

TOWN OF RICHMOND

PLANNING BOARD

MINUTES: August 27, 2020

Members Present

Michelle Hodgeman, Chairperson
Michael Baker
David Lortscher
David Richardson
Jeannie Riorden
Leonard Wildman
Elizabeth Klingenberg, Secretary

Guests

Rachel Clar
Dan Brocht
Jane Emirbayer
Jon Hinman
Kelly Steele
Andrew Slyter
Ivan Jankun
Sheila Chalifoux, Town of Richmond Attorney
Spencer Shumway, Code Enforcement Officer
Liz Yockel, Town Board Member
Steve Barnhoorn, Planning Board Liaison
Daryl Marshall, Town Supervisor

Chairperson Hodgeman called the meeting to order at 7:07 PM with the Pledge of Allegiance.

Public Hearing – Minor Subdivision – Town of Richmond – for property located at 8690 Main Street and, Tax Map # 135.00-2-9.100

Chairperson Hodgeman made a motion to open the public hearing at 7:08pm. With a second by Mr. Michael Baker, the motion was passed unanimously via voice vote.

With none present to speak on the public hearing, Chairperson Hodgeman made a motion to close the public hearing at 7:09pm, which was seconded by Mr. Leonard Wildman and passed unanimously via voice vote.

Ms. Chalifoux noted that this is a County project which involves the Town of Richmond. She recommended that the Planning Board waive the site plan application.

Chairperson Hodgeman read the resolution (Appendix I), aloud for the Planning Board.

Mr. Leonard Wildman made a motion to accept the resolution as written and approve the subdivision and allow the County to move forward with the project. Mr. Michael Baker seconded the motion, which was passed unanimously via voice vote.

Record of Vote

	<u>Member Name</u>	<u>Aye</u>	<u>Nay</u>
Chairperson	Michelle Hodgeman	X	
Member	Michael Baker	X	
Member	David Lortscher	X	
Member	David Richardson	X	
Member	Jeannie Riorden	X	
Member	Leonard Wildman	X	

Site Plan – Abundant Solar Power, LLC – for properties owned by Chris Development, LLC and located at 8894 Main Street and on Rt. 20A, East of County Road 37, Tax Map # 135.00-2-43.111 and 135.15-1-2.000.

Chairperson Hodgeman stated that at this point, the Planning Board has all necessary information. She started by reading the recently received minutes from the County Planning Board August meeting as follows:

114 - 2020	Town of Richmond Planning Board	Class: 1
Referral Type:	Site Plan	
Applicant:	Abundant Solar Power Inc	
Property Owner:	Chris Development LLC	

Representative:	Jon Hinman MRB/Sheila Chalifoux attorney
Tax Map No(s):	135.00-2-43.111
Brief Description:	Site plan for a 5 MW solar project located off SR 20A east of CR 37 and Center Street in the Town of Richmond. https://www.co.ontario.ny.us/DocumentCenter/View/20383/242-19-Aerial https://www.co.ontario.ny.us/DocumentCenter/View/25004/114-2020-site-plan-Richmond-Solar-Array---Revised--6-30-2020

This project was previously referred as a Special Use Permit and reviewed in December 2019 as referral 242-2020. The Special Use Permit has been granted. This project was also referred as a subdivision in July 2020 as 96-2020. The applicant combined the original project parcel with the access parcel resulting in a 45 acre project parcel and a 32 acre remainder lot. The project now accommodates 277 solar tables. The currently proposed area of disturbance is 36 acres and the area inside the fence is 33 acres. The revised site plan package includes additional detail on the stream crossing: the proposed culvert is 30" compared to the 24" existing culvert. The north and south setback to the residential districts are 100'; other setbacks are 40'. A double row of white spruce trees are proposed long the southern property line and the portion of the eastern property line adjacent to the lot with frontage on SR 20A.

The 2019 project description and comments are provided below.

