

TOWN OF EAST GREENBUSH PLANNING BOARD

TOWN HALL, 225 COLUMBIA TURNPIKE, RENNELAER, NY 12144 (518)477-2005 FAX (518)477-2386

MEMORANDUM

PLANNING BOARD MEETING AGENDA AUGUST 24, 2022 MEETING WILL BE HELD IN THE COMMUNITY ROOM AT TOWN HALL

7:00PM CALL TO ORDER/DETERMINATION OF QUORUM:

PUBLIC HEARINGS:

NONE

OLD BUSINESS:

(22-06) ELP – 13 Morner Road – 2-Lot Subdivision, Site Plan & SUP – Review changes to approval Resolutions

NEW BUSINESS:

(22-14) Regeneron-81 Columbia Turnpike- Site Plan Modification – Presentation, accept sketch plan, classify SEQ, declare Lead Agency & referral to Zoning Board for Area Variance

NEW ZBA REPORTS:

ZBA Appeal #2022-06-Bank of Greene County-164 Columbia Turnpike-2 Area Variances-Building Height & Building Setback - report by Matt Mastin

NEW ZBA REFERRALS:

NONE

REVIEW & APPROVAL OF MEETING MINUTES:

August 10, 2022 meeting minutes

**To view application materials use this link: [*https://www.eastgreenbush.org/departments/planning-zoning/apps](https://www.eastgreenbush.org/departments/planning-zoning/apps)*

EAST LIGHT PARTNERS
MINOR 2- LOT SUBDIVISION, MAJOR SITE PLAN &
SPECIAL USE PERMIT
13 MORNER ROAD
AUGUST 24~~10~~, 2022

CONDITIONAL PLAT APPROVAL
(22-06)

WHEREAS, the East Greenbush Town Planning Board (“Planning Board”) is in receipt of an application by Herbert Binck (“Owner”) ~~and with East Light Partners~~ ELP Greenbush Solar LLC (“ELP”), ~~professional solar developer consultant~~ ~~to~~ authorized representative of the Owner, for a large-scale solar energy development including a 2-lot Minor Subdivision approval under Section 276 of the New York State Town Law for a subdivision involving the subdivision of one parcel totaling 38.5 acres parcel located at 13 Morner Road (Tax Map I.D. SBL: 145.-2-2) on which there is an existing single family home, owned by the Owner; and

WHEREAS, the proposal would subdivide the parcel so that the existing single family home would be on proposed Lot No. 1, 13.12 +/- acres, to be maintained by current Owner and proposed Lot No. 2 would consist of 24.79 +/- acres to be purchased by ELP for construction of an access road and utility poles to support a large-scale solar energy development in North Greenbush; and

WHEREAS, on July 27, 2022 the Planning Board did classify the proposed sketch plat as a Minor Subdivision; and

WHEREAS, on July 27, 2022 the Planning Board recognized the Town of North Greenbush Planning Board as lead agency on this project having received notice to this effect and having no objection, the North Greenbush Planning Board did classify the action as Type 1 under SEQRA and issued a negative declaration for the proposed project on June 27, 2022; and

WHEREAS, the Planning Board did conduct a public hearing on August 10, 2022 on said subdivision, at which time members of the public were invited to speak either in favor of, or in opposition to this subdivision application; and

WHEREAS, the Planning Board has received and reviewed the proposed plat dated February 1, 2022 most recently revised June 22, 2022 as prepared by Environmental Design Partnership, LLP; and

Now, therefore, be it

RESOLVED, that the Planning Board, hereby grants conditional approval of the ELP Minor 2-Lot Subdivision for 2 lots in the Town of East Greenbush, prepared by Environmental Design Partnership, LLP, dated February 1, 2022 most recently revised June 22, 2022, and in strict compliance with each of the following conditions which must be satisfied by the applicant within 180 calendar days of this resolution, unless extended upon written request of the applicant by mutual consent for two (2) period not to exceed ninety (90) days each:

1. Outstanding technical details as determined by the Town Planning and Zoning Department must be satisfied.
2. Any remaining fees must be paid to the Town.
3. The applicant shall comply with all provisions of the Town's Subdivision Regulations and Comprehensive Zoning Law not specifically referred to herein.
4. The Plat is subject to conditions of the Special Use Permit from the Planning Board and Site Plan approval from the Town Board, if any, and must be modified accordingly. The plat must also include a note stating the date of Planning Board Special Use Permit approval, Site plan approval from the Town Board, and any conditions required as part of this approval.

