

TOWN OF EAST GREENBUSH PLANNING BOARD

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH PLANNING BOARD MEETING MINUTES DECEMBER 13, 2023

Members:

Matt Mastin, Chairman
Chris Horne
Kurt Bergmann
Robert Jucha
Don Pantan
Ralph Viola

Also Present:

Josh Giller, Director of Planning
Dan Rodriguez, Planner
Joseph Slater, Planning Board Attorney
Kateri Rhatigan, Stenographer

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Mastin called the meeting to order and determined that a quorum of six (6) members were present. John Conway was absent.

PUBLIC HEARINGS:

7:00 PM Island Park-180-200 American Oil Road-Special Use Permit

Chairman Mastin read the legal notice:

The Town of East Greenbush Planning Board shall conduct a Public Hearing pursuant to New York State Town Law Section 274-b(6) and Section 3.11.02 of the Town's Comprehensive Zoning Law, on an application for a Special Use Permit for the property located at 180-200 American Oil , East Greenbush, NY, Tax Map #'s 165.-1-3.2 & 165.-1-4.12, which is Zoned CI. The applicant is currently operating an asphalt recycling facility. The review of the proposed work requires a Special Use Permit per The Town's Comprehensive Zoning Law Section 2.7.7 Coastal Industrial District (CI). Said Public Hearing will be held on Wednesday, December 13, 2023 at 7:00 PM at the East Greenbush Town Hall, 225 Columbia Turnpike, East Greenbush, NY. At the above time and place, all interested parties will be given an opportunity to be heard. By order of the Planning Board Matt Mastin, Chairman

Steve Hart was present representing the applicant, Joe Buono. Steve Hart stated that there are two existing parcels, one consists of 32.77 acres made up of two different tax maps. Steve Hart stated that their looking for a lot line adjustment to create a 10-acre lot which would consist of the asphalt plant and be sold to the people running it which has been in business for a long time. Joe Buono would continue to use the remaining 22.77-acre parcel as part of his farming operation. Steve Hart stated that the green line on the map represents work that being done in permitting with DEC, with respect to trying to create earth berms, dikes of some form to minimize runoff from the asphalt running out into the perimeters of the site and then the other area on the plan is a small infiltration basin to catch and treat as much water as possible. Steve Hart stated that they are waiting for a no effect letter from SHPO. Steve Hart stated that there is a cross lot easement on the map, in case Mr. Buono needs to come through, there is a 30' wide access to his piece and there is also access for the Town of East Greenbush to get on the property for the stormwater area. Chairman Mastin stated that just to clarify, this project requires a Special Use Permit & site plan which are approved by the Planning Board and a lot line adjustment which was changed from a two-lot subdivision. The applicant has modified the plan to change the shape of the boundary, which is also approved by the Planning Board. Chairman Mastin stated that this public hearing is specific to the Special Use Permit, a Special Use Permit is not a change in zoning, it's a permitted use in the zone, but it allows the Planning Board to apply special conditions to the application/proposal.

Chairman Mastin asked the Board if anyone had any questions. There were no comments from the Board.

Chairman Mastin asked if anyone in the public would like to speak.

·Dave Terpening asked for clarification on what a special use permit is, he stated it's an allowed use unless otherwise approved by the Board. Joe Slater stated that it's an allowed use within a zone as long as the applicant meets standards which are set forth in the Comprehensive Zoning Law on page 78, General Standards, 1-7.

·Dave Terpening stated he heard that use for quite a while. Steve Hart stated over a decade.

·Dave Terpening asked if it had ever come before the Town before then. Steve Hart stated that back in 2005ish there was a grading permit for the site. Joe Buono stated it started way back in the 80's with grading permits, and it's been almost 11 years since the asphalt millings storage started. Steve Hart stated that their trying to bring the site into compliance and follow the Town guidelines. Chairman Mastin stated that this project came before the Town within the last ten years for the storage. Steve Hart stated that he wasn't sure as he wasn't the engineer at the time. Joe Buono stated that there was a parcel down the road that was used for storage material & that was approved, Joe Buono stated that this site dates back into the 80's before he was involved with it.

