

**Town of New Baltimore Planning Board  
Regular Monthly Meeting  
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The meeting was called to order at 7:18 p.m. by Chair Rob Van Etten followed by the Pledge of Allegiance. Other Board Members present were Ann Marie Vadney, Bob Court, Lee Salisbury, Frank Orlando and Michelle Stefanik. Ken Finke was absent.

**Old Business**

**Lands of Joseph & Jade Messina – Minor Subdivision Application**

Public Hearing on this application was held just prior to the start of this meeting. Joseph Messina and his daughter, Michelle Messina remained present. Question was raised as to whether the Board wanted to move forward with a resolution or wait until the next meeting when the maps and mylar would be in front of the Board. Ms. Messina advised that she had everything done to move forward and all paperwork was in the hands of her attorney. Under those circumstances, it was decided to move forward. Ms. Messina would bring the maps in just as soon as she had them from surveyor.

**WHEREAS**, Joseph & Jade Messina, wishing to complete a two-lot minor subdivision of property located at 714 River Road presented Minor Subdivision Application at the December 9, 2021, Planning Board Meeting; and

**WHEREAS**, required Public Hearing, having been duly noticed, was held on January 13, 2022, with members of the Public offering no comment; and

**WHEREAS**, the Short Environmental Assessment Form was reviewed at the December 9, 2021, meeting with negative declaration given; now therefore be it

**RESOLVED**, that the Messina minor subdivision be approved with the following condition:

The Planning Board receives for approval mylar and paper copies of maps containing:  
Approval box and locator map.  
Map be drawn to scale with scale indicated, map dated and map number shown.  
Map signed and sealed by surveyor.

It was moved by Vadney and seconded by Court to approve the resolution.

Ayes: Van Etten, Vadney, Court, Salisbury, Orlando, Stefanik  
Nays: None  
Abstained: None                      Absent: Finke

Mylar and at least four paper copies to be presented for Planning Board approval.

**Van Slyke Property – Lot Line Adjustment**

No one was present. Question was raised regarding the current size of parcel and noted that the parcel had been its current size since long before Zoning and Subdivision Regulations.

**New Business**

**Board Officers**

It was moved by Court and seconded by Stefanik that the Board appoint Ann Marie Vadney as Board Vice Chair for the 2022 year.

Ayes: 5              Nays: 0              Abstained: 1              Absent: 1

It was moved by Orlando and seconded by Vadney that the Board appoint Michelle Stefanik as Board Secretary/Treasurer for the 2022 year.

Ayes: 5              Nays: 0              Abstained: 1              Absent: 1

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**Proposed Local Law – Solar Project Moratorium**

Mr. Van Etten had received from the Attorney for the Town late this afternoon, and now passed out to the Board Members, copy of proposed legislation for the Town Board to put in place for a six-month period a moratorium on the development of any solar projects in the Town.

Mr. Van Etten advised that the Town has received inquiries regarding the possibility of construction of a battery energy storage system facility on New Baltimore Road near the Central Hudson sub-station. As a result of the inquiries, question was raised as to whether the moratorium would include that since it is not actually a solar project. Question was raised battery storage, nothing to do with solar or is it being attached to a solar facility? Mr. Van Etten responded to his knowledge it was not being attached to any particular project.

It was pointed out that with one project, as soon as battery storage came up and the Board started raising the issues, they backed off. It was then noted that we do not actually have anything in our Code. Mr. Court responded that actually he thought under Solar, it did. We made a mistake by questioning them because under the Solar Regulations, it was there. Not everything in the Solar Regulations has made it to the graph and charts. The Clerk pointed out but that was to be part of the solar project, this is independent. It was further pointed out that that particular solar company said it was proposed but never gave us anything on it. They indicated that they were going to do that later. With some Board Members having taken some solar training, and on battery storage in particular, and with the Company not providing the Board with anything, it was believed that was why the Board members started asking the questions.

Question had been raised to the one individual who called expressing interest in siting a facility in the Town, if it was going to be connected with one solar project and response was that it would be coming from all over. Question was raised if it is not attached to a solar field, will it be taking energy off the grid? Mr. Van Etten explained basically even though it is not attached to a solar field, it is trying to even out the highs and lows which is mostly being created by solar facilities. It was further explained it is taking it off the line because of the solar facilities pushing the load during the day and not at night.

Mr. Van Etten advised he had spoken to the Supervisor about it and then called our attorney who had given him a quick synopsis. Question was raised with regard to the last sentence in first paragraph of proposed Local Law. Mr. Van Etten responded that is why the moratorium would be on so they would have time to look at the whole big picture. It was his understanding if it is amending our Solar Legislation, then it would be Zoning. It is felt there is a need to put the brakes on things until there is time to review and revise where necessary. Ms. Stefanik further questioned we won't only be looking at Zoning, right? It was noted that a checklist for the applicants and board(s) had been mentioned previously as being needed.