**TOWN OF EAST GREENBUSH TOWN PLANNING BOARD
RESOLUTION
AUGUST 10~~24~~, 2022**

**A Resolution to Recommend that the Town Board of the Town of East Greenbush Issue a
Major Site Plan Approval for ELP 13 Morner Road (PZD File #22-06)**

MOTION: A motion was made by Chairman Mastin as follows:

WHEREAS, ~~the East Greenbush Town Planning Board (“Planning Board”) is in receipt of an application by Herbert Binck (“Owner”) with and ELP Greenbush Solar LLC East Light Partners (“ELP”), professional solar developer consultant to authorized representative of the~~ Owner, for a large-scale solar energy development (“project”) located at 13 Morner Road, Town of East Greenbush, New York.; and

WHEREAS, the project consists of a two-lot subdivision on Tax Map I.D. SBL: 145.-2-2 which would subdivide the parcel so that an existing single family home would be on proposed Lot No. 1, 13.12 +/- acres, to be maintained by current Owner and proposed Lot No. 2 would consist of 24.79 +/- acres to be purchased by ELP for construction of an access road and utility poles to support a large-scale solar energy development in North Greenbush; and

WHEREAS, all solar arrays associated with the large-scale solar energy development are proposed within the Town of North Greenbush on Tax Map I.D. SBL: 145.-8-19; and

WHEREAS, in accordance with Local Law 3 of 2022, a local law amending the Solar Energy Law for the Town of East Greenbush, as enacted by Local Law 1 of 2017, all large-scale solar energy applications shall be considered a major site plan; and

WHEREAS, on July 27, 2022 the Town of East Greenbush Planning Board (“Planning Board”) recognized the Town of North Greenbush Planning Board as lead agency on this project having received notice to this effect and having no objection, the North Greenbush Planning board did classify the action as Type 1 under SEQRA and issued a negative declaration for the proposed project on June 27, 2022; and

WHEREAS, the Planning Board of the Town of East Greenbush has reviewed the application and related materials, including the site plan entitled “ELP Greenbush Solar” 16 sheets in total as prepared by Environmental Design Partnership, LLP dated February 1, 2022 most recently revised June 22, 2022; and

WHEREAS, the Planning Board has carefully considered the regulations established in Local Law 3 of 2022, including site plan approval design standards which are supplemental to those site plan requirements under Section 4.3 of the Town’s Comprehensive Zoning Law; and

WHEREAS, the Planning Board did conduct public hearings on August 10, 2022 on said major site plan, at which time members of the public were invited to speak either in favor of, or in opposition to this subdivision application and Special Use Permit; and

WHEREAS, the Planning Board has carefully considered the comments of the Town of North Greenbush Planning Board, the Laberge Group, consulting engineers for the Town of North Greenbush, as well as the responses to those comments and recommendations provided by the Applicant;

now, therefore, be it

RESOLVED, that the Town Planning Board hereby recommends that the Town Board approve the major site plan application as set forth in the Site Plans entitled, "ELP Greenbush Solar" 16 sheets in total as prepared by Environmental Design Partnership, LLP dated February 1, 2022 most recently revised June 22, 2022, subject to the following conditions:

1. Final approval conditions by the Town of North Greenbush are met.
2. In accordance with Local Law 3 of 2022, ELP or the operator, shall promptly notify the East Greenbush Town Board and Planning Board of any change to the information contained in the permit application, including changes that may arise from ongoing North Greenbush review. Changes that do not materially alter the initial site plan may be administratively accepted by the Planning and Zoning Department.
3. Prior to issuance of a building permit, the Applicant must address any remaining technical comments from the Town's Planning and Zoning Department.
4. Prior to issuance of a building permit, any remaining fees must be paid to the Town.
5. The plans are subject to conditions of the Special Use Permit approval by the Planning Board, if any, and must be modified accordingly. The plans must also include a note stating the date of Planning Board Special Use Permit approval and any conditions required as part of this approval.
6. A Town of East Greenbush Department of Public works highway work permit must be obtained for all work within the Town's right-of-way.
7. In accordance with ongoing NYSDEC review and final approval, tree cutting restrictions for northern long-eared bats are applicable to this project. No trees greater than 3"d.b.h. shall be cleared between November 1 and March 31.
8. ELP, or operator, shall notify the Town Building Inspector and the responding fire department(s) at least three business days prior to the initial energization of the solar energy system. Following such notification, the Building Inspector, or their designee, shall be permitted by the operator to be present for the initial energization of the solar energy system. Failure to comply with the requirements of this provision shall constitute a violation of the building permit.