·Dave Terpening stated there is a lot of farm land around there and if the applicant was concerned with any chemicals and if there was any soil or air quality testing done. Chairman Mastin stated that's why they're having the public hearing tonight to get public comment.

·Dave Terpening asked if there was any other public comment received tonight besides his.

Chairman Mastin stated that they received a comment from a neighbor (Jeff Hotaling) which was just received at 6:40pm tonight and will become part of the record.

·Dave Terpening mentioned a smell from down in that area. Joe Buono stated that it comes from Gorman Brothers. Joe Buono stated that he lives right down there in that area & there are two other asphalt plants operating down in that area.

Chairman Mastin asked three times if anyone in the public wanted to speak in favor of the application. There was no one.

Chairman Mastin asked three times if anyone in the public wanted to speak in opposition of the application. There was no one. Chairman Mastin stated that there is no action being taken tonight and there will be future meetings on this.

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby closes the public hearing.**

Seconded by Ralph Viola & roll called as follows:

**M. Mastin-YES; R. Viola-YES; K. Bergmann- YES; C. Horne- YES; D. Panton-YES;
J. Conway-ABSENT. Jucha-YES.**

MOTION CARRIED BY A 6-0 VOTE

OLD BUSINESS:

Island Park-180-200 American Oil Road-Special Use Permit

(22-08b)

Chairman Mastin stated this is on for an update and asked Steve Hart if there was anything additional to update the Board on from what he already told the Board in the public hearing. Steve Hart stated that there was not. Steve Hart stated by the next meeting they should have the no effect letter from SHPO and have the survey map updated, showing the easements and legal descriptions.

SIDOTI-17 STATE STREET-LOT LINE ADJUSTMENT

(23-24)

Kevin Flatley was present as well as the applicant's mother Lauren MacDonald. Kevin Flatley stated that they went before the Zoning Board and got approval of the variance for the proposed undersized lot. Kevin Flatley stated that they are establishing the original lot line for 17 State Street, currently the property goes all the way to New Hampshire Avenue. Kevin Flatley stated that the proposal is to combine the two lots that front on New Hampshire Avenue. Chairman Mastin stated that it was discussed that the propose of combining those two lots was that a neighbor wanted to purchase them for privacy. Chairman Mastin stated that this did receive the area variance from the Zoning Board of Appeals and asked if the Board had any questions or comments. There were none. Kevin Flatley stated that the shed would be moved. Chairman Mastin stated that they will add a condition for that.

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby:**

- 1. Grants final approval of the proposed Lot Line Adjustment prepared by K.M. Flatley, LLC dated October 23, 2023, subject to the following:**
 - **Satisfying outstanding technical details as determined by the Town Planning and Zoning Department; and**
 - **All remaining fees are paid to the Town.**
 - **That the shed shall be moved to become into compliance with setbacks within the Town's Comprehensive Zoning Law.**

Seconded by Don Panton & roll called as follows:

M. Mastin-YES; R. Viola-YES; K. Bergmann- YES; C. Horne- YES; D. Panton-YES; J. Conway-ABSENT. Jucha-YES.

MOTION CARRIED BY A 6-0 VOTE

GOLDEN GRAIN PIZZA-118 TROY ROAD-MINOR SITE PLAN/SUP

(23-16)

Chairman Mastin noted that he saw many neighbors in the crowd, there is no public comment tonight but this is before the Board for just an update only and no action will be taken tonight but for them to feel free to send in any comments. Nick Costa from Advance Engineering and Surveying was present as well as the owner Zafer Ak. Nick Costa stated that since the last time they were before the board, they have made some modifications to the site plan. The additional parking proposed would be located on the new paved area. Nick Costa stated that the Board also requested the review of the restaurant exhaust system. Nick Costa stated that Zafer Ak hired Paul Martin from Sigma PSI Consulting who is a mechanical engineer and he issued a letter to the Town stated that certified that the installation of the exhaust system is in accordance to the building code. Nick Costa stated that moving the system to the exhaust to the roof may actually create issues with the pizza odor being carried further. Nick Costa stated that the requirement is to have the fan located 10 feet from the property line and it's actually 25 feet from the property line. Chairman Mastin asked what the CFM rating of the exhaust fan was. Nick Costa stated he didn't know. Chairman Mastin stated that it wasn't in the letter and that the letter told the Board nothing.