The 77 acre parent parcel has access off CR 37 in 2 places and access off SR 20A opposite an equipment storage use, however these access points will all be on the 32 acre remainder parcel, not the project site. Access to the project site will be via a 60' easement from tax parcel 135.15-1-2.000, 8894 SR 20A which is owned by the same person as the project site. This access point will require crossing a Class C stream whose banks appear to have slopes of 16 to 30 %. Much but not the entire parent parcel is zoned G Commercial/Light Industrial. The proposed access easement and an adjacent portion of the project site are zoned A Residential-Agricultural.

The 42 acre project site will house approximately 228 tracking solar tables supported by H-piles. Solar tables will each be 6.5' long, vary in height from 5.5' to 6.5 feet depending on the angle, varying in length. The area enclosed with a black PVC coated chain link fence will be approximately 40 acres. The area under the solar tables will be approximately 30 acres or 67 % of the lot when 80% is allowed. The 20'wide gravel access road will cover approximately 5,416 SF. Impervious areas will also include a 1,122 SF concrete pad for electric equipment and 2,736 SF covered by support posts. A double staggered of 7-8' white spruce planted 10' on center is shown outside the southern fence line. The area under the solar tables will be planted with low-growth pollinator friendly seed mix.

According to OnCor, the project site is not in the agricultural district (though it appears to be in agricultural production) and is not constrained by floodplains or wetlands.

December 2019 Comments

1. Does the project require a variance for the 7' fence?
2. The site plan should show the G Commercial/ Light Industrial and A Agricultural –Residential zoning district boundary to confirm the 100' setback of project to A district is maintained.
3. The EAF anticipates a pilot agreement with Ontario County IDA. The policy of the Ontario County IDA is to not grant tax abatements to large scale solar energy facilities.
4. The grading plan notes indicate all site vegetation will be cleared follow installation of landscaping along the northern property boundary. Landscaping is only shown along the southern property boundary. Please also indicate the degree of soil disturbance anticipated during removal of vegetation.
5. The grading plan notes indicate the portion of the site disturbed for the access road and the topsoil stock pile will be reseeded within 14 days. Other disturbed areas of the site won't be seeded until project completion and no seed mix is specified. Low growth pollinator-friendly seed mix should be used and, if soil disturbance includes more than 5 acres, all such areas should be reseeded within 7 days.
6. The construction details include access road when slope is greater than 10%. What segments(s) of the access road have slopes greater than 10%?
7. Calculations should be provided regarding the sizing of the storm pipe to carry the stream under the access road.
8. No landscaping is provided along the easement portion of the access road and the construction staging area is outside the fence line. The referring body should consider whether any temporary or permanent screening is necessary to minimize project impacts to adjacent homeowners.
9. Any agricultural drainage tiles impacted during project development should be repaired.
10. The decommissioning plan should require the solar project owner to confer with the Town and site owner regarding whether to remove screening landscaping and the preferred seed mix used to re-vegetate the site.

December 2019 OCSWCD Comments

1. Detail is required indicating Class C stream crossing.
2. Silt fence should not cross Class C stream, but should be placed to prevent any runoff to waterbody.
3. Silt fence should follow contours and should not be placed perpendicular to slope which may concentrate flow.
4. Removal of vegetation is indicated in plans, but does not specify whether grading or grubbing is occurring. Any soil disturbance requires stabilization within 7 days and erosion and sediment control measures should be ongoing throughout project.
5. Areas with a slope greater than 3:1 should have additional stabilization such as rolled erosion control materials to provide adequate stabilization.

August 2020 OCSWCD Comments

1. Applicant should investigate whether any underground agricultural drainage tile exists in the area which could become damaged during construction. If so, a repair plan should be in place.
2. Total area disturbed is greater than 5 acres and as such should follow guidelines laid out in New York State Standards and Specifications for Erosion and Sediment Control.
3. Impervious surface area is calculated as 0.01 acres for use in stormwater calculations. Panels themselves have the ability to act as impervious surface during rain events. Calculations should be reconsidered to make sure enough stormwater capacity is present on site.
4. How will stormwater be directed to the vegetated filter strips and what is the maintenance plan for these filter strips?
5. Ensure concrete washout is minimum 100 feet from all watercourses and wetlands. Refer to page 2.24 of NYS Standards and Specifications for Erosion and Sediment Control.
6. Plans include design for limited use pervious access road. Does this refer to new gravel access drive or unimproved access road? Design plans indicated limited use pervious access road should not have any construction vehicle traffic on it.