9. Site access shall be maintained, including snow removal at a level acceptable to the responding fire department(s) and emergency medical services. All means of emergency shut down and/or disconnection of the large-scale solar energy system shall be clearly marked.
10. ELP, or operator, shall be responsible for the cost of maintaining the large-scale solar energy system and any access road(s), unless accepted as a public way.
11. ELP, or operator, shall identify a responsible person with contact information for public inquiries from the commencement of construction of the large-scale solar energy system until the completion of the decommissioning plan.
12. If the operator changes, the special use permit and/or site plan approval shall remain in effect, provided that the successor operator assumes in writing all of the obligations of the special use permit and site plan approval. The new operator shall notify the Building Inspector and the Town Board of such change within 30 days of the change. The new operator must provide such notification to the Building Inspector and the Town Board in writing. The special use permit and all other local approvals for the solar energy system shall become void if a new operator fails to provide written notification to the Building Inspector in the required time frame. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under Local Law 3 of 2022.
13. Solar energy system installer shall comply with all licensing and other requirements of the jurisdiction and the state, as determined by the Building Inspector.
14. All permits required under the NYSDEC Uniform Procedures Act for impacts to regulated waters, if any, must be in place prior to MS4 acceptance of the SWPPP. A formal SWPPP has not yet been submitted for this project, once submitted the Town of North Greenbush, the Laberge Group, consulting engineers for the Town of North Greenbush and the Town of East Greenbush will review the SWPPP.
15. Prior to site work and/or issuance of a building permit, all storm water pollution prevention permits must be obtained. Required periodic Storm Water Pollution Prevention Plan (SWPPP) inspections must be performed during the permit term by the design engineer or other qualified individual in accordance with the GP-0-15-002, the approved SWPPP, and the Town's Comprehensive Zoning Law.
16. ELP or the property owner must enter into a Stormwater Facility Maintenance Agreement with the Town to ensure proper maintenance of all stormwater facilities in perpetuity.
17. The special use permit and site plan approval for a solar energy system shall be valid for a period of 24 months. If a building permit is issued for construction within such period, then the special use permit and site plan approval shall not expire. The Town Board may extend the time for issuance of a building permit by up to two consecutive extensions of 12 months each. If a building permit has not been issued within such 24 month period, as

~~it may be extended, the special use permit and site plan approval will expire. provided that a building permit is issued for construction and construction is commenced. In the event construction has not commenced in accordance with the final site plan, as may have been amended and approved, as required by the Town Board and/or the Planning Board, the Town Board may extend the time to complete construction for up to two consecutive extensions each of 12 months. If ELP or the owner and/or operator fails to commence construction and/or obtain a building permit after 48 months, the approvals shall expire.~~

18. ~~A~~ Condition shall be added on landscaping plan that the height of trees be 5' to 6' at time of planting in East Greenbush
19. ~~That the applicant~~ ELP or/ operator or construction company include signage along the path of truck travel to direct construction vehicles to the parcel.
20. That the driving of piles be limited to the hours of 9am to 5pm, Monday-Friday.
21. That all parking during construction or when site is active be on the approved parcel and not on Morner Road or Best Road.

