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## **ACPB Meeting Minutes FINAL – June 15, 2023**

**NOTE:** The June 15, 2023 meeting of the ACPB was held in person at the Albany County DPW office in Voorheesville. The meeting was also available remotely via Microsoft Teams for the public to participate.

**Board Members Present:** Brian Crawford, Gerry Engstrom, Beth Lacey, Travon Jackson.

**Board Members Absent:** Jeff LaFontaine

**Albany County Public Works Office:** Gopika Muddappa, Senior Planner; Lynn Delaney, Secretary; James Mearkle, Traffic Engineer; Zachary Smetana, Albany County Dept. of Management and Budget, Ex Officio; Anton Konev, Albany County Comptroller's office, Ex Officio.

**Guests:** Kevin Bliss (RIC Solar), Peter McAuliffe (RIC Solar), Nicholas Formanowicz (RIC Solar), Debra Nelson (Town of Knox Planning Board Chairperson), Betty Kecham (Town of Knox Planning Board Member), Al Gaige (Town of Knox Resident), Garry Bunzey (Town of Knox Resident).

**Minutes:** Lynn Delaney, Secretary

**Call to Order:** Gerry Engstrom called the meeting to order at 3:40pm.

**Vote for Meeting Minutes:** The Board was only able to vote on the April Meeting Minutes due to the absence of Jeff LaFontaine. The March 16 and May 18 Meeting Minutes will be put on the July 20<sup>th</sup> agenda. Beth Lacey made a motion to approve the April 20, 2023 Meeting Minutes. The motion was seconded by Travon Jackson and was also approved by Gerry Engstrom and Brian Crawford.

Travon Jackson made a motion to move all cases with a Staff Opinion of Defer to Local Consideration to the front of the agenda and to vote on them as a group. The motion was seconded by Beth Lacey and was also approved by Gerry Engstrom and Brian Crawford.



**ACPB June 15<sup>th</sup>, 2023 Meeting Minutes (cont.) FINAL**

**Case #:** **01-230604260**  
**Project Name:** **161 Washington Ave Ext. - Wall Sign**

**Applicant:** The Sign Studio Inc.  
**Project Location:** 161 Washington Ave Ext.  
**Municipality:** City of Albany  
**Parcel Size:** 26.76 acres  
**Zoning:** Mixed-Use Community Highway (MU-CH)  
**Tax Map Number:** 52.2-1-26.1  
**Referring Agency:** City of Albany Zoning Board of Appeals

**Considerations:** Area variance to allow for a 288 SF wall sign where the maximum permitted is 32 SF.

**Action Type:** **Area Variance**

**Juris. Determinant:** State Road  
**Potential Impacts:** I87 New York State Thruway

**Staff Notes:** The applicant requests an area variance to allow for a 288 SF wall signage whereas per the Cite Code 375-505(15) one sign with a maximum of 32 SF is allowed.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** **04-230604252**  
**Project Name:** **Cannon Development - Signage**

**Applicant:** Baxton Sign Corp.  
**Project Location:** 1381 River Road, Selkirk  
**Municipality:** Town of Bethlehem  
**Parcel Size:** 26.83 acres  
**Zoning:** Mixed Economic Development  
**Tax Map Number:** 134.00-3-2  
**Referring Agency:** Town of Bethlehem Zoning Board of Appeals

**Considerations:** Area variance for installation of wall sign to the rear of the commercial building.

**Action Type:** **Area Variance**

**Juris. Determinant:** State Road  
**Potential Impacts:** 144 River Road, I87 New York State Thruway

**Staff Notes:** Under Article VI, Supplementary Regulations, 128-59 Signs, I (1), on all non-residential premises, wall signs are permitted with a maximum total area of one square foot per linear foot of building façade. The proposed wall sign is on the rear of the building which does not count as a building facade as per the code. Therefore, an area variance is required.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** **04-230604257**  
**Project Name:** **Lands of Wemple Road Developers, Inc.**

**Applicant:** Wemple Road Developers, Inc.  
**Project Location:** Route 9W, Glenmont  
**Municipality:** Town of Bethlehem  
**Parcel Size:** 7.15 acres  
**Zoning:** Rural Hamlet  
**Tax Map Number:** 109.00-1-39.2  
**Referring Agency:** Town of Bethlehem Planning Board

**Considerations:** Two lot subdivision of vacant property to make suitable for land use and marketing purposes. Lot 1 to be 3.733 acres and Lot 2 to be 3.412 acres.

**Action Type:** **Subdivision Review**

**Juris. Determinant:** State Road  
**Potential Impacts:** Route 9W, NWI Wetlands

**Staff Notes:** The applicant proposes to subdivide 7.145 acre U-shaped parcel into two lots. The northern parcel to be Lot 2 with 3.412 acres and the southern parcel to be Lot 1 with 3.733 acres. The parcel is currently vacant. As per

the letter from Office of Parks, Recreation and Historic Preservation (OPRHP), it is the opinion of OPRHP that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. No land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). The property consists of existing water and waste water utility connections.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Advisory Note:** 1. Review and permit by New York State Department of Transportation should be required if the proposed Lot 2 is accessed via Route 9W.

**Case #:** 05-230604253  
**Project Name:** **Holly A. Luck Subdivision**  
**Applicant:** Holly A. Luck  
**Project Location:** 543 Blodgett Hill Road  
**Municipality:** Town of Coeymans  
**Parcel Size:** 8.30 acres  
**Zoning:** Residential Agricultural (R/A)  
**Tax Map Number:** 142.-1-16  
**Referring Agency:** Town of Coeymans Planning Board

**Considerations:** Subdivision review to merge the proposed Lot 1 with 0.23 acres with Mertz deed and Lot 2 with remaining 8.07 acres to remain with Holly Luck.