The big question was would that also include a battery storage facility? The Clerk advised that she had asked the person inquiring on behalf of the Company if this was being built to be in conjunction with a particular solar project(s). His response was well if the excess energy is there, holding it until it could be released into the grid. Well, we may..it will be coming from all over was the way he responded.

Mr. Orlando questioned what is the point of it if it is not hooked to a solar facility? Is it just going to be taking energy off the grid? Mr. Van Etten responded basically it is even though it is not attached to a solar field. It is trying to even out the highs and lows which is mostly being created by the solar facilities. Mr. Orlando continued so it is taking the load off of the line because of the solar facilities pushing a load to it during the day and then it gets used at night. Mr. Van Etten responded that was his understanding of it. Mr. Orlando continued he did not know whether we could touch that or not.

Mr. Van Etten continued he did not have this proposed local law in front of him when speaking with Mr. McHugh but Mr. McHugh had indicated that there is somewhere in here and he felt it also included the battery storage.

Ms. Vadney referred the Board to Chapter 111, Section 111-4 D. Safety. (2)

*If solar storage batteries are included, they must be placed in a secure container or enclosure meeting*

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*the requirements of the New York State Building Code when in use. When they are no longer in use, they shall be disposed of in accordance with the laws of New York State Fire Prevention and Building Code....*

Mr. Orlando commented that he had a bone to pick. He questioned why the consolidated Code PDF doesn't have any of this. In looking at the old PDF, it indicates that Chapter 111 is reserved for future use. He questioned why is that still on the website? That is the consolidated but the individual appears to be in here. Ms. Vadney question under [111-5B] Bulk and Area Requirements, what is the definition of "utility scale solar collector system"? Does that definition include battery? Ms. Stefanik responded that is not a battery. Mr. Salisbury questioned so are we saying that the solar collector is a panel? Ms. Stefanik responded that is what it is.

Mr. Court pointed out the solar field besides the panels is the racks, transformers, all that gear. So the foot print of that should also be included. Mr. Orlando again questioned if this battery storage we are talking about has nothing to do with a solar facility, how can we include it? Mr. Van Etten responded I am trying to find it, but George felt that was. Somehow or other, he felt that was and he read it to me again over the phone. Mr. Van Etten cited from Proposed Local Law, Section 3, Paragraph 3:

*...Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements located on the property.*

Mr. Van Etten pointed out the battery storage facility in question would NOT be just for that property. This facility would be putting out electricity. [More than one person spoke at once.] The moratorium is for solar; should "battery storage" be added; it doesn't reference it at all. Mr. Van Etten responded that he could not see where it does directly but the way he was. [Comment not finished.] Ms. Vadney commented it is not included which means it should be included. Mr. Salisbury commented it sounds like it is a stand alone strictly battery facility if not associated with a specific solar facility. If it is just hooked into the grid, not hooked in with solar panels. Ms. Vadney continued it still has the same impact and has all the same issues if not more. From her perspective, she felt they were both the same.

Mr. Court [pointed out we really only need this moratorium for utility scale solar. We don't need to do residence. Wording was once again pointed out and cited:

*...Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements on the same property.*

It was then brought up if you own two lots and put solar panels on the adjacent lot for power on your house, technically you cannot do that with this moratorium. It was then questioned how many people would do that? Then further questioned would the inspector....would it get approved to put solar on a different property and place it to the house? It wasn't thought that could be done, who would want to do that and then questioned what would prohibit someone from doing that? The property owner buys lot next door, puts garage on it 50 feet from house, puts solar on the garage. It was then noted that the homeowner would not get any benefit of the exemption on the house since it is on a separately deeded lot.

Question was then raised is this going to stop Oriole and Hannacroix Solar? Mr. Van Etten responded no, because they are approved. The Clerk pointed out as you read Section 3 of the proposed Local Law, it sounds like they can't get [Comment not finished.]

Fourth paragraph under Section 3 of proposed Local Law:

*This Local Law shall be binding to all applicants and real property owners in the Town desiring to apply for or receive a permit, certificate of occupancy....*

Mr. Van Etten pointed out "applicants". They [Oriole and Hannacroix Solar] have already applied and are already approved. It was pointed out they haven't gotten their CO yet and/or they haven't broken ground yet. Mr. Van Etten responded but they have applied. The Clerk pointed out Hannacroix hasn't yet applied for the Building Permit and Oriole doesn't have their CO yet. Mr. Van Etten questioned when you say "applied", do you mean applied for the project, or applied for the Building Permit? It was pointed out it says all of those things...it says "permit" and "any applicant".