Commented [AF1]: Conditions added during 8/10- PB meeting

Town of East Greenbush
PLANNING BOARD

In the matter by:
ELP Greenbush Solar LLC.
For a **Special Use Permit**

**Resolution and
Final Decision of
Planning Board**

File No. 2022-06

Whereas, an application has been filed by ELP Greenbush Solar LLC ~~ELP Greenbush Solar~~ (“ELP”), ~~authorized representative to the on behalf of owner,~~ Herbert Binck, (“Owner”) at 13 Morner Road, East Greenbush NY (R-OS), proposing the installation of an access road and utility poles to support a community solar project located in North Greenbush; and

Whereas, The review of the proposed work requires a Special Use Permit per the Town’s Solar Energy Local Law #1 of 2017 & the amendment to the Solar Energy Local Law #3 of 2017 and the Town’s amendments to Local Law #1 of 2017, large scale solar energy systems and other solar facilities, Local Law #3 of 2022 & Battery Energy Storage Systems, Local Law #4 of 2022.;

Whereas, the applicant has filed an application for a Special Use Permit for the installation of an access road and utility poles to support a community solar project at the property located on 13 Morner Road, East Greenbush, NY (Tax Map No. 145.-2-2); and

Whereas, the Town of East Greenbush Planning Board (“Planning Board”) has duly published a notice of public hearing regarding this appeal in The Record on July 31, 2022; and

Whereas, notice of the initial Public Hearing was provided by Certified Mail to the owners of all property within 200 feet of the land involved in the application and to the Rensselaer County Bureau of Economic Development and Planning; and

Whereas, a Public Hearing was held by the Planning Board on Wednesday, August 10, 2022 to consider this proposal; and

Whereas, at this hearing, the applicant as well as any and all persons interested in this appeal were heard, their statements recorded, and various written material including exhibits, if any, were entered into the record; and

Whereas, all statements, written material and exhibits submitted in connection with said appeal have been carefully considered; and

Whereas, at its meeting on July 27, 2022, the Planning Board recognized the North Greenbush Planning Board as lead agency on this project having received notice to this effect and having no objection, the North Greenbush Planning Board did classify the action as Type 1 under SEQRA and issued a negative declaration for the proposed project on June 27, 2022; now, therefore, be it

Resolved, That the Planning Board makes the following findings of fact:

1. The site is zoned Residential Open Space (R-OS), which is partly intended to “permit a low density of residential use (1 unit per 2 acres), designed to retain the open space and rural character of the District.” The location of the large-scale solar development, as proposed, appears to be adequately screened and would be in harmony with the existing low density single-family use of the district;
2. The proposed ground-mounted solar array complies with the Town of East Greenbush Town of East Greenbush Local Law 3 of 2022 regulations regarding the location, height and intensity of the use. The proposal will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;
3. Internal traffic circulation will be private, ~~to be used and used two to three times a year~~ for regular maintenance and as needed, proposed access drive from Morner Road will be maintained by ~~developer ELP or operator~~ including snow removal;
4. ~~Internal off street parking, maximum of two spaces~~ Parking appears adequate will be provided for occasional and as-needed maintenance purposes;
5. Off-street parking appears to be adequately screened at all seasons of the year from the view of adjacent residential lots and streets;
6. The proposed use appears to be in harmony with surrounding neighborhood and in keeping with Town of East Greenbush Local Law 3 of 2022. No exterior lighting is proposed. The use will not be more objectionable than nearby properties and will not adversely affect the general welfare of the inhabitants of the Town of East Greenbush;
7. Site access shall be maintained, including snow removal at a level acceptable to the responding fire department(s) and emergency medical services. All means of emergency shut down and/or disconnection of the large-scale solar energy system shall be clearly marked. Fire and police protection access appear appropriate for the nature of the site;
8. The proposed large-scale solar energy system does not appear to adversely affect the existing character of the neighborhood in which the large-scale solar energy system is proposed, and will not adversely affect surface waters, wildlife and wildlife movement, forests, wetlands, and other important natural resources on the site;
9. The proposed large-scale solar energy system is in harmony with Local Law 3 of 2022 and other applicable local laws of the Town and complies with the design standards and other requirements of Local Law 3 of 2022 and applicable safety and safety-related codes and requirements;
10. The operation of the large-scale solar energy system as proposed would not create significant adverse impacts to human health and the environment;
11. The visual assessment demonstrates that the large-scale solar energy system will not have a detrimental effect on the public's use, enjoyment or view of a significant place, view, scenic roadway, or historic structure, nor the Town's rural character;
12. The large-scale solar energy system as proposed is not located within a reasonable radius of an existing or permitted large-scale solar energy system.