**Action Type:** **Subdivision Review**

**Juris. Determinant:** County Road  
**Potential Impacts:** CR 103 Blodgett Hill Road

**Staff Notes:** Minor subdivision to divide 0.23 acres from the existing property and merge with current Mertz deed for new garage to be constructed. No new lots are being created. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). Lot

1 with 0.23 acres to be merged with existing land of Richard C. Mertz and Kathyamm Mertz. Lot 2 will consist of the remaining 8.07 acres.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** 05-230604255  
**Project Name:** Joseph Ortiz - Cold Storage

**Applicant:** Joseph Ortiz  
**Project Location:** 1907 Rte 9W  
**Municipality:** Town of Coeymans  
**Parcel Size:** 0.34 acres  
**Zoning:** Planned Residential (R-4)  
**Tax Map Number:** 144.-1-28  
**Referring Agency:** Town of Coeymans Zoning Board of Appeals

**Considerations:** Area variance for the proposed detached 30x40 cold storage building.

**Action Type:** Area Variance

**Juris. Determinant:** State Road  
**Potential Impacts:** US Route 9W

**Staff Notes:** The applicant proposes 30x 40 feet cold storage with 7.2 feet side yard whereas as per the Town Code, accessory building set back in the R-4 zone requires the following: 10 feet side yard, 10 feet rear yard, 10 feet separation from principal building and no front yard setback for accessory building.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** 05-230604258  
**Project Name:** **Local Law Amendment - Town of Coeymans**

**Applicant:** Town of Coeymans  
**Project Location:** Town of Coeymans  
**Municipality:** Town of Coeymans  
**Parcel Size:** N/A  
**Zoning:** N/A  
**Tax Map Number:** N/A  
**Referring Agency:** Town of Coeymans Legislative Board

**Considerations:** Town of Coeymans proposes to amend the Town Code Chapter 165 Zoning, Section 165-6, 165-10(D) and 165-R(1).

**Action Type:** **Local Law Amendment**

**Juris. Determinant:** N/A  
**Potential Impacts:** N/A

**Staff Notes:** A local law amending Town of Code Chapter 165 by: (i) amending Section 165-6 entitled "Interpretation of District Boundaries" including a new provision that provides "if a lot or parcel is divided by a zoning district boundary, each portion of the lot or parcel so divided shall be subject to the zone regulations for the district in which it is located, (ii) deleting supplementary zoning regulation Section 165-10(D) which states that "Where a district boundary divides a lot in ownership or record at the time of enactment of this Chapter said lot shall be regulated under requirements for the less restrictive district, provided that the lot has street frontage in the less restrictive district", and (iii) amending Section 165-10(R-1) to provide that "No excavation or grading shall be permitted except for the installation of driveways or minor operations designed to change existing land contours by not more than two feet except by special use permit."

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** 07-230604259  
**Project Name:** **Plug Power - Concrete Pads**

**Applicant:** Steve Wunsch, Plug Power/NAI  
**Project Location:** 968 Albany Shaker Road  
**Municipality:** Town of Colonie  
**Parcel Size:** 34.27 acres  
**Zoning:** Commercial Office (CO)  
**Tax Map Number:** 18.-1-24  
**Referring Agency:** Town of Colonie Planning Board

**Considerations:** Site plan review for the construction of three concrete pads with a total of 2,951 SF to support nitrogen tank equipment and hydrogen tanks. No change to existing ingress/egress.

**Action Type:** **Site Plan Review**

**Juris. Determinant:** County Road  
**Potential Impacts:** CR 151 Albany Shaker Road, Agricultural District

**Staff Notes:** The applicant proposes to install three new concrete pads to upgrade new hydrogen storage to replace the old one with new nitrogen tank pad and new hydrogen pump pad. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). No changes to existing ingress or egress is proposed. This application (07-220303926) was previously reviewed by the Albany County Planning Board (ACPB) in March 2022 and the ACPB determination was, 'Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.'

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.



**Case #:** 10-230604251  
**Project Name:** **2123 Western Avenue - Signage**

**Applicant:** GNS Group, Ltd.  
**Project Location:** 2123 Western Avenue  
**Municipality:** Town of Guilderland  
**Parcel Size:** 3.20 acres  
**Zoning:** General Business  
**Tax Map Number:** 51.02-1-20  
**Referring Agency:** Town of Guilderland Zoning Board of Appeals

**Considerations:** Area variance for the installation of a 64.5 SF wall sign.

**Action Type:** **Area Variance**

**Juris. Determinant:** State Road  
**Potential Impacts:** 20 Western Ave

**Staff Notes:** The applicant proposes to install a 64.5 SF single wall sign over the storefront to rebrand the existing car wash as a new car wash. The current signage on the property consists of a freestanding sign and a front wall sign. The new pylon sign has been approved and given a permit but required area variance for installation since two signages already exist. The new signage will be internally illuminated with aluminum framing.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** 13-230604256  
**Project Name:** **Lands of Gibson**

**Applicant:** Cindi Elliot  
**Project Location:** 909 Krumkill Road  
**Municipality:** Town of New Scotland  
**Parcel Size:** 42.83 acres  
**Zoning:** Residential Conservation (R2)  
**Tax Map Number:** 62.-5-5  
**Referring Agency:** Town of New Scotland Planning Board

**Considerations:** Two lot subdivision to divide 3.43 acres of vacant land from the existing 42.83 acres to allow for construction of a new residence.

