduced the review for Allegiance Solar Farm with battery storage. Matt Sousa, a Senior Planning Associate with MRB Group provided site plans that are up to date as of November 2023. Mr. Sousa stated that not much has changed from prior plans and explained that an access road has been

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added as well as a pull off/turnaround. Mr. Sousa stated that there are no wetlands at the Allegiance site, and that there are no significant communities in proximity to the site.

Joel Clester asked if the site includes battery storage. Mr. Sousa confirmed that it does and walked the board members through the configuration of the locations of key battery components within the site. Chairman Jim Patrick asked to confirm if landscaping plan is unchanged from prior plans. Mr. Sousa stated that there will be a mix of two species of plants/trees to provide screening and stated that because the solar field is farther back from the access road that this project will not be of large visual impact from the road.

Chairman Jim Patrick let those in attendance know that the SEQR for this project has already been approved in October of 2023 with a negative declaration. Mr. Sousa went over the highlights of the site plan resolution and stated that the overview is two special use permits for the entire project two site plan resolutions and special use permit for the battery storage portion of the facility.

Site plan approval has been seen before Livingston County Planning Board when a quorum was not met and has had third party review. The Livingston County Planning Board informally approved the site plan and that the comments and concerns raised in both have been addressed and adhered to in the resolution presented before the Joint Planning Board.

Mr. Sousa pointed out that the site plan approval will remain in effect for the current owner with no requirement for renewal. Chairman Jim Patrick asked for Code Enforcement Officer Shawn Grasby's stance on this condition. Mr. Grasby recommended an annual renewal but added that the code does not require that this be added to the language in the conditions. Chairman Patrick responded to Mr. Sousa that a two-year renewal might be best and conferred with the rest of the board for additional comments on the matter, to which there were none. Mr. Sousa confirmed that the condition would be amended to reflect a twenty-four-month site plan approval at which time a building permit would need to be applied for or an extension granted.

Mr. Sousa highlighted several conditions including that the Code Enforcement Officer must make one onsite visit per year, that the planning board would be informed in the event that corrective action is not taken following complaints cited by the Code Enforcement Officer, that prior to commencement of operations the property is subject to inspection by the Code Enforcement Officer to ensure compliance with Town code, and that prior to obtaining building permits and construction starting an irrevocable financial security bond must be reviewed and approved by the Town attorney.

Mr. Sousa reviewed conditions 12-32 in detail with the board. Code Enforcement Officer Shawn Grasby asked that the town engineer be added to required approval in addition to the Town Attorney for decommissioning approval. Mr. Sousa stated that he was not able to locate a no impact letter from/by SHPO and will condition the approval upon the receipt/filing of the letter and completing any mitigation as recommended by the NYS Office of Historic Preservation. Mr. Sousa stated that a DEC letter and any comments and recommendations made by DEC have been addressed and adhered to. Mr. Sousa stated that he is unsure if a letter from the Coordinated Electric Service Investigation Review has been received addressing the viability of the project from the utility company but will condition the approval upon the receipt/filing of the letter.

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Mr. Sousa opened the floor for questions or comments from the board. Larry Woodworth stated to strike Irene Bodnaruk from board members listed/associated with project. Mr. Sousa confirmed that he will amend the form and send all amendments to the attorneys for approval before sending the final documents to the board for approval.

Village Code Enforcement Officer Mark Mullikin called condition seventeen to attention:

17. "If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 180 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems."

Mr. Mullikin stated that it seems that a solar farm can sit six months without generating energy without community members knowing about it and asked if a condition or requirement can be added to have the farm send reports every month or quarter that shows average usage or energy generation. Mr. Sousa and Town Code Enforcement Officer Shawn Grasby stated that this can be changed in the decommissioning agreement and that when the surety bond is renewed a report explaining the prior year's usage is generated.

Chairman Patrick opened the floor for additional questions or comments, and none were offered.

A motion to approve Allegiance Solar's Site Plan Approval Resolution with amendments as discussed was introduced by Phil Race and seconded by Larry Woodworth and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

## SPECIAL USE PERMIT APPROVAL RESOLUTION

Matt Sousa moved onto to review the Special Use Permit Approval Resolution for Allegiance Solar. Mr. Sousa stated that much of the listed conditions are identical to the conditions included in the verbiage within Site Plan Approval Resolution. Mr. Sousa stated that the conditions specific to site plans are removed such as tree screening and decommissioning.

Village Code Enforcement Officer Mark Mullikin inquired as to what happens contractually if and when solar farms change owners. Mr. Sousa explained that this is why the entity within the contract's language is listed as "owner/operator" rather than "AMP Solar" or "Allegiance" as any future owner/operators would also be contractually required to abide by the conditions of the documents in question.

Chairman Jim Patrick asked if anywhere in the language in the contracts that requires previous/new owner/operators to notify the town that the operation has changed hands. Mr. Sousa stated yes, but that verbiage is expressed more so in the decommissioning agreement.

A motion to approve Allegiance Solar's Special Use Permit with amendments as previously discussed was introduced by Phil Race and seconded by Joel Clester and was voted on by members as follows:

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Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

#### SPECIAL USE PERMIT APPROVAL RESOLUTION

Matt Sousa moved on to review the Battery Energy Storage System Special Use Permit Approval Resolution conditions with the board and stated that these conditions are specific to the battery energy storage laws including fire safety compliance laws and conditions as well as site-specific emergency operation plans.

Mr. Sousa added that he imagines that these conditions will be developed site-wide but for the purposes listed within the conditions these conditions are specifically for the area(s) that the energy storage system(s) will be located.