be it further

Resolved, that the application for a Special Use Permit for the installation of an access road and utility poles to support a community solar project located in North Greenbush be Granted with the following conditions:

1. The special use permit and site plan approval for a solar energy system shall be valid for a period of 24 months. If a building permit is issued for construction within such period, then the special use permit and site plan approval shall not expire. The Town Board may extend the time for issuance of a building permit by up to two consecutive extensions of 12 months each. If a building permit has not been issued within such 24 month period, as it may be extended, the special use permit and site plan approval will expire., provided that a building permit is issued for construction and construction is commenced. In the event construction has not commenced in accordance with the final site plan, as may have been amended and approved, as required by the Town Board and/or the Planning Board, the Town Board may extend the time to complete construction for up to two consecutive extensions each of 12 months. If ELP or the owner and/or operator fails to commence construction and/or obtain a building permit after 48 months, the approvals shall expire.
2. If the operator changes, the special use permit and/or site plan approval shall remain in effect, provided that the successor operator assumes in writing all of the obligations of the special use permit and site plan approval. The new operator shall notify the Building Inspector and the Town Board of such change within 30 days of the change. The new operator must provide such notification to the Building Inspector and the Town Board in writing. The special use permit and all other local approvals for the solar energy system shall become void if a new operator fails to provide written notification to the Building Inspector in the required time frame. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under Local Law 3 of 2022.
3. The associate Major Site Plans are subject to conditions of this Special Use Permit approval and must be modified accordingly. Major Site Plans must include a note stating the date of Planning Board Special Use Permit approval and any conditions required as part of the Major Site Plan approval.
4. Conditions included in the approval of the associated Minor 2-Lot Subdivision of Tax Map I.D. SBL: 145.-2-2 located at 13 Morner Road.

This resolution was moved by Chairman Mastin and seconded by _____ at a meeting duly held on August 24~~th~~, 2022.

A vote was taken as follows:

Matt Mastin _____
 Ralph Viola _____
 Kurt Bergmann _____
 Don Panton _____
 Chris Horne _____
 John Conway _____

Motion carried _____

TOWN OF EAST GREENBUSH PLANNING BOARD

By: _____

Resolution and Final Decision of Planning Board: Appeal No. 21-22

Matt Mastin, Chairperson

Dated: August ~~24~~¹⁰, 2022

****Granting of this Special Use Permit does not constitute a building permit. The applicant is still required to obtain a building permit from the Town's Building Department prior to commencing any construction activities.***

COPY TO:

ELP Greenbush Solar LLC.
552 Massachusetts Avenue
Suite 201
Cambridge, MA 02139

Cc: Rensselaer County Planning (via email)
Town Clerk (via email)
PB File No. 22-06
Building Inspector (via email)
Assessor (via email)

REGENERON
81 DISCOVERY DRIVE
B16 ELEVATOR SHAFT
SITE PLAN MODIFICATION
AUGUST 24, 2022

MOTION FOR CONDITIONAL APPROVAL:
(22-14)

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby classifies this action as a Type II SEQRA action in accordance with 6 CRR-NY 617.5(c)(9) “construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities”, and grants final approval of the proposed Site Plan Modification as depicted on the site plan entitled “B16 Elevator Shaft, Regeneron Pharmaceuticals” prepared by Hart Engineering, dated August 2022, subject to the following conditions:**

- **Satisfying outstanding technical details as determined by the Town’s Designated Engineers and Town Planning Department;**
and
- **All remaining fees are paid to the Town.**

REGENERON
81 DISCOVERY DRIVE
B16 ELEVATOR SHAFT CONSTRUCTION
AUGUST 24, 2022

MOTION to REFER TO ZONING BOARD OF APPEALS
(22-14)

MOTION: A motion was made by Chairman Mastin as follows:

The Town of East Greenbush Planning Board hereby finds that the site plan as proposed would violate Section 2.7.6 E of the Town's Comprehensive Zoning Law, specifically:

- **Proposed elevator shaft height is 65'-8" +/- exceeding the 50 ft. height maximum**

The Planning Board hereby refers this project to the Zoning Board of Appeals in accordance with the Town's Comprehensive Zoning Law Section 4.