August 2020 NYSDOT Comment New access driveway will require NYSDOT approval.

Board Motion: A motion to retain referral 114-2020 as a Class 1 and return it to the local board with comments.

Motion made by: Tom Lyon

Seconded by: Mike Woodruff

Vote: 13 in favor, 0 opposed, 1 abstention **Motion carried**

Ms. Clar replied that a response was submitted, which has been shared to the Town engineer. When asked by Chairperson Hodgeman if the Planning Board was comfortable moving forward with the resolution, the Planning Board agreed.

Chairperson Hodgeman noted that the Planning Board members had already received the proposed resolution and read some highlights from it. The full resolution can be found in Appendix 2.

Chairperson Hodgeman made a motion to approve the site plan for Abundant Solar with consideration to the resolution and factors that are included in it. With a second by Mr. David Richardson, the motion was passed unanimously via voice vote.

Record of Vote

	<u>Member Name</u>	<u>Aye</u>	<u>Nay</u>
Chairperson	Michelle Hodgeman	X	
Member	Michael Baker	X	
Member	David Lortscher	X	
Member	David Richardson	X	
Member	Jeannie Riorden	X	
Member	Leonard Wildman	X	

Site Plan – The Broadway Group, LLC – for properties owned by Kenterprise II, LLC, located at 8673 and 8677 Main St., Tax Map #135.20-2-11.2 and 135.20-2-11.1.

Chairperson Hodgeman stated that considering the front elevation, stacked stone will now be 4ft tall in the front, due to the shrubbery being put in front of the front parking stalls, and there will be two faux windows on each side of the front door. It was also suggested to the Broadway Group that they get the signed permits through the Code Enforcement Officer.

Chairperson Hodgeman noted that for this meeting the Planning Board would be discussing Part 2 of the Full Environmental Assessment Form for the SEQR. Before beginning, Chairperson Hodgeman noted that there was no answer in Part 1, number 14: Impact on Energy. Ms. Kelly Steele replied that there will not be an additional demand or energy, as the existing Dollar General would just be moving to a new location. There was discussion from the Planning Board on if the coolers and freezers would demand more energy. Mr. Jon Hinman explained that as we know how much energy Dollar Generals typically demand, it will not have a high impact, however, it is fine to be marked as “yes”, but to note that the increase in demand would be because of a small commercial retail store. He explained that the question is made for a large manufacturing building or something that would be drawing a lot of power. Ms. Chalifoux agreed.

The Planning Board then proceeded to discuss each section on part 2 of the SEQR.

1. **Impact on Land** – The property does not include construction on slopes of 15% or greater. Ms. Chalifoux asked Mr. Hinman’s opinion on whether the boxes should all be checked “no”, and Mr. Hinman agreed. Mr. Hinman also explained that “yes” is checked if there is a potential impact, and then it is examined further to determine if it is a small impact or if it will be a moderate/large impact. He explained that subsections A-F are checked because of a “no or small impact”.
2. **Impact on Geological Features** – It was determined that there is no impact on geological features.

3. **Impacts on Surface Water** – Mr. Hinman explained that any water runoff has the potential to impact creeks and drainage, but the Broadway Group has provided information on stormwater drainage and a detention pond. This leads to a definition of a small impact as the applicant has mitigated the potential impact. Ms. Chalifoux also explained that the Town of Richmond hired an expert in floodplain construction, who made suggestions, and the Broadway Group did as required. The Planning Board was comfortable with moving forward with this.
4. **Impact on Groundwater** – There will be no chemicals or materials affecting the ground and wells, so the Planning Board indicated being comfortable moving forward with “no impact”.
5. **Impact on Flooding** – Mr. David Lortscher mentioned that he could not find how properties to the west and east could be impacted by flooding. Mr. Hinman explained that the existing drainage path draws water through drainage, when there is a drain event, the storage pond will reduce the amount of water running into the site, which will allow water to leave the facility at a slower rate than it normally would. The detention pond shown will discharge water at the same location without impacting neighboring properties.