- Ralph Viola asked if Mr. Martin was actually at the site. Nick Costa stated that he was.
- Ralph Viola stated that two out of the three exhaust fans that don't meet the 10-foot setback requirement.

Zafer Ak spoke a bit about the smell and distance etc.

Chairman Mastin stated they had a public hearing to identify issues, one major issue is the pizza smell via exhaust coming out of the rear of the building. Chairman Mastin stated that they are trying to identify solutions to create a path forward to make the neighbors happy to make the owner happy & to allow the owner to operate a business.

Chairman Mastin stated to do that the owner needs to get an expert, a mechanical engineer to identify an alternate solution to get rid of the smell. Chairman Mastin stated that the Board's suggestion was to go through the roof or go through a different side of the building. Instead that Board got a letter that didn't include any of that. Nick Costa asked Chairman Mastin to give them ideas as to what the Board is looking for. Chairman Mastin stated that the Board is looking for a mechanical engineer to make suggestions on how to mitigate the smell.

Chairman Mastin also stated that there has been a van parked on the grass in five different locations over the past two weeks with the restaurant logo on it & it's been brought to the Board's attention that the hours of operation have been extended on weekends which the Board has gotten feedback on as well. Zafer Ak stated that their open to 12:00 am.

·Ralph Viola pointed out that right on a sign on the owner's building, it says open until 12:30am. Chairman Mastin asked the Board if anyone had any comments. There were none.

NEW BUSINESS:

CITRINE POWER-82 MORE ROAD-MAJOR SITE PLAN/SPECIAL USE PERMIT (23-27)

Celay Sinay Bernie, the principal of Citrine Power as well as Travis Mitchell who is the environmental design were present regarding the project. Celay Sinay-Bernie stated that they had a project review team and they haven't been back as they needed to get permission from National Grid to interconnect and access debates which have all been resolved. Travis Mitchell stated that the project consists of a 4.82 mega watts solar array tracker system. The application consists of three parcels consisting of roughly 150 acres. Travis Mitchell stated that their all owned by the same owners, and the proposed access into the parcel follows an existing access which crosses between two wetlands. They met with the fire department last fall and the access is a little narrow so they will reroute and around with required turnarounds and a minimum of a 25' gravel access road into the site. Travis Mitchell pointed out the central electric equipment surrounded by a fence and the fenced in area is roughly 22 acres & the actual panel area is about 6 ½ acres. Travis Mitchell stated there is a part in the code about solar farms occupying prime farm land and they have done the calculations and will provide them. There is roughly 83 acres of prime farm land and they will occupy approximately 22 acres of it, which is about 20%, the code has a cap of 50%. The wetlands are mapped and will be Army Corp. wetlands. The Army Corp doesn't consider the panels themselves disturbance. Travis Mitchell stated that only true disturbance as defined by the Army Corp is where they will have to widen a culvert a bit on the access road. There is an existing pole they will connect to on Luther Road.

·Chris Horne asked if the it will be above ground or below ground. Travis Mitchell stated that the interconnection is above ground into and through the site. They are prepared to put it below ground if necessary.

Celay stated they are trying to minimize trenching due to the wetlands. Travis Mitchell stated that for the array itself there will be no clearing necessary & there would be minimal clearing along Moore Road & interconnection.

Chairman Mastin asked if they could provide a viewshed within 5 miles around the parcel.

Chairman Mastin also asked if there was battery storage proposed. There is none proposed.

·Ralph Viola asked what the maximum height of the solar was. Travis Mitchell stated 15' at the highest point as they track.

Chairman Mastin asked if their ballasted or pile driven. Celay Sinay Bernie stated pile driven.

