

**TOWN OF NEWSTEAD - PLANNING BOARD MINUTES**  
**Newstead Tow Hall – 6:30PM**  
**December 16, 2024**

MEMBERS

PRESENT: Tom Cowan, Chairperson  
Andy Kelkenberg  
John Potera  
Don Hoefler  
John Olaf

OTHER: Dave Miller, CEO  
Justine Seefeldt, Town Engineer  
Julie Brady, Recording Clerk

ABSENT: Terry Janicz  
Erik Polkowski

---

The meeting began at 6:34pm.

Paul Vargovich and Jeremy McCool from National Solar Technologies were present with Bob Shabala from Niagara Specialty Metals, 12600 Clarence Ctr Rd for a pre-conference to propose a Tier 2 499kW AC Remote Credited Solar Facility project on the north side of the bike path connected to the grid with 100% credited back to the facility. The 2.4 acres of solar panels is approximately 6% of the total 42-acre parcel in a “L” shape due to wetlands will be fenced in the RA zoning district. The wetlands have been delineated. This will provide 920 Mega Watt hours of clean energy with significant carbon benefit of 1,000 trees.

Dave M. asked about the need for tree clearing and vegetation. Jeremy M. stated that about 60% of the proposed site will need to be cleared of existing trees in various sizes. There will be no significant habitat issues per the Habitat Assessment Report completed by Earth Dimensions, Inc. on September 6, 2024. The planned installation of this solar project will be around the breeding and migration schedule.

Tom C. enquired about boring under the bike path. Jeremy M. confirmed that the plan is the power will be underground, under the bike path, and then up 8 polls on the south side of the bike bath past the plant to Clarence Center Road. Jeremy M. explained the benefits of going directly to the grid and then receiving the power back to Niagara Specialty Metal in credits. The VDER (acronym for Value of Distributed Energy Resources) credit rate is approximately \$0.12/kWh. However, if we connected directly to their building most of the power would not turn into VDER credits at all. Instead, it would be used directly by their facility and offset that power at the rate they are currently paying, which is closer to \$0.05/kWh. Because of this, the solar is worth more than double to them the way we are connecting it. This will provide 21% of the energy Niagara Specialty requires. The reason they are limiting the project size is due to the financial benefit incentive of the NY-Sun Solar Program - NYSERDA. If they expanded the project they would exceed the requirements. Tom C. asked if they are planning to expand in the future. Jeremy M. answered that it depends on the congestion of the grid. Since 2022, Niagara Specialty Metals has completed their studies and received approval already from National Grid. More Mega Watts are slated for Knapp Road, so they were lucky to get in at a good time. The future is unknown.

Justine S. pointed out that the intended schedule is quite aggressive. Jeremy M. agreed but said he was hoping to get most of the questions up front at this conference. Jeremy M. also asked if SEQR could be addressed first as it is not a requirement for the REAP grant which is due by March 31<sup>st</sup>. Latest submission would be April 15<sup>th</sup> or they would have to wait for the September 30<sup>th</sup> deadline.

Justine S. requested a sign-off from Fish & Wildlife, and the DEC.

John P. asked if they would go forward with this project without receiving the REAP grant. Bob S. stated they would not.

Justine S. asked if there would be an access road around the solar project for emergency vehicles? Jeremy M. stated there is a 20-foot buffer around the entire project and 18 feet between every row. They have a temporary easement from Tony Brandl for an access road from Hake Road for construction only. A discussion took place regarding the type of access road required not being just dirt and not going over the bike path. Paul V. and Bob S. stated they would go back to Tony Brandl to see if they could get a permanent easement for maintenance and emergency access.

Justine S. asked if they had a SWPP completed? Jeremy M. stated that it is coming with a full site plan. Justine S. also asked if the transformer will be fenced. Jeremy M. stated that they generally are not fenced. Dave M. noted that the code states that everything associated with the solar project must be in a fenced area. Dave M. also asked that the boring under the bike path be coordinated with the Town engineer regarding the sewer line that runs along the bike path to Carvana on Main Road. Jeremy M. also stated that a 7' high perimeter fence will surround the project. They are still waiting for the civil engineer and a tree count, as

well as the permanent easement and then they will submit the site plan application. Jeremy M. also said that he will reach out to the town supervisor and town attorney to discuss a PILOT agreement.

---

The Food Nerds project at 11342 Main Road was present to discuss their site plan application for a change-in-use. This building was the previous J&I disposal, then Quad Pharma and lastly Athenex before they moved out 3 years ago. The building has been vacant since then.

Peter Casilio, owner of this building stated that 3 years ago an 8,000 square foot addition was constructed for Athenex. At this time, the façade, a new roof and relocation of site utilities was completed. They are happy to have Food Nerds as a tenant. The exterior of the building will only need a foundation for the nitrogen tank and a mechanical pad for the freeze-dried process at the southwest corner of the building.

Sharon Cryan, founder and inventor of Food Nerds presented how her business started as a mother looking for nutrient-dense food options for her child. Sharon won the 43 North competition (\$1 million & \$25,000 people's choice award) last year.

Tom C. stated that there was a problem with parking at this location in the past. "Do you anticipate enough parking for this business?" Peter C. stated they will need 30 out of the 85 available parking spaces. The truck count is also low. The food manufacturing is less restrictive than pharmaceutical.