Mr. Leonard Wildman asked if the calculations were based on a 100-year or 500-year flood. Mr. Hinman explained that the calculations are based on a 100-year storm, following New York State design regulations. Mr. Wildman stated that the Town does not typically get 100-year storms anymore, and expressed being uncomfortable with flooding. Mr. Hinman noted that what is being proposed will help mitigate flooding – not making anything worse than it is. Mr. Wildman stated that he believes it should be marked as a “moderate to large impact”.

Mr. Andrew Slyter was present to speak on behalf of the Broadway Group. He stated that based on current conditions, the plans showing the detention pond and stormwater quality pond will reduce the demand and potential impact from the 100-year flood. He explained that in engineering, the 100-year flood is the standard used.

It was decided that the Planning Board all agreed that it would have an impact on flooding, but continued discussion on whether this would be a small or moderate/large impact. Mr. David Richardson asked what the impact would be if it was declared a large impact. Ms. Chalifoux replied that it is simply identifying the impacts but does not change anything. She explained that if one part of the form is decided to have a moderate/large impact, it does not mean that the entire project will have an adverse environmental impact.

Mr. David Lortscher stated that he feels the impact will be lessened after construction, compared to how flooding currently is, based on measures being put in place by the applicant, so he feels it should be a small impact because of precautions being taken.

Chairperson Hodgeman asked for a vote on if the Planning Board would declare a small impact or a medium/large impact.

Record of Vote

	Member Name	Small Impact	Medium/Large Impact
Chairperson	Michelle Hodgeman	X	
Member	Michael Baker	X	
Member	David Lortscher	X	
Member	David Richardson	X	
Member	Jeannie Riorden	X	
Member	Leonard Wildman		X

6. **Impact on Air** – There will be no change in levels of carbon dioxide or nitrous oxide and no levels of added air pollutants going into the air because of this building.
7. **Impact on Plants/Animals** – When mapping was done of the site, it was listed as a potential site for bald eagles, but the study done was inconclusive. It is currently listed as a “no or small impact”, indicating that the Planning Board recognizes that it exists but is not a large impact.
8. **Impact on Agricultural Resources** – The property is not on agricultural land, it is zoned industrial, so no impact on agricultural resources.
9. **Impact on Aesthetic Resources** – There would be a change, but a positive change because the building will be attractive and something that will fit the character of the Town.
10. **Impact on Historical and Archaeological Resources** – The Broadway Group performed a historical impact survey done by the State Historical Preservation Office, which determined there are no archaeological sites, and no known historical sites.
11. **Impact on Open Space and Recreation** – In discussion, it was decided that if anything the area will be opened up more.
12. **Impact on Critical Environmental Areas** – No resources will be coming from this piece of property.
13. **Impact on Transportation** – The property will be right off of Main Street, but the entrance to the current store is off of Main Street as well. Trucks still need to go down Main Street to get to the current store, so it was determined that there will be a no/low impact.
14. **Impact on Energy** – The building will be larger than the current store, but nothing will be using high power, so there will be no/low impact on the amount of energy being used.
15. **Impact on Noise, Odor, and Light** – The property is in a commercial zone and will not be impacting residents. The downtown area already has parking lots with lights and the applicant will have dark sky compliant lighting. The applicant indicated that there will be a small impact, but during construction activities only.
16. **Impact on Human Health** – There will be no impact.
17. **Consistency with Community Plans** – Currently no Comprehensive Plan has been decided, so as the Planning Board is continuing to do its due diligence to make everything as aesthetically pleasing as possible, there will be a no/low impact.
18. **Consistency with Community Character** – The Planning Board is doing the best that it can to be consistent with community character.