Mr. Sousa added there will be additional fire department training provided for potential site-specific fire issues.

Chairman Jim Patrick asked what would happen if the solar farm was to shut down, to which Mr. Sousa explained that the conditions currently allow the battery energy storage systems to remain though stated that it was highly unlikely that one should leave while the other remains.

Larry Woodworth asked what stops the batteries from freezing to which Mr. Sousa stated that the units are climate controlled.

Village Code Enforcement Officer Mark Mullikin stated that he believes that if one goes (battery or panels) the others should go as well. Phil Race asked how one could exist without the other and Matt Sousa explained that both are connected to the grid so batteries without panels the batteries can store energy from other sources and panels without battery can supply into grid.

Chairman Jim Patrick conferred with the board to see if others support adding the requirement for the removal of battery energy storage system in instances that panels are removed from solar fields. All board members verbally agreed. Matt Sousa confirmed that would have the resolution reflect this new condition.

A motion to approve the Battery Energy Storage System Special Use Permit Approval Resolution at Allegiance Solar site at 8244 Mount Morris – Nunda Road with discussed amendments and added conditions was introduced by Larry Woodworth and seconded by Joel Clester and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

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PRELIMINARY SITE PLAN APPROVAL RESOLUTION

Matt Sousa began review of the Site Plan Approval Resolution for the Flag Solar Project at 8390 Mount Morris – Nunda Road in the town of Mount Morris. He began by showing detailed rendering, plans, and maps of the site.

Chairman Jim Patrick stated that he recalled the prior plans having three or four species of trees to obstruct the view from 408. Joel Clester agreed that he also believed that three species were previously agreed upon. Mr. Sousa stated that this change can be made if requested.

Phil Race asked if the absence of a natural screening to one side of the property would devalue the property, to which Mr. Sousa stated that it is conceivable that a buyer wouldn't have any issue with buying a property next to a solar farm and added that a condition could be added to require more screening on northernmost property for any future residential owners/inhabitants.

Matt Sousa explained that the verbiage used in Flag Solar's Site Plan Approval Resolution, Special Use Permit Approval Resolution, and Battery Energy Storage System Special Use Permit Approval Resolution is identical to Allegiance Solar verbiage and assumed that the same changes requested in Allegiance would be requested for Flag Solar's resolution verbiage along with adding three species of plants for visual screening/buffer.

A motion to approve Flag Solar's Site Plan Approval Resolution with amendments and additional conditions as discussed was introduced by Phil Race and seconded by Larry Woodworth and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)  
No: 0  
Abstain: 0

The motion was carried.

SPECIAL USE PERMIT APPROVAL RESOLUTION

Matt Sousa again explained that the verbiage used in Flag Solar's Site Plan Approval Resolution, Special Use Permit Approval Resolution, and Battery Energy Storage System Special Use Permit Approval Resolution is identical to the verbiage in Allegiance Solar's corresponding conditions and will apply the same changes as requested in Flag Solar's resolution.

A motion to approve Flag Solar's Site Special Use Permit with amendments and additional conditions as discussed was introduced by Joel Clester and seconded by Larry Woodworth and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)  
No: 0  
Abstain: 0

The motion was carried.

SPECIAL USE PERMIT APPROVAL RESOLUTION

Matt Sousa again explained that the verbiage used in Flag Solar's Site Plan Approval Resolution, Special Use Permit Approval Resolution, and Battery Energy Storage System Special Use Permit Approval

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Resolution is identical to the verbiage in Allegiance Solar's corresponding conditions and will apply the same changes as requested in Flag Solar's resolution.

A motion to approve Flag Solar's Battery Energy Storage System Special Use Permit with amendments and additional conditions as discussed was introduced by Larry Woodworth and seconded by Phil Race and was voted on by members as follows:

Aye: 4 (Patrick, Clester, Woodworth, Race)

No: 0

Abstain: 0

The motion was carried.

## ADDITIONAL MATTERS

Chairman Jim Patrick moved on to discuss liaison reports, code reports, and additional matters. Chairman Patrick opened the floor to Village Code Enforcement Officer Mark Mullikin, who stated that he didn't have any additional matters to discuss.

Chairman Patrick then moved to open the floor to Town Code Enforcement Officer Shawn Grasby, who also did not have any additional matters to discussed.

Chairman Patrick asked Mount Morris Deputy Mayor Bill Manthey if he has anything to add, to which Deputy Mayor Manthey stated that he anticipates that the village will have some work ahead of them with regard to solar law. Chairman Patrick asked if there was any movement in updating the village zoning code, to which Deputy Mayor Manthey stated that he believes that there has been progress but that he would not be able to speak on any sort of timeframe of completion.

Chairman Patrick then asked if Councilman Joe Rawleigh had anything to add, to which Mr. Rawleigh stated that he didn't as he'd just began his term with the town on January 1<sup>st</sup>.

Chairman Patrick asked Secretary Kaylee Leone if she had anything to add, to which Ms. Leone remarked that if the board members had attended any trainings to be sure to submit the corresponding certificates of completion to her for filing. Ms. Leone also added that anything that needed to be vouched can be submitted to herself or Town Clerk Chelsey Woodworth for payment. Chairman Patrick asked Ms. Leone if she knew the status of the board's 2023 vouchers, to which Ms. Leone stated that they may have been delayed as the town board's December 2023 meeting was unexpectedly cancelled. Ms. Leone stated that she would follow up with Clerk Woodworth and follow up if needed.

## ADJOURNMENT

A motion to adjourn and to set the next board meeting for February 21<sup>st</sup>, 2024, at 6:30pm was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Patrick, Woodworth, Clester, Race)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:55pm.



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Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary