

**TOWN OF JACKSON
PLANNING BOARD MEETING**

May 2, 2023

The Town of Jackson Planning Board met on May 2, 2023 at 6:30 pm at the Town of Jackson Town Hall. The following people were in attendance-

Board Members:

- Amy Maxwell
- Kelly Donahue
- Erik Vandenberg
- Mark Mahoney
- Steve Chuhta
- Irene Headwell
- Tim Thomas

Others Present:

- Terrence Nolan – New Leaf Energy
- Alec Gladd – New Leaf Energy Attorney
- Tammy Skellie-Gilbert

MINUTES

A **motion** was made by Kelly Donahue and seconded by Erik Vandenberg to approve the April 4, 2023 meeting minutes as written. Motion carried in favor 7-0.

DWIGHT MCGEE

Prior to the start of the meeting at 6:30, subdivision applicant Dwight McGee presented his updated survey map to the available Board members. Upon reviewing the map, Chair Maxwell and Planning Board member Mahoney noticed a mistake as the map was labeled incorrectly by the surveyor. Mr. McGee plans to return to a future meeting with a corrected survey map.

JACKSON SOLAR 1, LLC

The Board reviewed all of the Conditions of Approval for the 2021 Planning Board resolution issuing site plan approval for the Jackson Solar 1, LLC project. New Leaf Energy representative Terrence Nolan was present along with the company's Attorney Alec Gladd. The Board confirmed the completion of all of the outstanding conditions and reviewed the simplified written proposed schedule that was requested at the April Planning Board meeting. Mr. Nolan stated that commercial operation of the project is slated to begin in January of 2025. After reviewing each of the conditions, the Board went through the draft resolution authorizing the Chair to sign the site plans.

**A motion was made by Kelly Donahue and seconded by Mark Mahoney to approve the Resolution confirming the required Conditions of the May 4, 2021 Resolution of Approval have been duly satisfied authorizing the Planning Board Chair to sign the Site Plans.
Motion carried in favor 7-0.**

Roll Call:

Amy Maxwell, Chairperson	Aye	Mark Mahoney	Aye
Steve Chuhta	Aye	Erik VandenBerg	Aye
Kelly Donahue	Aye	Tim Thomas	Aye
Irene Headwell	Aye		

WHEREAS, Jackson Solar 1, LLC (“Applicant”) received Site Plan Approval by Resolution dated May 4, 2021 (filed May 7, 2021) (“Resolution of Approval”) to construct a five (5) megawatt community solar power generation facility (“Facility”) on 28.1 acres of a 61.50-acre lot owned by Pauline LaPoint (“Owner”) located at 2609 State Route 22, Jackson, New York (Tax ID: 239.-2-45) (“Property”); and

WHEREAS, the Jackson Planning Board granted a one-year extension of the Site Plan Approval on May 3, 2022; and

WHEREAS, the proposed Facility will be operated by Jackson Solar 1, LLC (“Operator”) who will enter into lease with the Owner for use of the Property as a solar facility; and

WHEREAS, the Resolution of Approval contained the following conditions which the Applicant must satisfy prior to the Jackson Planning Board Chairperson stamping and signing the Site Plans:

- (1) Jackson Solar 1, LLC shall enter into the Decommissioning Agreement provided by Whiteman, Osterman & Hanna LLP to the Town of Jackson, which shall be approved by the Town Board and the Town Attorney and signed by the Town Supervisor, by Jackson Solar 1, LLC and the property owner;
- (2) Jackson Solar 1, LLC shall issue a performance bond or other equivalent financial security for the decommissioning of the Facility, which shall be approved by the Jackson Town Board and the Town Attorney;
- (3) B&L has proposed to the Jackson Town Board to provide engineering services in the amount of \$15,000 and the Town Board shall enter into an engineering escrow agreement with Jackson Solar 1, LLC in which Jackson Solar 1, LLC will agree to fund the escrow amount of \$15,000 to compensate the Town of Jackson for having B&L or, in the discretion of the Town, a substitute engineering firm of similar experience and expertise, inspect and advise the Jackson Town and Planning Boards on the compliance of the construction with the approved drawings. The

engineering escrow agreement must be approved by the Jackson Town Board and Town Attorney and signed by the Town Supervisor and by Jackson Solar 1, LLC;

- (5) Jackson Solar 1, LLC shall post a bond or other equivalent security for the operation and maintenance of the Facility, including the maintenance of the perimeter landscaping and the site access road at the sole expense of Jackson Solar 1, LLC. The bond or other equivalent security must be approved by the Jackson Town Board and the Town Attorney. The amount of the bond shall be \$80,000.00;
- (7) Jackson Solar 1, LLC shall provide the Jackson Town and Planning Boards with copies of a written agreement with the Owner of the Property demonstrating that the Jackson Solar 1, LLC has the authority to construct the Facility on the Property;
- (8) Jackson Solar 1, LLC shall provide the Jackson Town and Planning Boards with a signed Notice of Intent (“NOI”) and acknowledgment of receipt by the New York State Department of Environmental Conservation (“NYSDEC”) of the NOI and the final Stormwater Pollution Prevention Plan (“SWPPP”);
- (9) Jackson Solar 1, LLC shall provide the Jackson Town and Planning Boards and B&L with a written proposed schedule for construction of the Facility;
- (11) Jackson Solar 1, LLC shall provide payment for all outstanding fees, including any invoices by Jackson Planning Board and/or Jackson Town Board consultants and attorneys;
- (12) Jackson Solar 1, LLC shall provide the Jackson Town and Planning Boards with copies of all other approvals issued for the Facility, including the New York State Department of Transportation (“NYSDOT”) Highway Work Permit, sign offs by New York State Energy and Research Development Authority (“NYSERDA”) and the U.S. Army Corps of Engineers;
- (15) Jackson Solar 1, LLC will notify in writing by US Postal Service, the Jackson Town and Planning Boards 30 days prior to the sale, assignment or transfer of the Facility to another entity. The new owner of Jackson Solar 1, LLC must provide the Jackson Town and Planning Boards with their contact information, including mailing address, telephone number and email address, moreover, no sale, transfer or assignment may take place unless the new owner agrees in writing to comply with the conditions of approval; and
- (25) Jackson Solar 1, LLC, and any successor or assign must maintain commercially reasonable general liability insurance in an amount no less than 5 million dollars and must name the Town of Jackson as an additional insured on the policy.