Chairperson Hodgeman then read the SEQR resolution dated on Thursday, October 24, 2019, which declared the Planning Board as the lead agency. The full resolution can be found in Appendix 3.

Mr. Michael Baker made a motion to accept the resolution as presented, declaring the Planning Board as the lead agency. With a second by Mr. David Richardson, the motion was passed unanimously via voice vote.

Record of Vote

	Member Name	Aye	Nay
Chairperson	Michelle Hodgeman	X	
Member	Michael Baker	X	
Member	David Lortscher	X	
Member	David Richardson	X	
Member	Jeannie Riorden	X	
Member	Leonard Wildman	X	

Chairperson Hodgeman then read the resolution that declares a negative environmental impact on the site (Appendix 4).

Mr. David Lortscher made a motion to accept the resolution as presented. With a second by Mr. Leonard Wildman, the motion was passed unanimously via voice vote.

Record of Vote

	Member Name	Aye	Nay
Chairperson	Michelle Hodgeman	X	
Member	Michael Baker	X	
Member	David Lortscher	X	
Member	David Richardson	X	
Member	Jeannie Riorden	X	
Member	Leonard Wildman	X	

Mr. Michael Baker made a motion that a special meeting be held on September 10th at 7pm for a public hearing to review the Broadway plans, contingent on updated prints being sent to the Town Hall. With a second by Mr. David Lortscher, the motion was passed unanimously via voice vote.

Site Plan – Bald Hill, LLC – for property owned by Eric Lang and located at 4860 County Road 27, Tax Map # 135.14-1-23.000.

Chairperson Hodgeman stated that the information provided looks like the same site plan that was submitted in November 2018.

Mr. Eric Lang was present to speak on the property. He stated that he provided a survey and showed the dirt that was dug out behind the shop. There are three sides that were carved back into the hill. On the north side he plans to do a retaining wall, and a slope on the west and south sides. He currently has Lakeland Concrete designing the retaining wall. He stated that he wanted to see how far they could dig back, because they would need to stop if they hit a shale wall. Once a retaining wall has been designed, they will be able to fully revise the current plan.

Mr. Leonard Wildman stated that the property is currently not in compliance with the current site plan, as the dirt has already been dug out, and asked if more than 750 cubic yards were moved, and if Mr. Lang has

a DEC permit to move the dirt. Mr. Lang replied that he does not have numbers on how much dirt has already been removed, and he has been in contact with Mr. Shumway, the Code Enforcement Officer, and the DEC stated that he did not need to file for anything. Mr. Leonard Wildman asked that the Planning Board be provided that in writing, as the dirt may have been contaminated by spillage by previous owners.

Mr. Leonard Wildman stated that he does not think a new site plan is needed, but that he needs to be in compliance with the one he has. Chairperson Hodgeman stated that the previous site plan was approved in November 2018 and may have expired.

Chairperson Hodgeman read from the October 2018 minutes, which stated that Mr. Lang will be going before the Zoning Board of Appeals for a special use permit.

Chairperson Hodgeman then read the minutes from the November 2018 meeting as follows:

SITE PLAN REVIEW – Eric Lang, owner of Bald Hill Automotive, LLC, 4860 County Road 37, Tax Map # 135.14-1-23.000 to present Site Plan Review

Mr. Lang provided the Board with an updated Site Plan. Parking spaces are kept the same as the previous owner, in number and location. The property marker is in the center of the North driveway, the shared driveway, so there is no present need for a Right of Way agreement. Gerald Allen suggested a new property survey, as the property is under new ownership, but it was determined at this time that as the current plan has all 4 pins identified, a new survey is not needed.

Mr. Lang mentioned that there is now a designated handicapped parking space, and the special use permit was granted at the November 20, 2018 Zoning Board meeting, as confirmed by the official minutes.

