

A meeting of the Town of Moreau Planning Board was held on November 16, 2015 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Present:

Linda Riggi	Planning Board Member
Reed Antis	Planning Board Member
John Arnold	Planning Board Member
Charlene Endal	Alternate Planning Board Member
Dave Paska	Planning Board Member
Ron Zimmerman	Planning Board Member, Acting Chair

Also present: Stephanie Dilallo-Bitter, Attorney for the Town; Tricia Andrews, Recording Secretary; Joe Patricke, Code Enforcement Officer; Ben Marcantonio, Asst. Code Enforcement Officer

Planning Board Members Absent: G. Peter Jensen

Acting Chairman Mr. Zimmerman called the meeting to order at 7:00p.m. The minutes of the October meeting were reviewed and Mr. Antis motioned to accept with corrections listed below. Mrs. Riggi seconded. Motion carried unanimously with Mr. Bergman abstaining.

p. 1839 1st line especially “if” the ground freezes not “of” and what other “kinds of control” not “kids”.

**#1 SolarCity
Public Hearing
Site Plan Review**

Solar City presents plan for pole mounted arrays similar to that on this building’s lawn. There will be security fence. He is here to answer questions.

Mr. Antis: Where is the power meter placed?

Mr. Allen: Not sure physically.

Mr. Ooimet: Either on the site or at the connection point, mounted on the pole.

Mr. Antis: When is that decided, or is it decided and you don’t know?

Mr. Ooimet: It’s decided.

Mr. Antis: What kind of energy is it, in voltage etc.? Household, Industrial?

Mr. Allen: 13.2 kV after the transformer, to match the grid.

Mr. Antis: You have an optimal amount you plan to produce, but there are significant changes from June to December. Can you share how they are going to maximize their use of the sun?

Mr. Ooimet: The contract and the system size use the weather when they decide how many panels to place to get what they want. Angle, slope of grade, horizon, etc. Some sites we have to grade, this one we don’t. They place the panels so they don’t shade each other.

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Mr. Antis: A proposal was made and it was 5 acres and 570kwh a while back and I want to know why this changed.

Mr. Ooimet: I am not familiar with that project.

Mr. Antis: Was it reduced because we don't need that much energy?

Mr. Allen: That could be part of it.

Mr. Antis: Who calculated it?

Mr. Allen: The town, in cooperation.

Mr. Antis: Based on NYSERDA's rules, none of that energy can be used to light the district, is that correct?

Mr. Allen: I don't know.

Mr. Zimmerman: We have met the 7:02pm mark and any members of the public can speak about the project. State your name and where you live for the recorder.

No public comment was made.

Mr. Antis: If 379 kwh are possible in an ideal situation, what's realistic to expect?

Mr. Ooimet: We based our models on amounts we can provide based on all those circumstances we include in the studies.

Mr. Antis: You are pretty confident we can get that, but you are not sure where the meter's gonna be?

Mr. Allen: I'll look that up.

Mr. Antis: And does the 6.8 cents per kwh change with market rates or is it fixed?

Mr. Allen: It's fixed.

Mr. Antis: Are you making money selling power to the Grid?

Mr. Allen: We sell it to the Town.

Mr. Antis: Which meters are monitored?

Mr. Allen: We have one that you can't walk up to and see, it reports to the mothership.

Mr. Antis: How are you monitoring what we use? Who's doing accountability for this?

Mr. Allen: I don't know where it's going after it hits the poles.

Mr. Antis: How do you know how much to charge us if you don't know what we used?

Mr. Allen: It is based on our production. We will keep track of what is produced. The Town pulls from the utility, and you get some from us and some from other sources. What we produce and put into the Grid comes off your bill.

Mr. Antis: Does it eliminate the delivery and demand charges on our bill?

Mr. Allen: I don't know the Town's exact deal. You keep your account with the utility. You will use less of theirs and more of ours, and ours costs less.

Mr. Ooimet: What was produced comes off your bill. We don't know how exactly the grid does that.

Mr. Antis: The meter is at, for example, a pump station. How do we know we're getting a fair rate?

Mr. Ooimet: Everything the solar panels produce comes off your bill. All the meters are still read by the utility.

Mr. Antis: It comes back to accountability for a fair deal for the Town from you and the grid.

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Mr. Allen: Solar City is producing power at a guaranteed price that gets used at a certain price.

Mr. Arnold: It's just an offset on wholesale energy meters.

Mr. Allen: You can check your meters.

Mr. Arnold: National Grid will look at how much came in, and take that off your bill.

Mr. Antis: Who makes sure?