Sharon C. stated that she was born and raised in Buffalo and is an attorney by trade. She was able to develop a new way to process food instead of high processed foods using high heat leaving little nutrient value, her process uses whole organic frozen foods, remaining 98% closest to nature as possible. The ingredients are placed into shapes and given a nitrogen blast. Her patent is pending. The process has virtually no human touch. With this freeze dryer method the shelf life is 2-25 years. Sharon passed out puff and cereal samples. Next year when this site is up and running in March, they will be in 150 Tops grocery stores.

Greg Przystal from Linde Gases United States, stated they will be bringing the nitrogen in from Niagara Falls on a tractor trailer once a week in a 13,000-gallon tank (36 feet long/horizontally due to height restrictions). This area will have a fence enclosure. The facility will have oxygen monitors. If there is a leak, the nitrogen boils off and goes into the air. Nothing will happen as long as you don't touch it. They follow the NFPA regulations. The tank has been located in the safest place so there should be no issues. Dave M. asked if there would be bollard protection around this area? Sharon C. confirmed they will have bollards.

Dave M. asked if the SDS sheets will be paper or electronic/digital. Sharon C. stated they would have both.

Sharon C. also stated that she is looking into government contracts with schools and is focusing on working with local farmers and reducing food waste. John P. asked how much waste is generated. Sharon C. replied it is minimal, they use it all. John O. suggested donating it to farmers for agricultural salvage. Sharon C. stated their product is the cleanest and highly tested. They also use organic farmers in New York for their produce and grow their own sprouts on site in a water-based production. No flours, oils or sugars are used.

John P. asked about the financial grants. Sharon C. stated that they have raised \$6 million and received \$1 million from winning the 43 North competition. When this is turned on in this new location, they will be self-sufficient. Peter C. noted that they have spent a lot of money getting stamped engineer plans and millions on equipment which is on order. Is there anything we can do to expedite it to get the equipment in the building. Justine S. requested more information on the nitrogen from Greg P. He will email Justine S.

Sharon C. stated that the products are available online and at Lexington Co-op in Buffalo right now.

John P. motioned to support the Food Nerd change in use on to the Town Board with the condition that Justine S, town engineer, approves the project. Seconded by Don H. Hearing All Ayes, No Nays, this project moves on to the Town Board unanimously.

---

7:55pm – Jason Burford from GPI Engineering was representing and present with Kevin Stoldt, owner of CMK Builders and developer requesting a 4-Lot Major subdivision at the southwest corner of Clarence Center and Barnum Roads (4 new lots will front on Clarence Center Road and 1 Lot will front on Barnum Road totaling 5 lots) Jason B. reviewed the site plan and stated that they meet the zoning code and a wetland walk over results showed no delineation needed since no impact to the wetland area is proposed. All the lots will drain to the dry retention pond to the south and the road ditch along Clarence Center Road. That ditch will be cleaned out as well. They have been in touch with Erie County Water Authority proposing a new fire

hydrant and discussed details on cleaning out the ditch in relation to the water lines. The property is a total of 6 acres and will have low impact with less than ½ acre of impervious area proposed.

John P. asked if the lot owners are responsible for maintaining the drainage across the lots. Jason B. answered, “Yes, the homeowner’s will be responsible to maintain the drainage”. John P. asked what is to stop them from filing it in or building on the swale? Jason B. said a deed restriction can state they cannot build or fill in the dry retention pond. John P. asked who the easement is to? No answer was given. A discussion continued regarding the maintenance and enforcement of this drainage and the direction of the flow of water, especially in the spring. Justine S. said she will speak to the Town Attorney to discuss the best way to handle this issue.

Ann Perrault-Gibson, 11570 Clarence Ctr. Rd. (across the street from the proposed new subdivision) asked for clarification of what will happen for south to north flow of water. Jason B. stated that by improving the road ditch and having 12” driveway culverts. Walter Gibson, 11570 Clarence Ctr. Rd., stated that there is a cross culvert under the road that is unable to handle the overflow of water now. Walter G. also stated that they are the low property and are concerned about getting even more water from this project. Jason B. stated they are taking the water towards the bike path to the rear of the properties and about three feet is being filled allowing the storm water to flow through the cleaned-out ditches. Dave M. stated that the water will flow to the west then into the wetlands to the south. Tom C. noted that this project has already received town engineering approval.

Don H. motioned to recommend this 4-Lot Major subdivision with the condition that the town attorney and town engineer will clarify the easement and deed restriction regarding maintaining the drainage. John O. seconded the motion. Hearing All Ayes, No Nays the 4-Lot Major Subdivision at Clarence Center and Barnum Roads.

---

The next item on the agenda is a site plan revision request by Andy Kelkenberg for Akron Acres, 12607 Stage Road. Andy K. explained the site plan revisions to construct a 16x24’ groom’s cabin which will be surrounded by white pines and a 20’ x 30’ pavilion for caterers to use to get them out of the sun near the gathering barn. All planning board members were in favor of these projects. Julie B. will send a memo to the Town Board for their review before the planning board votes on these revisions at their next planning board meeting on January 13, 2025.

John P. motioned to accept the minutes from the November 18<sup>th</sup> meeting. Seconded by Andy K. Hearing All Ayes, No Nays, the minutes were approved unanimously with the exception of John O. who was not present at the November 18<sup>th</sup> meeting.

John P. motioned to adjourn the meeting at 8:25pm, seconded by Don H. Hearing All Ayes, No Nays, the meeting adjourned.

Respectfully Submitted,

Julie Brady, Recording Clerk