Mr. Lesperance noted that the plan shows only 21 parking spaces, which will be the maximum allowed on the property. Parking on the South side of the building is too close, with only 35ft of clearance. Mr. Shumway mentioned that parking spots must be 8ft wide by 20ft long. Therefore, it was suggested to move 3 spaces to the back of the building.

Chairman DeCillis entertained a motion to approve the amended site plan, on the condition that an amended site plan, showing the moved parking spaces, be submitted, noting the maximum of 21 spaces, which was seconded by Michelle Hodgeman. The motion was approved unanimously with one abstention, Gerry Allen.

Chairperson Hodgeman stated that her main concern would be that the soil is already removed and no site plan or engineered drawings for the retention wall are provided. She stated that the Town of Richmond code states that if 500 cubic yards of soil or greater are disturbed, a permit must be obtained. Mr. Wildman suggested that the application be sent back to Mr. Shumway to get back in compliance. He noted that there is no fence around the current construction, and anyone could fall into it.

Mr. David Richardson asked how tall the retaining wall will be, and if the existing cliff face is above the anticipated height of the retaining wall. Mr. Lang stated that the retaining wall will be 13-14 feet and will be approximately the same height as the current cliff face. He stated that there are currently logs near the edge so nobody can accidentally drive off and is currently coordinating this with the neighboring property. Mr. David Richardson asked about Mr. Lang's intentions with the south and west slopes. Mr. Lang replied that

he wants to plant grass and pine trees, something to look nice and prevent erosion, which Craig Deets is currently designing.

Chairperson Hodgeman stated that she would like to see some engineered drawings on retaining walls, to make sure the wall is not going to cave, and to double-check on needing a DEC permit. Mr. Lang stated that before he started the project, he spoke to Mr. Shumway to see what process he would need to follow and was told he would need a site plan review.

Mr. Wildman stated that he should come back when he has:

- Engineering reports and engineered drawings from Lakeland Concrete
- A fence lined up and designs for it going around the top
- Soil and water SWPPP
- DEC permit

He stated that the Planning Board can inform Mr. Shumway that the property is currently out of compliance, and it will be on him to decide if construction should be halted.

Mr. Shumway clarified that he suggested that Mr. Lang go before the Planning Board to seek direction on how the Planning Board wanted the site to be designed. Chairperson Hodgeman stated that the Planning Board does not have the right to say what we want the site to be, but to state what needs to happen for him to have the end result that he wants, and what the Planning Board is asking for is the same as what would be asked if he had come before the Planning Board prior to beginning construction. She stated that our goal is to make sure everything is safe and done within code. She stated that Mr. Lang is welcome to return when he has the information provided. Mr. Lang asked about setting up a temporary fence, and was encouraged to speak with Mr. Shumway to see if a permit is required.

Review Proposed Code Changes

Mr. Barnhoorn reported that the process is still moving forward on making changes to the code. There is a public meeting scheduled for September 8. Drafts are available on the Town of Richmond website. Additionally, there are drafts in process to allow public hearing notices to be electronic, and community members will be able to continue to virtually offer input and commentary.

Ontario County Planning Report

Mr. Wildman stated that Chairperson Hodgeman already read through the information on Abundant Solar. Additionally, a Speedway is being designed on Route 14 wanting 125-foot signs. That road is popular for bicyclists, and the County Planning Board needed to make sure the bike route is preserved, suggesting perhaps an island with the signage, and asked the town to decide whether or not they need 125-foot signs.

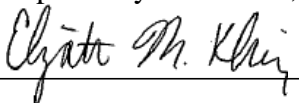
Approve Minutes – Meeting of July 23, 2020

There were no comments from the Planning Board.

Chairperson Hodgeman made a motion to approve the minutes for the meeting of July 23, 2020. Mr. Leonard Wildman seconded the motion, which was passed unanimously via voice vote.

Chairperson Hodgeman made a motion to adjourn at 10:06 pm. The motion was seconded by Mr. David Richardson and passed unanimously via voice vote.

Respectfully Submitted,



September 5, 2020