Mr. Zimmerman: National Grid. They send the bill.

Mr. Ooimet: National Grid is responsible for billing the Town.

Mr. Arnold: I have a couple questions from the last meeting. The panels are on posts driven into the ground.

Mr. Ooimet: Yes.

Mr. Arnold: No footing, no concrete etc. But your fenceposts are set in concrete. There's probably a good reason and I would like to know what it is.

Mr. Ooimet: The fence is a security fence so it's built to withstand being driven into, an impact. We do this all around. It is soil driven, what they decide to do, and for your case this is what they decided to do.

Mr. Arnold: What soil types are on the site, that you feel that driven posts are enough?

Mr. Ooimet: Our racking system designer determined that it doesn't need footing.

Mr. Zimmerman: Garry, did you look at that?

Mr. Robinson: I don't think it's unusual.

Mr. Arnold: Where the panels are, are you clear cutting and then seeding between?

Mr. Ooimet: There are no trees. We remove stumps and slightly smooth it, not grade it, then reseed it with a slow-growing grass. It gets mowed twice a year or so.

Mr. Zimmerman: Are you asking next what their construction schedule is?

Mr. Arnold: If you build now, are you going to seed it in spring, will you put erosion mats, will you wait til Spring altogether?

Mr. Ooimet: It depends when we get the approvals. We are still starting some now, and if they can get it in before it freezes, they do seed it now. For the SWPP, they have to come back and make sure there is 80% germination.

Mr. Arnold: Seed won't hold anything, so what do you use to control erosion in Spring?

Mr. Ooimet: Ground is still frozen, so that doesn't wash away when most of the snow melts. Erosion control will all stay in place until the grass is growing.

Mr. Arnold: I have 100 acres that says that's not what happens, the ground will thaw if the snow cover isn't thick enough. Do you know what your soil type is?

Mr. Allen: Windsor.

Mr. Robinson: Two different types.

Mr. Arnold: That's it for me.

Mr. Zimmerman: We spoke last time about a Short Form, should I move along?

Atty. Dilallo-Bitter: Here's Part II, as discussed.

Mr. Antis: Do you get tax credits from the federal gov't, New York, NYSERDA?

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Mr. Allen: NYSERDA.

Mr. Antis: Is there carbon credits?

Mr. Allen: If the project is eligible, we get them, per the contract.

Mr. Antis: You are dependent on our energy use to be successful, correct?

Mr. Allen: Correct.

Atty. Dilallo-Bitter: We have not heard back from the County, I just heard, so I would hold off.

Mr. Zimmerman: Why did that happen?

Mr. Patricke: They meet this Thursday.

Mr. Arnold: This didn't fall under staff review?

Mr. Patricke: No. I think because of the proximity to the river.

Mr. Arnold: I asked last time about view sheds and was told you can't see this because of the trees. Did you do a mockup?

Mr. Ooimet: I looked it up on Google Earth, from river height, there is a bluff between this project and the river, we are on the second peak in and there are acres of trees between us and the river.

Mr. Zimmerman: Garry, anything you would like to see addressed?

Mr. Robinson: I reviewed the SWPPP. Theirs is a limited SWPPP. No post-construction practices there. There are exemptions that allow certain projects not to do a full SWPPP, in spite of being bigger than an acre...I don't think those utility exemptions apply to this, but they say they talked to someone at the State who said that they were exempt. I would like to see that confirmed. I will call Dave Gasper and talk to him about that.

Mr. Antis: Because even though they would like to think they are a utility, they are not a utility.

Mr. Robinson: No, they are. But the impervious they have is the pole. The panels aren't on the ground. If we have a pole barn garage, that's considered impervious even if there is grass underneath. I don't know why this is different and I just want to check.

Mr. Zimmerman: Will you report back to us on that for next time?

Mr. Robinson: Yes.

Mr. Arnold: Where is the runoff that does happen, in a spring thaw, if I am a little bit right and you do get runoff, where does it go?

Mr. Ooimet: Towards the Town road, where we have silt fence.

Mr. Arnold: Not towards the Army Corp wetlands?

Mr. Ooimet: We also have a silt fence between our project and the wetlands.

Mr. Robinson: Snow also prevents runoff. They will put the silt fence, etc. up before they start and it stays through the winter. Before they close out the SWPPP they have to file that they have their grass. There is a process.

Mr. Ooimet: DEC allows winter site shutdowns when frozen ground eliminates the sediment activity.

Mr. Arnold: I just wanted to make sure there was going to be something.

Mr. Zimmerman: Given we are waiting for feedback from Saratoga County, what should we do?

