

JOINT TOWN/VILLAGE OF CLAYTON

PLANNING BOARD

MARCH 4, 2021

The meeting was called to order at 7:00 pm by Chairman Rogers. **The following members were present:** Doug Rogers, Fred Bach, Therese Christensen, Pat Dewey, Duane Hazelton, Dave Crandall, and Kevin Patchen. This meeting was conducted online via GoToMeeting.

Also Present: ZEO Richard Ingerson, Recording Clerk Susan Kenney

Townspople Present: Mithun Vyas, Rob Company, Tom Irelan, Jeff Cole, Alan Heberling, Pam McDowell, Emilie Cardinaux, two unidentified log-ins.

The minutes from the February meeting have not yet been typed from the transcript, so those will be reviewed at a later date. There were no other communications for this month.

7:01 pm – Tom Irelan – Village – site plan review – adding deck to front of sandwich shop

Tom Irelan did the presenting. He wishes to add a 16x24 roofed deck to the front of the Shipwreck Eatery, a sandwich shop in the Riverwalk B district. This would enable the shop to add more seating. It would not be in the Riverwalk right-of-way. The bottom part would be left open, not closed off for storage. There will be a stairway and railing, leading down to the Riverwalk. ZEO Ingerson, in answer to a question, said that signs in that district are limited to 24 ft², and if in a window, can only cover 25% of the windows. Mr. Irelan (or the owners) would have to apply for a sign permit.

In answer to a question, ZEO Ingerson said that nothing is needed from the Department of State, nor is any variance needed. Mr. Erland (?) was not aware of the roof of the building obstructing anyone's view. In answer to another question, Mr. Erland stated that there would be no street access to the deck; access would only be from the Riverwalk or inside the shop. At this time, the owner(s) is(are) not planning on having live music. Mr. Bach said that it might be a prudent idea to put the option for having music into the application approval, for future contingencies.

Chairman Rogers stated that this application is complete for a site plan review checklist. Mr. Bach said that the shop should plan for a "quiet time," after which there won't be any more noise coming from the shop, although the planning board cannot set business hours. One of the unidentified callers stated that they are not planning on being open past 9 pm.

At 7:15 pm, **MOTION** was made by Fred Bach, second by Therese Christensen, to open the public hearing. Motion was passed with all in favor. Mr. Heberling noted that he did not see on the plans a fire escape from the second floor. It was noted that a fire escape was not within the planning board's purview, since the application only refers to the proposed deck. Ms. Cardinaux said that there is a fire escape there.

Beginning at 7:17 pm, Chairman Rogers went through the short form SEQR. At 7:19 pm, **MOTION** was made by Kevin Patchen, second by Duane Hazelton, to declare this a negative declaration. Motion was passed with all in favor.

MOTION was made by Therese Christensen, second by Dave Crandall, to close the public hearing. Motion was passed with all in favor.

In the board's discussion of the application, Mr. Dewey had a question concerning no storage planned for underneath the deck: should that be made a condition for approval? He also questioned whether there should be a plan for lighting

on the deck. (NB: A lighting plan has since been sent in.) Mr. Bach stated that if there is any storage underneath the deck, the owners need to be sure that the area is screened and off the Riverwalk. Mr. Hazelton noted that screening would be needed to maintain proper air flow underneath. Mr. Bach further noted that the deck should have some sort of downlighting. The lighting plans should be made a condition for approval. Mr. Erland stated that there would probably be step lighting for the stairs. The board agreed that the providing of a lighting plan for deck and stairs, and the stipulation that there would be no storage without screening, would be conditions for approval.

At 7:25 pm, **MOTION** was made by Dave Crandall, second by Duane Hazelton, to approve the application with the conditions of a lighting plan and no storage without screening.

Aye: Rogers, Bach, Crandall, Hazelton, Christensen, Patchen, Dewey

Nay: none

Abstain: none

Absent: none

7:26 pm – NextEra – Town – seeking special use permit for solar battery storage.

Mithun Vyas and Jeff Cole did the presenting. Mr. Vyas is the director of business management for NextEra Energy Resources. The proposal encompasses two storage units, 45'x12'x11', separated by about 10 feet. They would be able to store 3.75 megawatts and supply 15 megawatts of energy. The plan is to use the stored solar energy during the evening, when it is most needed.

Chairman Rogers noted that NextEra needs to complete a landscaping plan as well as a lighting plan. The company needs to work on road upkeep and plow the road leading to the installation when warranted. Mr. Patchen said that the road is actually a town road and is plowed by the town. Chairman Rogers also urged the company representatives to sit down with the highway supervisor for the town of Clayton. Mr. Crandall asked whether any additional poles were being added; the company is not going to add any. Mr. Vyas also said that no additional infrastructure is needed. Mr. Cole said that the expected duration of the construction project would be six to eight weeks, and the construction workers will be respectful of the environment.

Chairman Rogers asked about fencing. Mr. Vyas said there would be fencing around the entire farm, but not separately around the storage batteries. Mr. Bach asked if they were still considering black vinyl for the fencing. Mr. Vyas said no. However, in the original hearing, they included vinyl for fencing. Chairman Rogers noted that the board was not at this time dealing with the overall solar farm, only with the storage battery units.