**Action Type:** **Subdivision Review**

**Juris. Determinant:** Agricultural District, Municipal Boundary  
**Potential Impacts:** Intermunicipal Boundaries of Town of New Scotland and Town of Guilderland, Agricultural District, FEMA Floodzone, NWI Wetlands

**Staff Notes:** The applicant proposes to use the land acquired from the neighbor to the east (Moak) to subdivide a 2.4+/- acre parcel from 43 acres for the purpose of new home construction. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). New private well and private septic system is proposed for future construction. This application (13-230504230) was reviewed by the Albany County Planning Board in May 2023 for lot line adjustment along two adjoining parcels to transfer acreage to both the parcels. The ACPB determination was, 'Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.'

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Advisory Note:** 1. Review by the Albany County Department of Health for water supply, waste water discharge and other permits should be required for the private well and private septic system that is proposed for future construction.

**Case #:** **12-230604250**  
**Project Name:** **90 Broadway NYS Licensed Cannabis Dispensary**  
**Applicant:** NL DISPO LLC  
**Project Location:** 90 Broadway  
**Municipality:** Village of Menands  
**Parcel Size:** 7.30 acres  
**Zoning:** Broadway Business District  
**Tax Map Number:** 55.13-2-10  
**Referring Agency:** Village of Menands Planning Board

**Considerations:** Special use permit to operate a NYS Licensed Cannabis Dispensary in Retail Space #8 at Mid-City Plaza.

**Action Type:** **Special Use Permit**

**Juris. Determinant:** State Road  
**Potential Impacts:** 32 Broadway

**Staff Notes:** The applicant proposes to open a New York State licensed cannabis retail dispensary in a New York State approved location. Upon preliminary review, the New York State Office of Cannabis Management (Office) deemed that the proposed location at 90 Broadway, in Retail Space #8 at Mid-City Plaza to be compliant with Cannabis Law regarding distances from school grounds and houses of worship, municipal opt-out of retail adult-use cannabis sales, and proximity to other adult-use cannabis licensees. The location consists of existing water and waste water utility connections. As per the odor management plan, licensee shall use acceptable odor mitigation technology in all consumption facilities, and areas where the smell of cannabis are released. Acceptable odor mitigation technology includes, activated carbon filtration, vapor-phase systems, or other mitigation technology approved by the Office. Onsite consumption zone is proposed for future development. No land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF).

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** **12-230604264**  
**Project Name:** **Local Law 5 of 2023 Amending Menands Chapter 169, "Zoning" by adding Schedule 4, Frontage Types**

**Applicant:** Menands Village Board  
**Project Location:** Village of Menands  
**Municipality:** Village of Menands  
**Parcel Size:** N/A  
**Zoning:** N/A  
**Tax Map Number:** N/A  
**Referring Agency:** Village of Menands Legislative Board

**Considerations:** Local law amendment for the addition of Schedule 4, Frontage Types to Chapter 169 "zoning" and application to T4 (Infill Neighborhood), T5 (Infill Mixed-Use) and BBD (Broadway Business) Zoning Districts. Schedule 4 was inadvertently left out of Local Law 1 of 2023 which repealed and replaced Chapter 169, "Zoning."

**Action Type:** **Local Law Amendment**

**Juris. Determinant:** N/A

**Potential Impacts:** N/A

**Staff Notes:** Local law amendment to include Schedule 4 Frontage Types to Chapter 169. The Village of Menands recently repealed and replaced Chapter 169, "Zoning" through Local Law No. 1-2023. Appropriate references to Schedule 4 are made in Chapter 169, although Schedule 4 was not included in the final version of Local Law No. 1-2023.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** **12-230604265**

**Project Name:** **Local Law 6 of 2023 Amending the Menands Village Code and referred to as "Village of Menands Code Recodification 1"**

**Applicant:** Menands Village Board

**Project Location:** Village of Menands

**Municipality:** Village of Menands

**Parcel Size:** N/A

**Zoning:** N/A

**Tax Map Number:** N/A

**Referring Agency:** Village of Menands Legislative Board

**Considerations:** Local law amendment to exclude chapters that are no longer applicable.

**Action Type:** **Local Law Amendment**

**Juris. Determinant:** N/A

**Potential Impacts:** N/A

**Staff Notes:** The Village of Menands recently repealed and replaced Chapter 169, "Zoning" through Local Law No. 1-2023, which included the incorporation of Chapter 30, "Planned Development Districts"; Chapter 100, "Gasoline stations"; Chapter 140 "site plan review"; and Chapter A172, "Site Plan Review Regulations." As a result, these chapters are no longer applicable.

**Staff Opinion:** Defer to local consideration  
1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

**Case #:** 16-230604261  
**Project Name:** **Romo's Pizza Restaurant Expansion**  
**Applicant:** Anthony Berghela  
**Project Location:** 112 Maple Avenue  
**Municipality:** Village of Voorheesville  
**Parcel Size:** 1.53 acres  
**Zoning:** Creekside Commercial (CC)  
**Tax Map Number:** 72.11-3-4  
**Referring Agency:** Village of Voorheesville Planning Board

**Considerations:** Amendment to existing special use permit to allow for the expansion of dining on the second floor.

**Action Type:** **Special Use Permit**

**Juris. Determinant:** State Road  
**Potential Impacts:** 85A Maple Avenue. FEMA Floodzone

**Staff Notes:** The applicant proposes to expand the dining to the second floor which was originally planned to be a party/banquet hall. The deck and the indoor dining area on the first floor will be used during the summer months and during the winter months the applicant proposes to use upstairs for some additional seating. With the addition of the extra parking, and any possible upstairs seating during the winter months it would be replacing any outdoor seating and the parking spots that it accommodates currently. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). This application (16-230204178) was previously reviewed by the Albany County Planning Board (ACPB) in March 2022 for amendment to the

existing special use permit to allow for expansion of the kitchen and to construct an elevated deck. and the ACPB determination was, 'Modify local approval to include

1. Review by the Albany County Department of Health for food service and other required permits.'

**Staff Opinion:**

Defer to local consideration

1. This board has found that the proposed action will have no impact upon the jurisdictional determinant referring to this case, nor will it have significant countywide or intermunicipal impact.