·Bob Jucha asked how far down the piles of driven. Travis Mitchell stated that they need to determine the soil conditions first, they need to have a geotechnical study done.

·Kurt Bergmann asked if the entrance to the site will be gated or chained. Travis Mitchell stated there is an existing access road that serves a residential property and there is currently a gate that he believes will stay and the field has a gate. Celay stated that there is a current haying operation that will continue.

·Bob Jucha asked if the property will be purchased or leased. Celay stated leased.

Chairman Mastin asked if the Board had any other questions. There were none.

Travis Mitchell asked if they need to do a tree survey since they're not clearing for the array.

Chairman Mastin stated he believes that more for large scale clearing. Josh Giller stated that will come up with the Conservation Advisory Council gets involved.

Joe Slater asked who owns the parcel that abuts the access road and if it was under the same ownership of the other three parcels & asked if they have been notified yet. Celay Sinay Bernie stated that it's not owned by the same people & that they have been in contact with him a little.

Chairman asked if there was fencing around the system. Travis Mitchell stated it is.

·Kurt Bergmann asked if below ground, will they follow the path of the road or will they cut it more direct. Travis Mitchell stated that if it's below, they would go the direct route and above ground they would follow the path of the road.

Chairman Mastin asked if they can put together that visual assessment & they can give the applicant a more definite answer regarding above or below ground.

·Chris Horne stated that the applicant mentioned the wetlands as a concern for going underground, is cost a factor to. Travis Mitchell stated it is, it's less expensive to go underground.

·Ralph Viola asked if it's a plateau or depressed area & is the residential homes past it are at a higher elevation. Travis Mitchell stated it raises slightly, then it's flat, then it rises again.

Chairman Mastin asked if the Board had any other questions. There were none.

MOTION: A motion was made by Chairman Mastin as follows: **The Planning Board hereby;**

- 1. Accepts the sketch plan as depicted on the site plan dated December 01, 2023, prepared by Environmental Design Partnership for Citrine Power LLC for the proposed site plan.**

Seconded by Chris Horne & roll called as follows:

**M. Mastin-YES; R. Viola-YES; K. Bergmann- YES; C. Horne- YES; D. Panton-YES;
J. Conway-ABSENT. Jucha-YES.**

MOTION CARRIED BY A 6-0 VOTE

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby recommends the Town of East Greenbush Town Board declare its intent to seek Lead Agency status in connection with a coordinated review under SEQRA and that the proposed project be listed a Type 1 Action.**

Seconded by Kurt Bergmann & roll called as follows:

**M. Mastin-YES; R. Viola-YES; K. Bergmann- YES; C. Horne- YES; D. Panton-YES;
J. Conway-ABSENT. Jucha-YES.**

MOTION CARRIED BY A 6-0 VOTE

NEW ZBA REPORTS:

ZBA Appeal #2023-15 AJ Signs (Smoothie King) – 307 Troy Road – 2 Area Variances – 2 Building Signs – draft report attached, no vote since Zoning Board already approved on 12/12/23

NEW ZBA REFERRALS:

ZBA Appeal #2023-16 Hutton-115 Craver Road – 1 Area Variance - Sq. footage of Tiny House – assigned to John Conway via email, only draft report due

REVIEW AND APPROVAL OF MEETING MINUTES:

Motion by Chairman Mastin to approve the November 8, 2023 meeting minutes. Seconded by Bob Jucha. Motion carried by a 6-0 vote.

After some discussion from the Board, the following motion was made by Chairman Mastin: **The Planning Board hereby cancels the December 27, 2023 Planning Board Meeting.**

Seconded by Kurt Bergmann & roll called as follows:

**M. Mastin-YES; R. Viola-YES; K. Bergmann- YES; C. Horne- YES; D. Panton-YES;
J. Conway-ABSENT. Jucha-YES.**

MOTION CARRIED BY A 6-0 VOTE

CLOSING:

There being no further business before the Board, the meeting was closed by Chairman Mastin. Seconded by Don Panton. Motion carried by a 6-0 vote.

Respectfully Submitted

Alison Lovely

Alison Lovely, Planning Secretary