

**TOWN OF SOMERSET
PLANNING BOARD
SEPTEMBER 1, 2016**

Present: Jon Hotaling
Krista Atwater
Chris Czelusta
Gary Few
Norman Jansen
Mark Davis, Counsel
Drew Reilly, Engineer

Attendance: Approximately 10 people

Chairman Hotaling called the meeting to order at 7:30PM.

APPROVAL OF MINUTES

On a motion of N. Jansen, seconded by G. Few, the following resolution was

ADOPTED	Ayes	5	Hotaling, Atwater, Czelusta, Few, Jansen
	Nays	0	

Resolved the minutes of the August 4, 2016 meeting are approved as submitted.

SOLAR ENERGY LAW DISCUSSION

D. Reilly distributed a revised proposed local law based on comments at the last meeting and he highlighted the changes:

- Page 4 A: added wording that it includes fire department access
- Page 4 B (1): clarified the setback for ground mounted systems
- Page 4 B (8): no changes were made but N. Jansen is still concerned about the size of 5% on a 2-5 acre lot. D. Reilly discussed industrial vs residential and said the Planning Board can let the Town Board know of the concern. Pam Atwater was asked about her solar system at her home and she said in order to get funding from NYSEERDA you can't have a size that will produce more than 85% of your estimated usage.
- Page 5 (10): made reference again about meeting NYS fire standards and installation being done by a qualified installer
- Page 5 C (5): changed wording that a public hearing shall be held
- Page 5 E: clarified that all solar energy systems whether they tie into the grid or not, shall adhere to applicable laws and codes. It also states that the applicant shall provide the Building Inspector with all certifications of proper placement and installation, including electrical, as State Code or the Building Inspector deems necessary.
- Page 5 F: added the requirement for any related access road being accessible to emergency service vehicles and personnel.
- Page 6 M: added this section to encompass disposal of components

PLANNING BOARD MEETING
SEPTEMBER 1, 2016 PAGE 2

- Page 9 H: the applicant must supply specific information on impacts to birds (utility projects)
- Page 10 U: added the requirement for a qualified solar installer to the section for utility projects
- Page 10 A: allows for a six month extension by the Planning Board

Chairman Hotaling asked about registering with the Barker Fire Department.

D. Reilly stated that he will add it.

Discussion ensued regarding dangers to the firemen.

K. Atwater stated that she would like more time because this is a lot to ingest and thinks the Town should possibly impose a moratorium in the meantime. She feels the state perceives cities and towns differently and does not want to mess with home rule by automatically deferring to the State rules. She feels the groupings we have are too large and the small farmers and small residential owners should be separate.

D. Reilly stated that Ag & Markets will determine if our law is too restrictive on the farmers (for agricultural use) and places an extra burden on them and we have to keep that in mind. They still have to come to us, but we have to be aware of restrictions.

K. Atwater and C. Czelusta stated that they are not ready to pass this back to the Town Board.

K. Atwater asked where the definition for qualified installer is.

D. Reilly said there isn't one.

K. Atwater stated she has issues with that. She feels we are restricting the private home owner who wants to save money by burdening him with using an installer with super qualifications.

D. Reilly stated that you have to meet that requirement throughout the state, not just here.

N. Jansen referred back to Page 4 and clarified the fire department access includes the walkway up the middle of the roof. He asked if we should mention specifically that it is three feet.

D. Reilly said that it is in the Uniform Building Code so we do not want to get specific because if the Uniform Code changes, we would have to change our law.

C. Czelusta asked if there is a minimum height requirement for roof mounted panels.

D. Reilly said that we do not have a minimum in our code, but NYS may have one, he is not sure.

LOCAL LAW ENTITLED SOLAR ENERGY SYSTEMS

On a motion of N. Jansen, seconded by J. Hotaling, the following resolution was

DEFEATED	by Roll Call Vote	N. Jansen	Aye
		K. Atwater	No
		J. Hotaling	Aye
		G. Few	No
		C. Czelusta	No

Resolved, the draft resolution be passed to the Town Board.

D. Reilly said that he will talk to the Town Board about holding a public hearing or posting the draft on our website and ask the public for input.

Chairman Hotaling introduced Mark Davis from the Lippes Mathias law firm and stated that he will be representing the Planning Board until a decision on the met towers is made.

EXECUTIVE SESSION

On a motion of G. Few, seconded by K. Atwater, the following resolution was

ADOPTED	Aye	Hotaling, Atwater, Few, Jansen
	Abstain	Czelusta

Resolved to enter into executive session to consult with the attorney at 8:05PM.

D. Reilly is invited to attend. C. Czelusta will not be in attendance.

RETURN TO REGULAR SESSION

On a motion of G. Few, seconded by N. Jansen, the following resolution was

ADOPTED	Aye	Hotaling, Atwater, Few, Jansen
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Resolved to exit executive session and return to regular session at 8:50PM.

N. Jansen stated that he has looked through the large amount of paperwork with the applications and is not convinced that this is a Type II action. He feels it is a Type I action and would like advice from the attorney.

Attorney Davis said that he understands the developer believes this is a Type II action. He will review it and get back to the board.

K. Atwater stated that a met tower is not a crop and is not in conformance with our code and comprehensive plan.

D. Reilly will look into this.

There is a concern about birds. N. Jansen asked if wildlife falls under SEQR.

D. Reilly stated that it does, and our law does too.

Chairman Hotaling is concerned with safety: both emergency vehicles and residents' safety.

PLANNING BOARD MEETING
SEPTEMBER 1, 2016 PAGE 4

K. Atwater stated that her concern with lighting is that it will interfere with birds and neighbors in order to be lit enough for Mercy Flight.

Chairman Hotaling stated that we discussed motion detection lights at our last meeting as being a new option, but Dan Fitzgerald was not in favor of it.

K. Atwater said it is unfriendly to pedestrians and dangerous to people on ATVs and snowmobiles.

Chairman Hotaling stated that the tower proposed for the Lyndaker property is very visible on the Seaway Trail and unattractive to visitors.

Attorney Davis reviewed the process and stated a decision has to be made on findings. He said that he and Drew will produce draft written findings for the Planning Board to review.

N. Jansen said his biggest concern is SEQR and public opinion is not a major consideration.

Attorney Davis said public opinion alone cannot be a factor.

C. Czelusta asked if this board has to vote on this within 62 days from the previous meeting.

Attorney Davis read from the Town Code stating 62 days and said you can seek agreement with the developer to extend it, or there can be a dispute. Our code does not have a default decision.

D. Reilly said that if this is a Type I action subject to SEQR, the 62 day timeframe does not start until the SEQR decision is made.

N. Jansen said that there will be a lot of information presented to them at the next meeting and he is not comfortable that a decision has to be made then.

Attorney Davis said that they can provide the information to them before the next meeting, they do not have to wait until the meeting.

D. Reilly reminded the members that they cannot talk to each other outside of the meeting, but they can talk to the attorney and engineer.

There being no further business, K. Atwater moved to adjourn the meeting at 9:10PM, seconded by N. Jansen. Carried unanimously.

Respectfully submitted,

Tracy L. Carmer, RMC
Town Clerk/Planning Board Secretary