Beth Lacey made a motion to accept the Staff Opinion for Case #'s 01-230604260, 04-230604252, 04-230604257, 05-230604253, 05-230604255, 05-230604258, 07-230604259, 10-230604251, 13-230604256, 12-230604250, 12-230604264, 12-230604265, & 16-230604261. The motion was seconded by Brian Crawford and was also approved by Gerry Engstrom and Travon Jackson.

**Case #:** 07-230604262  
**Project Name:** Sand Creek Conservation Subdivision  
**Applicant:** Cillis Builders, Inc.  
**Project Location:** 189 Sand Creek Road  
**Municipality:** Town of Colonie  
**Parcel Size:** 8.00 acres  
**Zoning:** Single Family Residential  
**Tax Map Number:** 53.8-4-1  
**Referring Agency:** Town of Colonie Planning Board

**Considerations:** Proposed subdivision of 8.0 acres into 13 residential single-family lots and one conservation lot as a conservation subdivision.

**Action Type:** Subdivision Review

**Juris. Determinant:** County Road  
**Potential Impacts:** CR 154 Sand Creek Road

**Staff Notes:** The parcel is proposed to be developed as conservation residential subdivision for single family homes. A new street (Baxter Drive) with an approximate length of 1,093 feet along with infrastructure consisting of municipal sanitary sewer and water services will also be constructed.

Stormwater practices in accordance with NYSDEC Stormwater Design Manual and the Town of Colonie for New Development will also be developed. A total of 4.59 acres of land is anticipated to be disturbed during the project development. Stormwater generated from the proposed development will be collected and conveyed to an infiltration basin. The applicant is proposing the development of the 8 acres parcel with a total of 13 residential single family lots which result in a density of 1.6 units per acre. Lot 14 consisting 3.9 acres will contain the conservation lands and will be conveyed to the Town. The proposed lots will have a minimum lot width of 60 feet and the minimum lot area will be approximately 8,653 SF. This varies from the conventional typical layout which requires 80 feet of minimum lot width and a minimum lot area of 18,000 SF. The proposed conservation subdivision lots are smaller than the conventional lot requirements in the interest of conservation of large area of the overall parcel. The existing adjacent lots in the neighborhood are of similar size.

**Staff Opinion:**

Modify local approval to include

1. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-20-001, January 29, 2020) for construction activities that disturb more than one acre of land.
2. Review by the Albany County Department of Health for water supply, waste water discharge and other required permits.

Travon Jackson made a motion to accept the Staff Opinion for Case #07-230604262. The motion was seconded by Beth Lacey and was also approved by Brian Crawford and Gerry Engstrom.

**Case #:** 13-230604263  
**Project Name:** **Yellowrock Retreat LLC - Special Use Permit**  
**Applicant:** Ryan Goodwin  
**Project Location:** 616 Altamont Road  
**Municipality:** Town of New Scotland  
**Parcel Size:** 5.80 acres  
**Zoning:** Residential Agricultural  
**Tax Map Number:** 71.-1-9.23

**Referring Agency:** Town of New Scotland Planning Board

**Considerations:** Special use permit for motel use to allow three tiny homes to be constructed for transient use on a vacant lot.

**Action Type:** **Special Use Permit**

**Juris. Determinant:** State Road, Municipal Boundary

**Potential Impacts:** 156 Altamont Road, Intermunicipal Boundaries of Town of New Scotland and Town of Guilderland, Agricultural District

**Staff Notes:** This is an application for special use permit to construct three tiny houses roughly 400 SF each. The houses will have shared sewage disposal system. The parcel is 5.8 acres and the total building square feet will be 1200 SF (less than one acre). The parcel is currently undeveloped and mostly woodland. The three proposed tiny houses will be used as guest residential and/or short-term Airbnb rentals. Less than one acre of land disturbance is anticipated as per the Short Environmental Assessment Form (SEAF). As per the preliminary review by the Albany County Department of Health, the single raised absorption area to treat the wastewater discharges for three tiny homes is acceptable based upon the lot size, reported soil conditions and existing separation distances from any wells or water bodies.

**Staff Opinion:** Modify local approval to include

1. Review by the Albany County Department of Health for water supply, waste water discharge and other required permits.
2. Notification of the application should be sent to the Town of Guilderland, including all required notices pursuant to GML §239-nn.

Beth Lacey made a motion to accept the Staff Recommendation for Case #13-230604263. The motion was seconded by Travon Jackson and was also approved by Brian Crawford and Gerry Engstrom.

**Case #:** **18-230604254**

**Project Name:** **Hydrangea Farms/Carkner - Special Use Permit**

**Applicant:** Hydrangea Farms/ Carkner

**Project Location:** 420 County Route 404

**Municipality:** Town of Westerlo

**Parcel Size:** 4.36 acres



**Zoning:** Rural Development/Agricultural  
**Tax Map Number:** 151.-2-23  
**Referring Agency:** Town of Westerlo Planning Board

**Considerations:** Special use permit to hold events on the property to be known as Hydrangea Farms.

**Action Type:** **Special Use Permit**

**Juris. Determinant:** County Road  
**Potential Impacts:** County Route 404

**Staff Notes:** The applicant proposes to modify previously approved special use permit SUP #21-3 as per the zoning law Article 10 Section 10.2. This request is to expand the number and type of events now allowed by SUP 21-3. The applicant proposes to operate the Farm during the week for Field Dinners in addition to the existing special use permit. A licensed chef is to be brought to the venue. No music event is proposed. The event is to be held between 5:30pm and 9pm with a maximum of 200 guests. Attendees will be provided with restrooms. The applicant believes that these dinner events will benefit local farmers and support local businesses. A total of 20 events will be allowed throughout a full calendar year. As advice by James Mearkle, PE, Albany County DPW, the first 50' of the parking lot access should be at least 22' wide to allow for two-way traffic. The widening of the drive could require that the existing culvert be replaced or extended. Additionally, at a minimum the drive should be a hard surface within the County Right-Of-Way as required by the County. It has been determined that adequate sight distance exists at the proposed parking area entrance.