Mr. Dewey brought up the topic of potential fire incidents and the issue of containment. Mr. Cole said that the fire department had been told to contain the blaze and let it burn, while notifying NextEra. The company will send in a remediation team. NextEra also has a plan for the eventual decommissioning of the storage units. Mr. Bach stated that there should be a third party monitoring remediation, rather than the town or village; the DEC will sign off on the remediation, but best to have a third party. In answer to a question of which fire departments had been contacted by NextEra, Mr. Cole said that he has shown the site to some fire departments but he would have to refer to other notes for which one particularly. He will send in the information as soon as possible.

At 7:42 pm, Chairman Rogers declared that the application was complete for a special use permit.

A letter from the Jefferson County Planning Board was read. The County stated that this application was of local concern only. They recommended that that the planning board should have the applicants meet with fire departments and that a plan be formed for decommissioning. Their advisory comments included advising the local board to require the applicant to meet with local fire departments to address the project's fire protection and control methodology, as well as requesting the applicant to amend their decommissioning plan to adequately address the removal and disposal of the battery storage system.

At 7:44 pm, **MOTION** was made by Kevin Patchen, second by Duane Hazelton, to open the public hearing. Motion was passed with all in favor. Chairman Rogers said that Part 1 of the Long Form Environmental Assessment had been completed, but that the planning board, as lead agency, would have to do Parts 2 and 3. He went through the various questions for Part 2. At one point it was noted that there are no wetlands in the immediate footprint of the solar farm, although there are some elsewhere on the property, within 100 feet of the farm; this has already been inspected and cleared by DEC. Mr. Company said that the solar farm was under the jurisdiction of the Army Corps of Engineers. The average depth of bedrock on the project site is approximately 2.5 feet, based on soil review, so there probably is no groundwater. The site is not in a flood plain area. Mr. Crandall asked if the St. Lawrence is a critical environmental area (CEA). Mr. Bach stated that it is a class 3, not a CEA. Chairman Rogers added that CEAs are listed in the comprehensive plan, maps included, and there are none in the area of the project. Mr. Company noted that there are no CEAs in the tri-county area.

At 8:12 pm, MOTION was made by Kevin Patchen, second by Therese Christensen, to declare this a negative declaration. Motion was passed with all in favor. At 8:13 pm, MOTION was made by Duane Hazelton, second by Pat Dewey, to close the public hearing. Motion was passed with all in favor.

Chairman Rogers noted that although Part 1 of EAF had been completed, it had not been signed. The WFAF and LWRP are completed and on file; they had to be completed before Parts 1 and 2 on the long form. Mr. Dewey questioned whether there was a need to discuss fencing. Mr. Crandall said that there was no resolution so far, and no movement. Chairman Rogers asserted that NextEra needs to adhere to the previous stipulations made on the project. In the spring, there should be landscaping being put into place. Mr. Vyas responded that all will be done according to the plans.

Mr. Company said that Steve Dorr, the highway superintendent, and AUI, a subcontractor to NextEra, are working on an agreement dealing with what rebuilding of the road leading to the project site has to be done. The storage units are heavy, and the company hopes to move them onto the site before the rebuilding of the road is done. Chairman Rogers noted that under Clayton's current solar law, there is a section that holds the town harmless for rebuilding the road. Under the comprehensive plan, which is not law, solar storage and solar units should be fenced in with a minimum fence height of six feet. Mr. Company said that the units are already within the fenced area of the solar array.

At 8:25 pm, **MOTION** was made by Kevin Patchen, second by Duane Hazelton, to move forward on the plans as presented. Before voting, members suggested some conditions that should be added to any approval: (1) getting a third party to examine the site in case of a fire event; (2) making sure that all adjacent fire departments are informed of what they need to do in case of a fire event, and receive the proper training to be ready for such an event; (3) fencing around the solar array. Mr. Cole noted that the units are not easily accessible; there are already fences, gates, and locks. Mr. Crandall said that NextEra should make sure the storage units are adequately protected. It was noted that if the law demands more than the planning board's approval, the law will supersede the planning board's conditions.

At 8:30 pm, in response to the original motion by Patchen/Hazelton, the board voted on approval of the application with the conditions of (1) third party inspection, (2) information and training for adjacent fire departments, and (3) adequate fencing.

Aye: Rogers, Crandall, Hazelton, Dewey, Christensen, Patchen, Bach

Nay: none

Abstain: none

Absent: none

OTHER BUSINESS

- (1) A redemption center is ordering a 14x44 foot shed, and will probably be coming to the next planning board meeting, after going to the ZBA for a variance.

- (2) David Stilley's proposed bunkhouse application is still in abeyance until he is able to get some approvals.
- (3) Chairman Rogers and Mr. Heberling (the town board's liaison with the planning board) are still working on neighborhood districts in the proposed Planned Development District. A section for definitions needs to be created, after which the proposal will be forwarded to a legal entity for approval, and then to the town board. Chairman Rogers is also going to produce a white paper to clear up misconceptions from the public hearings. The town board will have the option to have another public hearing or just go with the legal approval.

At 8:40 pm, **MOTION** was made by Duane Hazelton, second by Kevin Patchen, to adjourn the meeting. Motion was carried with all in favor.

Respectfully submitted,

Susan Kenney, Recording Clerk