Mr. Arnold: Motion to table the public hearing until 7:02pm on December 21, 2015.

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Mr. Antis seconded. A roll call vote proceeded as follows:

Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mrs. Endal, Yes, Mr. Zimmerman, Yes.

Mr. Antis: I would still like to see better verbiage on how it's metered and who is accountable.

Mr. Allen: What happens next month?

Mr. Zimmerman: If we get everything back that we asked for, and Garry and his contact and the County agree, we will finish the SEQR Review and close the public hearing, so we can finish Site Plan Review and get you approved.

#2 Atherton's Auto Request for a Public Hearing

Joshua Silver, Murray Law Firm, and James Atherton appeared.

Atty. Dilallo-Bitter: The Public Hearing is open from August 17th. There was a question as to whether the use was grandfathered and whether it predated Zoning. We determined that he could move forward.

They have provided a site plan and affidavit from the previous owner that these things happened in the 70's and those are rights Mr. Deeb has maintained and can move forward with. They went to Zoning, but we did further research and decided that ZBA didn't have to make a determination.

Mr. Arnold: I am confused on the grandfathered use.

Atty. Dilallo-Bitter: The question was about the use, the timing, etc. They did everything on ways that preserved their rights, based on Mr. Deeb's affidavit which you have copies of in the record.

Mr. Arnold: There's not statute of limitations on something being grandfathered?

Atty. Dilallo-Bitter: There is, but our decision is based on the timing and that it wasn't abandoned.

Atty. Silver: Zoning looked at whether to allow this proposed use, specifically two uses on a single property, and the Town's attorney decided that he's had a second person operating parts of it, previously.

Mr. Arnold: He's had someone else operating the garage at times?

Atty. Silver: He did. So site plan review is necessary to establish that we are not expanding the previous non-conforming use. The Town's attorney asked for a Formal Site Plan to be drawn up, and we did that.

Mr. Zimmerman: Explain the relationship to me.

Atty. Silver: David Deeb owns the property. He has leased this part to Combs Automotive, and he has leased this part to Mr. Atherton.

Atty. Dilallo-Bitter: Two years is the time period for abandonment.

Atty. Silver: Mr. Deeb has had brief periods of no inventory, but he has maintained his license, and the lease on the property. There was no legal abandonment. In fact he had it before he bought the property. He just got rid of his license when Mr. Atherton leased it.

Mr. Atherton: He liquidated his corporation when I came in.

Mr. Zimmerman: What's the size of a car space?

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Atty. Silver: We are not allowed to have more cars that were there previously, so we didn't really do the spaces in that way.

Mr. Patricke: 10 by 20 feet.

Mr. Zimmerman: When was there a limitation on the number of cars?

Atty. Silver: It's just that we can't expand the use beyond what Mr. Deeb testified to.

Mr. Arnold: I thought you went to ZBA because the office was too close to the rear line.

Atty. Silver: That was determined to be a pre-existing condition.

Atty. Dilallo-Bitter: That building was constructed in 1985, so it's under the 1973 Code. At which point it complied.

Mr. Arnold: Is there a stormwater management plan in place for this property?

Atty. Silver: Not that I know of. We are not disturbing it.

Mr. Antis: He said he wasn't going to wash cars there.

Mr. Arnold: It was filled in the 80's, I remember them doing it. There was a garage and a gas station there and a low spot and they filled it. Is stormwater grandfathered? I don't imagine it being a problem.

Mr. Robinson: It's not grandfathered, but they have to do a SWPPP if they disturb an acre, so it doesn't apply.

Mr. Patricke: To the best of our knowledge we've never had a complaint or problem.

Mr. Antis: Can you explain the trench between the site and the cemetery? It's been disturbed.

Mr. Patricke: I am not familiar with anybody that did it.

Mr. Arnold: There isn't an acre there to disturb.

Atty. Silver: We believe we've made all the stops and we are looking to put a bow on it.

Mr. Arnold: Are you using a shared entrance?

Atty. Silver: Yes.

Mr. Arnold: Is there a bathroom?

Mr. Atherton: No.

Mr. Antis: Does DOT need to say anything? Did we talk to the County?

Mr. Patricke: No.

Motion to reopen the public hearing was made by Mr. Arnold and Seconded by Mrs. Riggi; roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mrs. Endal, Yes, Mr. Zimmerman, Yes.

The Board reviewed SEQR EAF Part II.

Motion to make a negative declaration on SEQR was made by Mr. Arnold seconded by Mrs. Riggi. Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mrs. Endal, Yes, Mr. Zimmerman, Yes.