**Staff Opinion:** Modify local approval to include  
1. Review by the Albany County Department of Health for food service and other necessary permits should be required.  
2. A highway work permit from the Albany County Department of Public Works for driveway construction, drainage and public utility connections within the county right of way is required.

Beth Lacey made a motion to accept the Staff Recommendation for Case #18-230604254. The motion was seconded by Travon Jackson and was also approved by Brian Crawford and Gerry Engstrom.

**Case #:** 11-230604266  
**Project Name:** Knox Solar

**Applicant:** Knox PV, LLC  
**Project Location:** 1688 Thompsons Lake Road (Route 157)  
**Municipality:** Town of Knox  
**Parcel Size:** 31.77 acres  
**Zoning:** R-Residential  
**Tax Map Number:** 59.-2-20  
**Referring Agency:** Town of Knox Planning Board

**Considerations:** Site plan review for the installation of 4.4 MW solar photovoltaic (PV) facility in a ground-mounted single axis tracking system that will consist of approximately 8,008 solar PV modules and 20 Sungrow SG250HX inverters. A new access road to the facility will be provided from Thompson Lake Road along with landscape screening around the perimeter of the project.

**Action Type:** Site Plan Review

**Juris. Determinant:** State Road  
**Potential Impacts:** 157 Thompson Lake Road, Agricultural District

**Staff Notes:** Knox PV, LLC is proposing the development of a new solar photovoltaic (PV) facility. The project's proposed location is 1688 Thompsons Lake Road, Knox, NY 12059 (tax parcel ID: 59.-2-20). The project, as conceptually designed will have a nameplate capacity of 4,400 kW. The proposed project is a standalone ground-mounted system, mounted on a single-axis tracking steel structure. The system will consist of approximately 8,008 solar PV modules and 20 Sungrow SG250HX inverters which will be connected to two separate transformers. The total planned DC capacity of the plant is 5,285 kW. It is planned that the project will include an access road, off Thompsons Lake Road, which travels east to provide access to the proposed utility poles and the other electrical equipment on site. As per the Full Environmental Assessment Form, a total of 22.15 acres of land is anticipated to be disturbed. The project has been amended to include the following since that last time the Town Planning Board reviewed this project in 2020-2021;• The Project has been further setback from northern property line,• A dry stormwater detention pond has been added,• The length of internal roadway has been reduced, • Additional landscaping has been added to screen project visibility from neighboring properties and • A temporary sound wall will be installed during tree clearing and construction. The project includes a driveway off Thompsons Lake Road and an access road

along the southern perimeter of the solar array. The access roads will be constructed per NYSERDA Guidance on Limited Use Pervious Access Road Section, so they are not considered impervious surfaces. Most of the utilities on-site will be installed underground with a section of the Generator-tie line being overhead line (per National Grid's standard interconnection design requirements). A decommissioning plan and site restoration plan has been included in the application packet. This application (11-210203636) was reviewed by the Albany County Planning Board in February 2021 for site plan review for construction of a 4.4 megawatt ground mounted solar photovoltaic on 37.9 acres. The ACPB determination was, 'Disapprove

1. The Albany County Planning Board finds that this proposed action may result in county-wide or intercommunity impacts if the proposed solar arrays are installed. The basis for the recommendation is related to the NYS GML §239-I considerations.

2. The proposed site of the utility scale solar facility is within 500 feet of (a) State Park (Thatcher Park), (b) Right-of-way of an existing state highway (State Route 157) and (c) The lands located within a New York State Department of Agriculture and Markets (NYS DAM) certified Agricultural District (AD), Albany County Agricultural District #1.

3. An Agricultural Data Statement is required pursuant to §305-a of the New York State Agriculture and Markets Law (NYSAML) since the proposed project is located within 500 feet of tax parcels within a certified agricultural district, some of which may contain actively farmed land.

4. Via project visual impact document submission, the visual impact analysis included has a noted visual impact to adjoining properties with the potential for solar glare. The visual impact assessment also indicates the project will be visible from the John Boyd Thatcher State Park property. Resolution No. 384 For 2020 of Albany County now requires additional consideration to the Helderberg Escarpment and by virtue, John Boyd Thatcher Park and its surrounds. This project will have a direct negative visual impact on the character to the park and surrounding area.

5. The area of the Town proposed for the utility scale solar is of rural residential and agricultural use and has a low population density. The relation between the residential use is incompatible due to potential noise, glare, fencing and increased use of aerial utilities to support a grid scale generating facility.

6. There are noted objections to the project from the community received by the board, all in opposition to this project and the proposed change in land use. It is noted that a similar utility scale solar facility is already permitted and operating within one and a half miles of the

proposed project on Old Stage Road, immediately adjacent to the project site. Such uses are not compatible in this density or land use.

7. Potentially increased runoff is possible from the removal of over twenty acres of mature forest and ground cover causing problems with drainage and this will potentially exacerbate a known issue and cause hardship on the adjoining properties.

8. As overall limits of disturbance are well over 5 acres, written justification must be made to the NYSDEC as to why a phasing plan is not feasible.'