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*No application may be processed and no permits, certificates of occupancy, approvals, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy, including but not limited to solar farms.*

It was also noted as this reads, would it not put negotiations on any decommissioning agreement and the bonding on hold as well.

It was further noted the Planning Board really has nothing to say on any of these projects now that have been approved so it does not help at all to stop them. It was pointed out that the Planning Board doesn't have any say but Allan does and the Town Board. Mr. Court pointed out we haven't talked to Allan to see if he has a problem with this.

Mr. Van Etten pointed out that his impression was that they were trying to stop additional applications. Perhaps, this language needs to be tweaked. Ms. Vadney pointed out it is a good thing that we are reading this and then suggested that all the Board Members should read this and get their comments together. She felt that the battery storage was an issue because the same issues will apply to that as would a battery storage for a solar project. Ms. Vadney further advised on the training she took extensive issues were pointed out that the Town is definitely not prepared to handle. There are a lot of issues that we, as Planning Board Members, are not familiar with.

Question was raised if there were any of these battery storage projects in the area? The Clerk advised she had been contacted twice, both expressing interest in the same property on New Baltimore Road. She did not know if they were tied in together or two different companies. It was felt the day will come when nearly every utility sub-station will have a battery backup. It was pointed out but not to send power back to the grid. It is not a bank of shipping container batteries and then corrected, it is shipping container size. It isn't something being constructed by National Grid or Central Hudson, it is a private enterprise and they want to build them all up and down the Hudson Valley. Ms. Stefanik pointed out someone takes out a utility pole in a neighborhood, that battery backup station could mean that entire neighborhood would not lose power. They are providing a service to the utility company as well as monitoring highs and lows. They can make money off of them; that is why they want to install them.

One upside pointed out, they don't have a big use footprint like a solar field. They probably won't even be noticeable. Question was raised do we have a regulation; we are going to go through a process where we are going to make sure it is built on a pad with a pit and gravel. It was pointed out at the present time, it would have to come to us, go to the ZBA for the necessary Variance and then back to us. Question further raised then are we going to be in the same position where we do not know the proper questions to ask. We don't have a checklist.

It was then questioned is it going to be a Board of us who get together, a Town Board, to work on this? Ms. Vadney pointed out that book from the training has all the information that local governments should be doing. It has the applications, the checklist, everything that was created in certain Towns that are already using it. We probably should look at that. It was noted that a panel of at least seven people would be liked, assumed it would be a cross-section from the Boards. Further noted, it doesn't appear that we can use solar regulations to regulate battery storage. It is a new thing we have never dealt with just like the solar that is just becoming worse and worse. We have to handle it differently. Ms. Vadney pointed out but those requirements that they reviewed in the training apply to any, whether it is connected to a solar or not connected to a solar. Question raised are we even sure it is batteries, there is lithiums, also capacitors are also being used. Question was raised when we say "battery storage", what does it really mean, what does it involve?

Returning to what Town Counsel told Mr. Van Etten, he said the way this is worded because they would be putting power off site, then that should fall under the moratorium. Ms. Vadney pointed out that the local law needs to be a bit more explicit. As it currently reads, it doesn't clearly state that the battery storage is included in this moratorium. There should be a line or something to address that specific component. It is not typically attached to all solar projects.

Mr. Van Etten advised that he would sit down with the Supervisor with regard to the battery storage. He further commented that he had concern for the projects the Planning Board has approved. They

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have a lot of money invested. They can't do that; it is too late. It would leave the Town open to a law suit(s). They have gone through the whole project as identified in our Code only to be stopped by a moratorium.

It was suggested that the Board Members go through the proposed local law, put their concerns together, e-mail them to Rob and Rob will address them with Jeff. Question was raised as to when this proposed law was received. Mr. Van Etten said he had only received it a couple of hours ago. The Clerk questioned has this changed from what appeared on the Town's website? She advised that a draft had been with the Town's resolution for setting the Public Hearing for January 24. She did not know if it was exactly the same or not, it appeared to be about the same length.

Returning to the language in the Local Law. Mr. Orlando pointed out it says *land uses relating to solar energy* is what is quoted in here *shall be broadly construed to include any...well, anyone looking at it is going to say solar energy*. Mr. Salisbury pointed out but it also says *not limited to solar farms*.

Mr. Van Etten continued that he would make the point that we feel the battery storage should be more specific. Also, for existing approved, make it clear that they are approved; anything approved before January 24. The Public Hearing will be at 6:30 p.m. on January 24.

**Public Comment** – No one present to comment.

**Adjournment**

At 8:02, it was moved by Van Etten and seconded by Court to adjourn the meeting.

Ayes: 6    Nay: 0    Abstained: 0    Absent: 1

Respectfully Submitted  
Marjorie B. Loux, Clerk