Mr. Arnold: Are you going to employ people?

Atty. Silver: Not at this time.

Mr. Arnold: If you do, you will have to provide a bathroom if it's not family.

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Mr. Atherton: Can I put in a portapotty?

Mr. Patricke: No.

Mr. Antis: Are you gonna make sure that you properly credit sales tax to the Town of Moreau? There's a website to identify where you are. Will you make sure?

Mr. Atherton: I make sure each purchase I look up where they live.

Mr. Arnold: Moreau is the point of sale.

Mr. Patricke: Because we have a Fort Edward Zip Code in part of the Town which is Washington County, the taxes might go to the wrong place.

Public hearing closed 8:03.

Mr. Zimmerman: Board, what would you like to do?

Mrs. Riggi motioned to grant Site Plan approval to Atherton's Auto, and Mrs. Endal seconded. Approval is contingent on no more than 25 cars on site for sale.

Roll call vote proceeded as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mrs. Endal, Yes, Mr. Zimmerman, Yes.

No mylars are necessary, the paper copy is sufficient according to Mr. Patricke.

#3 Stewart's Shops Site Plan Review

Stewart's Shops had appeared previously to the Zoning Board and is represented by Marcus Andrews. At the shop at 43 Bluebird Road a 660 sq. ft. addition is planned on the back of the existing store with a 120 sq ft. exterior freezer, moving a shed. Upgrading lighting to recessed LED lighting which is more energy efficient. Canopy and fascia will remain the same except a decorative 5 in. moulding. Our previous plan got opposition from the neighbors because it encroached on them so that is withdrawn. We looked into a purchase and they turned us down. Gas canopy is not changing, just the look of the canopy.

Mrs. Riggi: From the inside of the store what you are doing is pushing it all back?

Mr. Andrews: Existing cooler is here, proposed here, everything gets pushed back and it will mostly be back room. The current back room becomes retail space.

Mr. Arnold: Why is this in front of us?

Mr. Patricke: Because it's a change to site plan, but the change of the size also changes the parking requirements.

Mr. Zimmerman: We can't address parking unless we know how much you are increasing the sq. footage?

Mr. Andrews: Is it based on retail space or overall square footage?

Atty. Dilallo-Bitter: We are checking.

Mr. Zimmerman: Any other points?

Mr. Patricke: Parking is 1 space required for each 100 sq. ft. of gross store floor area.

Mr. Arnold: So if you are adding 660 sq ft., you need 6-7 more spaces. 7 more, no .6 spaces. So you'll have to figure out where you're going to put them.

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Mr. Paska: We don't know if they are over or under before. Maybe they were over.

Mr. Arnold: So look at total sq ft.

Mr. Andrews: If the proposed building with addition is 3164, we do not have 31 parking spaces.

Mr. Patricke: You will need to look at the previous site plan so you will know what was approved and what logic was used.

Mr. Arnold: Do we have different Codes for different types of retail?

Mr. Patricke: We do not.

Mr. Andrews: New stores we build today don't have 31 parking spots.

Mr. Arnold: Without the addition, it was 2325.

Atty. Dilallo-Bitter: They got a Use Variance in 2001.

Mr. Patricke: That was for Residential Zone. They might have included the gas pumps.

Mr. Andrews: There are considered to be 4 under the gas canopy.

Mr. Arnold: So you'd have to find 7 more.

Mrs. Riggi: When you expanded the one up on Bay Rd., you cut back the berm to make spaces, might you do that here?

Mr. Patricke: I believe what you are looking at is a storm water basin on that side.

Mr. Andrews: The only place to put it would be on this side, which is dangerous.

Mrs. Riggi: What about the east side?

Mr. Andrews: Septic. We would love to add more parking.

Mr. Zimmerman: Anything else to share?

Mr. Andrews: The existing parking has a trip hazard so we are now paving flush with bollards at the center of each to protect the bldg.

Mr. Arnold: Do bollards work better than curbs at stopping cars?

Mr. Andrews: They do. And the curbs are a legal problem and trip hazard.

Mr. Arnold: Remember the requirement for handicap spaces.

Mr. Zimmerman: Does this require the County?

Mr. Patricke: Yes, it's a corner of County and State Roads.

Mr. Antis: DOT?

Mr. Patricke: No, they are not changing the entrances.

Mr. Zimmerman: So the County Planning Board. Garry, anything you want us to look at?

Mr. Robinson: I don't think so.

Mr. Arnold: Pending major parking changes.

Mr. Robinson: They wouldn't have an acre disturbance.