**Staff Opinion:**

Modify local approval to include

1. The proposed location is zoned Residential. The proposed project is a large scale solar farm consisting approximately 4.4 MW solar photovoltaic (PV) facility. The Town should ensure that the proposed density of the project is compatible with adjacent properties pursuant to GML 239-I (a) and (c).

2. The proposed project should be evaluated to ensure that the community character is not impacted since this is a non-residential project proposed in the residential zoning district pursuant to GML 239-I (d).

3. Review and permits by New York State Department of Transportation for the proposed development plans involving new or modified access to a state highway should be required since the property is proposed to be accessed via Route 157 Thompsons Lake Road.

**Advisory Note:**

1. The Albany County Planning Board appreciates the amendments proposed to the project in the effort to reduce impact to the neighborhood. However, to determine that the Board's previous recommendations from February 2021 was "erroneous", as stated in the document titled Knox Solar Attachment 4 RIC Albany County Planning Board Comment Response Letter, would be incorrect since some of the concerns expressed by the Board reflects in the revised plan; for example stormwater runoff and addition of vegetative buffer.

2. It was also stated regarding the potential run-off that "ACPB's conclusion does not appear to be the opinion of a qualified professional". This is inaccurate as the recommendation on possible runoff was made by the Stormwater Technician who reviewed the project with the materials that were provided in 2021. Moreover, a Stormwater Pollution Prevention Plan (SWPPP) was not included in the 2021 packet.

Several guests interested in this case were in attendance at the Voorheesville meeting location and others were on the Microsoft Teams Call. Not all attendees on the call identified themselves, but all those who spoke to the Board did. In addition, the Albany County Planning Board did receive written Public Comments regarding this case (See Attachment A.).

Brian Crawford stated that this is a very different version than was originally presented in February 2021 with many improvements, but he is still concerned about the Town of Knox being able to enforce the maintenance of the Stormwater issues and the overall maintenance of this area.

Travon Jackson said that he has proximity concerns related to the number of solar projects in a small area and the view shed.

Gerry Engstrom agreed that he also has concerns about the impact to the adjoining land owners, the sedimentation erosion plan and the potential for roadway flooding. In addition, the proposed Northern White Pine for screening typically does not do well in the Heldeberg Mountains and a more robust species of evergreen should be used. He also mentioned that he is worried about the clear cutting of 25 acres of mature woodland.

Gerry stated that the project is within 500 ft. of Thatcher State Park which is reflected in the updated plan therefore that was not an erroneous statement as claimed in writing by RIC Energy after the ACPB denial letter was received. Gerry also feels that the proposed silt fence is not adequate, but the addition of the retention pond is new and will be a help.

Gerry asked about roadway glare. Kevin Bliss and Peter McAuliffe stated that the glare study, which was completed by a certified glare specialist, did encompass roadway glare.

Gerry Engstrom then invited the members of the public in attendance to identify themselves and speak about the project.

Garry Bunzey is an adjoining land owner whose home is due west and up on a hill overlooking this proposed facility. He stated that he is worried about the tracking solar panels tilting toward his property daily, particularly in the winter. From his property he will be looking down on it regardless of the screening provided. He has a problem with this project from a property value perspective, from a visual perspective and from a density perspective. He also stated that the community does not need this amount of solar energy as there isn't the demand in the hill towns, so the benefits are going to be "off the hill". The area that is being proposed for the project is the most densely populated area in the Town of Knox and there are residents on all sides of this proposed project. He does not believe that putting this project at this location is an appropriate use for this property and a solar facility is out of character for this area.

Deborah Nelson – Town of Knox Planning Board Chairperson, stated that she wants to clarify that this area is not zoned for Solar as was mentioned by Kevin Bliss, but rather is zoned residential with Solar being an allowed use if certain criteria are met. She also

noted that this project will not be a part of the moratorium that is proposed in the Town of Knox because it is a project that has been reviewed prior to a moratorium being put in place.

Betty Ketchum – Town of Knox Planning Board member, stated that she is just attending this meeting to listen to the comments and get feedback.

Al Gaige is an adjoining land owner. The proposed solar facility borders the back of his property and will be approx. 300ft from his back door. He said that the proposed screening will be 7ft tall but the panels are 9-12ft tall. He stated that he didn't buy a house in the country to look at a solar farm. He has issues with the amount of acreage that will be cut and does not feel that is a "green initiative". In addition he has a daughter with disabilities who will be affected by the build and he felt that the accommodation offers that were made to his family to assist them on days that could be a problem, were made in jest and were not appropriate or realistic. Kevin Bliss stated that was not the case and that the homeowner is not conveying the whole story of what he said they want to offer to help the family. In addition Al is concerned about his property value going down by approx. \$25,000 and said he is basing this number on a conversation he had with a real estate professional. He is worried about the numerous solar facilities proposed within a 2 mile radius. He also stated that his neighbor across the street is very concerned about the runoff.

Kevin Bliss (RIC Energy) said that they have made numerous changes from the initial proposal after listening to the resident comments a year ago. Kevin mentioned that even if we were to combine all the proposed Knox solar projects together, it would still be, by state office standards, considered small solar. It will not tax the school systems or fire departments, but the community will benefit from tax money from the project. In his opinion, there isn't really a reason to say there are too many, because once it is built, you won't even know it's there. He went on to say that the glare studies that were completed should be trusted and as far as the Stormwater runoff concerns, DEC reviewed the project prior to the pond being put in and the adding the pond is going above and beyond what they are required to do.

Kevin went on to apologize on behalf of RIC Energy for the comments that were mentioned in Advisory Note #1 & 2 listed above. He doesn't know where those comments came from or who made the comments, but stressed that they are not the feelings of those involved in the project.

A guest named Nancy Vlahos on the Teams call asked Nick Formanowicz (engineering consultant to RIC Solar who was also on the Teams call) to explain the proposed Stormwater control. Nick spoke about the retention pond purpose and said its intent is to detain and slow down the runoff to prevent flooding on Thompson Lake Road. They heard from neighbors that there is a history of flooding in that area. The goal is to decrease the run off from their site so they are not contributing to an existing problem. As far as the erosion sediment plan, everything is spec'd out to meet DEC requirements, but they can look at adding to the existing plan if needed.

Kevin Bliss said there is a regular maintenance schedule for all their facilities which will be general inspections and improvements as needed. The site is remotely monitored 24/7 so if there is an issue they will be able to detect it. He also stressed that one of the other projects that was approved previously you cannot see the panels.

Travon Jackson indicated that regardless of what the other Board Members are thinking, this will be a “no” for him. The density issue and view shed issue are most concerning to him. He does not have a problem with solar panels or with this project as expressed, but he is listening to the people in the area and the impact that this project will have on them which cannot be mitigated once the project is built. Travon stressed that he is only one Board Member and he is speaking only for himself with this comment. In his opinion, the concerns of the residents do meet the criteria of intermunicipal impact.

Peter McAuliffe responded to Travon with the following:

*“Respectfully, we would offer up just for the record, the acknowledgment from the county, which it sounds like Mr. Jackson the point that you are making, is along those lines, that this is an interested or a heavily interested project from the local community’s perspective and a vote for a disapproval or a no or however you put it at the onset, I think, would go against the intent of these meetings.”*

He went on to request that the Board consider the Modified Approval that Gopika presented. He added that this would align with the improvements that they have already made and the continued improvements they will continue to make until this project is constructed.

Gerry Engstrom said that the Town of Knox Planning Board should consider that things have changed this time. He said they are now

*“looking at shouldering 4 of these facilities within your confines without much of an end in sight”.*

Gerry complimented RIC Energy for the exceptional submission package submitted last time as well as this time. In his opinion, this is one of the most complete packages this Board has ever received. He said the Town of Knox should take a strong look at this application since it came back after a remediating site was chosen because there was a willing landowner. He feels that this one will have a much larger impact to the environment. The impact to the environment and the community character are his two biggest concerns.

Gopika asked the Town of Knox Planning Board members in attendance why the solar moratorium has not been submitted to the ACPB as it is required to be. Ultimately it was determined that the moratorium has not been passed yet. The vote was to move forward

with drafting a resolution, therefore, the process is not far enough at the town level for it to be submitted to the ACPB. It will be submitted in the future.

Gerry Engstrom said he would entertain a motion if there were no more comments or questions. Lynn Delaney, ACPB Secretary, said that before we vote, we should state what specific modifications were added/changed from the original Staff Opinion that Gopika drafted so it is clear to everyone what the vote is.

After reviewing the proposed changes, Beth Lacey said that in addition to the previously mentioned additions, there should be an additional advisory to address the maintenance and replacement of the screening/vegetation within a reasonable time period. The Board agreed to add this as an advisory note prior to the vote.

The final vote was for the following Modifications and Advisory notes:

### **Modify local approval to include**

1. The proposed location is zoned Residential. The proposed project is a large scale solar farm consisting approximately 4.4 MW solar photovoltaic (PV) facility. The Town should ensure that the proposed density of the project is compatible with adjacent properties pursuant to GML 239-I (a) and (c).
2. The proposed project should be evaluated to ensure that the community character is not impacted since this is a non-residential project proposed in the residential zoning district pursuant to GML 239-I (d).
3. Review and permits by New York State Department of Transportation for the proposed development plans involving new or modified access to a state highway should be required since the property is proposed to be accessed via Route 157, Thompsons Lake Road.
4. The Town should request the developer provide an additional evaluation of the erosion and sedimentation control plan to control the runoff once the proposed lot is clear cut.
5. The planting schedule includes a majority of Northern White Pine. The Albany County Planning Board recommends that the Knox Town Board should request the developer to consider robust species of evergreen vegetation to screen the project from adjacent land owners.

### **Advisory Note**

1. The Albany County Planning Board appreciates the amendments proposed to the project in the effort to reduce impact to the neighborhood. However, to determine that the Board's previous recommendations from February 2021 were "erroneous", as stated in the document titled Knox Solar Attachment 4 RIC Albany County Planning Board Comment Response Letter, would be incorrect



since some of the concerns expressed by the Board reflect in the revised plan; for example stormwater runoff, addition of vegetative buffer, and proximity to John Boyd Thatcher Park.

2. It was also stated regarding the potential run-off that "ACPB's conclusion does not appear to be the opinion of a qualified professional". This is inaccurate as the recommendation on possible runoff was made by the Stormwater Technician who reviewed the project with the materials that were provided in 2021. Moreover, a Stormwater Pollution Prevention Plan (SWPPP) was not included in the 2021 packet.
3. The Albany County Planning Board advises the Town to include a maintenance schedule or an agreement that the screening vegetation is maintained and if failure occurs it should be replaced within a reasonable period of time.

Brian Crawford made a motion to accept the Staff Opinion for Case #11-230604266 with the additional modifications and advisory note wording as discussed. The motion was seconded by Beth Lacey. Travon Jackson voted against the project. Gerry Engstrom also voted against the project. Jeff LaFontaine was not in attendance, therefore the vote was a split vote with two Board members approving with modifications and 2 Board members voting to deny the project.

The project now goes back to the Town of Knox with a letter from the Albany County Planning Board indicating that the Board did not have the votes needed to make a decision, therefore no action was taken.

**Unfinished Business:** Non Referral items have been sent to the County Legislature and it is on the Committee Agenda at the end of the month. Gopika will be attending that meeting to speak about the reasoning for the additions and to answer any questions. If there aren't any significant concerns or changes needed, it would be presented at the July General Legislature meeting for a vote.