Mr. Zimmerman: Board, what else would you like to see when he comes back.

Mr. Arnold: You mentioned a change in lighting?

Mr. Andrews: LED lights are more energy efficient but also cast a smaller spread. These are more focused, it keeps light off the road and neighboring properties.

Mr. Zimmerman: Can we see a sheet?

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Mr. Andrews: Yes.

Mr. Arnold: Explain the numbers.

Mr. Andrews: They are in lumens, measured 5 ft above the ground. We take averages, plug in location and height of fixture and we get a file from the manufacturer that allows us to compute the difference.

Mr. Zimmerman: What do we like to see at the property line?

Mr. Patricke: I don't know the number.

Mr. Zimmerman: Glens Falls is 1.

Mr. Patricke: Not sure.

Mrs. Riggi: So close to the building and the berm it's brighter, but on the street it's dimmer?

Mr. Andrews: Correct.

Mr. Zimmerman: Anything else?

Mr. Arnold: It's a busy store, parking is always at a premium, and better parking would help.

Mrs. Riggi: There are generally more care there than there are supposed to be.

Mr. Arnold: That rectangle, that's your tanks?

Mr. Andrews: Yes.

Mr. Zimmerman: Anything else?

Mr. Andrews: I will get you information about parking, etc

Mr. Zimmerman: You have until the 7th to submit.

Liz Lanphear: I received a letter Saturday before a meeting and called on Monday but Joe wasn't available to talk to me. I want to know why I was told that we need a survey for the property at the former Beans Country Store. We are just leasing. Previous tenants weren't required to have that. Is it a new standard practice?

Mr. Arnold: Have you asked the current owner for a survey?

Mrs. Lanphear: His English is not so good.

Mr. Arnold: Is it possible there's not one?

Mrs. Lanphear: Jeff Bean had redone the parking, etc. He had a site plan. I just want to talk about why we have to have a licensed survey.

Mr. Antis: When he left that night we all knew he was putting in a barbecue pit.

Mr. Lanphear: We are just waiting. We are still doing it.

Mr. Arnold: I'm concerned that there isn't one, but I don't think it's your problem.

Mr. Lanphear: And why didn't Jeff Bean have to do one?

Atty. Dilallo-Bitter: What did he provide? If he had a site plan from an architect that would have been accepted.

Mrs. Lanphear: Even though we don't want to do it now, you still want us to do all that?

Mr. Lanphear: It's not affecting traffic flow.

Mr. Zimmerman: But you need to show that to us on a plan.

Mr. Lanphear: Do we need a licensed survey of that?

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Mrs. Lanphear: What about that? I was told it was required.

Atty. Dilallo-Bitter: It is in the Code that it might be required, in order to show that the planned parking is actually on the site.

Mr. Arnold: There must be a survey for this on record somewhere.

Mr. Patricke: We don't keep records on that.

Mr. Arnold: Isn't it somewhere?

Atty. Dilallo-Bitter: They only require them for subdivisions and commercial loans.

Mr. Zimmerman: Can we see the Site Plan for Beans?

Mr. Patricke: Sure.

Atty. Dilallo-Bitter: It might have been an architect's stamp.

Mr. Lanphear: If he had markers listed, there's a survey.

Mr. Arnold: As tenants, that shouldn't be. But you should want to know the boundaries of what you are leasing, and you need to know the boundaries of what you are leasing. The person who wants to lease it to you should have to provide it to you. People pave things that aren't theirs. Even without ill will it happens.

Mr. Zimmerman: We must have had a good level of detail for Beans.

Mr. Arnold: I would talk to Ethan Hall because they did the last plan and I think they had the survey markers on it.

Mr. Zimmerman: If you can do that then submit it by Dec. 7th and be here on the 21st.

Mrs. Lanphear: Will we be notified if the Town can find a survey?

Mr. Patricke: I can provide a site plan, but not a survey.

Atty. Dilallo-Bitter: You need someone with a license to stamp the site plan. It can be an engineer, an architect, a surveyor.

Mr. Arnold: Stay on top of it so you don't have a setback that we can't control.

Mr. Zimmerman: Make your site plan comprehensive.

Mr. Patricke: It has to be stamped.

Mr. Zimmerman: Ethan had provided a good level of detail before.

Mr. Patricke: I'm gonna check the letter because I don't think it said survey.

Motion to adjourn was made at 8:42 by Mrs. Riggi and seconded by Mr. Bergman. Motion carried unanimously and the meeting was adjourned.

Respectfully Submitted,

Tricia S. Andrews