**New Business:** The next meeting of the Albany County Planning Board will be on Thursday, July 20, 2023. The deadline for municipalities to submit a referral for consideration at that meeting is 3:30pm on Monday, July 10, 2023. Lynn asked the Board members to please look ahead to the next few meeting dates to see if they have any potential conflicts.

**Adjourn:** Travon Jackson made a motion to adjourn at 5:10pm



**ATTACHMENT A**

## Muddappa, Gopika

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**From:** Linda Novello <[lnovello@ricenergy.com](mailto:lnovello@ricenergy.com)>  
**Sent:** Monday, May 22, 2023 2:55 PM  
**To:** PZAR  
**Subject:** 6/15/2023 - Public Comment - Town of Knox - Large Solar Facility 1688 Thompsons Lake Road East Berne  
**Attachments:** Solar Facility Public Hearing 5-18-23 .docx

Hi,

I first want to start off by saying we opposed this 2 years ago and now RIC Energy is back at it again. It was case# 11-210203636 that was before you on 2/18/21 at the same location 1688 Thompsons Lake Road East Berne (Route 157) for a Large Scale Solar Facility.

This will be the third solar facility in a 2 mile radius!!!!!! You approved one at your March 17, 2022 meeting case# 11-220303924, Knox II Solar, RIC Development at 1953 Thompsons Lake Road East Berne, which is 1 mile down the road from this one.

The other Solar facility is 2 miles from this one on Old Stage Road at the Whipple property.

You will see the many issues that we had 2 years ago with this proposed solar facility at 1688 Thompsons Lake Road which is directly across the street from us plus more issues in my attached letter. I do not know if you keep the public comments, but I did send in a letter dated 1/27/21 with an address for the solar facility at 1716 Thompsons Lake Road as they kept changing the address, but then gave it the address of 1688 by the time it was sent to you. It is the same location.

If anyone in the community can hook into the solar facility at 1953 Thompsons Lake Road, there is no need or necessity for a third one which will affect so many neighbors in so many ways and will be an eyesore to the neighborhood.

Thank God they finally put a moratorium on Solar Facilities in Knox, I thought I might have to change my address from East Berne to Solar City, NY

Thank you,  
Linda & Peter Novello  
1697 Thompsons Lake Road  
East Berne, NY 12059

~~lnovello@ricenergy.com~~  
~~(914) 877-1111~~

Albany County Planning Board Members:

I am writing to you again about the RIC proposed large-scale solar project at 1688 Thompson Lake Road. This project was proposed before in late 2020, and initially approved by the Knox Planning Board in January 2021. The project was on the Albany County Planning Board agenda February 18, 2021, resulting in the recommendation that Knox not approve the project for several reasons. Then it went to vote again by the Knox Planning Board. One board member dropped out of the on-line meeting because of an emergency. She left before casting her vote which resulted in there not being a super majority to override your recommendation. The project was tabled according to RIC Energy. Now it is back for a second go around.

A public hearing was recently held on May 18<sup>th</sup> by the Knox Planning Board regarding the second proposal. Many Knox residents were present voicing their concerns and disapproval. Hopefully, the town will forward the concerns discussed at that public hearing to you.

I respectfully request that you review the public concerns from that meeting and the documents attached. We hope you make the same recommendation to the Knox Planning Board that this project should still not be allowed.

I am attaching a couple of items to this email:

- The February article from the local newspaper regarding the return of this project.
- The letter written to the Knox Planning Board by my wife and I regarding our two major concerns. One being that the location is too close to 10-12 residential homes and less than 300' from our back door. We will have a year-round view of 22 acres of row after row of rotating solar panels. Plus, we will all suffer the loss of 22 acres of trees slain for no reason since there are many acres of vacant land in the town to choose from. The 7' trees they propose to plant as a buffer zone will take 5-10 years to mature. Even so, the plan states we will have a medium view. As a result, we have consulted a local Real Estate Broker to learn that we will lose 7% of our property value when we sell if this project gets approved. Another concern encompasses a more personal situation. Although we didn't want to publicly drag our daughter's health conditions into this, it is an enormous concern of ours. Although RIC Energy has offered us a couple of "solutions" to mitigate this issue, I personally think their offers were not well thought out. The first was to send our family to Six Flags for the noisy construction days. A theme park would definitely not be appropriate since my daughter is very sensitive to any sudden noise because she still has a startle reflex. Another offer was to relocate our family for the three months of construction. Logistically this would be very difficult especially since all her essential equipment needed for her care is located in our home. In addition, I doubt she would embrace being in a strange place for so long since she experiences anxiety. Furthermore, who should be displaced from their home for three months? The location of this project is just not suitable with 10-12 residents in such close proximity who all strongly oppose it.
- I am also attaching a letter written to the newly appointed Knox Planning Board Chair, Deb Nelson, by the RIC project director. We think this company has gravely overstepped personal boundaries by advocating on our behalf without permission. Having dealt with our daughters' cerebral palsy disability for over 20 years, I can say that we know what is available, what would work for her, and who to contact. Besides, we have a service coordinator that assists us in finding/accessing programs for her.

One last note, RIC Energy recently received approval for a large-scale solar array just one mile down the road on the corner of Thompson Lake Road and State Route 156. Also, there is another solar array being proposed about a quarter of a mile down 156 on the Altamont Reservoir property (in the Town of Knox) and there is an established large-scale array about 1 ½ miles away on Old Stage Road. How many of these do we need in a two-mile radius? On top of that, who wants to drive to the country and see 4 large scale solar farms so close to each other on the main roads to Knox tourist spots?

Respectfully, Al, Valerie & Alyssa Gaige