WHEREAS, the Resolution of Approval further resolved that the Jackson Planning Board authorized the Jackson Planning Board Chairperson to stamp and sign the Site Plans upon the Applicant's satisfaction of all applicable conditions set forth above; and

WHEREAS, the Planning Board wishes to reconfirm the authority of the Jackson Planning Board Chairperson to stamp and sign the Site Plans upon the Applicant's satisfaction of all applicable conditions set forth above;

NOW, THEREFORE BE IT RESOLVED, that the Jackson Planning Board hereby finds applicable conditions 1, 2, 3, 5, 7, 8, 9, 11, 12, 15 and 25 set forth above have been duly satisfied as of the date of this Resolution and the Jackson Planning Board Chairperson is hereby authorized to stamp and sign the Site Plans, dated December 28, 2020, which are attached to this Resolution and specifically incorporated herein by reference; and

BE IT FURTHER RESOLVED, with respect to condition 12 set forth above, it is clarified that the Applicant received Conceptual Approval from NYSDOT on October 1, 2020 in satisfaction of condition 12, and since as a matter of standard practice the NYSDOT Highway Work Permit is issued just prior to commencing construction, the Planning Board Chairperson is authorized to stamp and sign the Site Plans before said final permit is provided; and

BE IT FURTHER RESOLVED, stamping and signing the Site Plans does not authorize construction of the proposed Facility and B&L or, in the discretion of the Town, a substitute engineering firm of similar experience and expertise, shall signoff on the Construction Drawings prior to commencing construction of the Facility, which signoff shall be granted if the Construction Drawings are in substantial agreement with the approved Site Plans; and

BE IT FURTHER RESOLVED, the following conditions from the Resolution of Approval remain in full force and effect during construction and/or operation of the Facility:

- (4) The engineering escrow fund referenced above in section (3) will also be used to compensate B&L staff for the labor and expenses incurred in performing semi-annual site inspections of the Facility during the Spring (on or about April 15th) and Fall (on or about October 15th). After construction is complete and the above-referenced construction inspection is complete, B & L, or another qualified company, shall thereafter do semi-annual site inspections of the condition of the perimeter landscaping and site access road, and the overall condition of the site. On a yearly basis, Jackson Solar 1, LLC shall place sufficient funds in the Town's escrow account to cover the cost of the semi-annual site inspections. Following each semi-annual site inspection, B&L will provide a written update to the Jackson Town and Planning Boards. The semi-annual site inspections will be performed each year that the Facility is in operation;

- (6) Jackson Solar 1, LLC shall have the landscaping inspected at its expense once a year on June 15, 2021 for the first five (5) years of operation by a Registered Landscape Architect or Arborist, and Jackson Solar 1, LLC must submit a written report to the Jackson Town and Planning Boards identifying any areas of landscaping that have died or not thrived and will be replaced by Jackson Solar 1, LLC;
- (10) Prior to commencing the operation of the Facility, Jackson Solar 1, LLC must meet with emergency responders at the site to discuss the procedures to be followed in the event of fire and other emergencies. Within five (5) days of the meeting, Jackson Solar 1, LLC must provide the Town Supervisor and Jackson Town and Planning Boards with hard copies of the meeting minutes. The meeting minutes must indicate the name and contact information for each of the attendees and provide a detailed description of the procedures that will be followed by the emergency responders in the event of a fire or other emergency.
- (13) No battery storage is approved for this Facility;
- (14) Jackson Solar 1, LLC has agreed that no additional expansion of the Facility will be proposed;
- (16) There will be no use of pesticides or herbicides during construction or operation of the Facility;
- (17) During construction of the Facility, no Jackson Town roads are to be used for deliveries of equipment or materials;
- (18) In the event that the Town of Jackson receives complaints regarding glare impacts from the Facility onto affected landowner properties and/or public roadways surrounding the project, Jackson Solar 1, LLC must identify the source of the glare impacts and implement immediate mitigation measures and notify the Town in writing of the mitigation measures undertaken;
- (19) In the event that the Town of Jackson receives complaints regarding light and/or noise impacts from the facility onto affected landowner properties, Jackson Solar 1, LLC must immediately identify the source of the light and/or noise impacts and implement appropriate mitigation measures and notify the Town in writing of the mitigation measures undertaken;
- (20) After completion of the Facility and prior to the commencement of operation, Jackson Solar 1, LLC shall retain the services of a New York State licensed professional engineer to provide post-construction certification that the Facility complies with applicable codes and industry practices, and has been constructed

according to the approved design plans. Jackson Solar 1, LLC shall also provide certification from National Grid that the interconnection from the solar facility to the electric transmission line has been inspected and approved;

- (21) During operation of the Facility, any mowing of the vegetation under the panels will occur Monday through Friday from 9 a.m. to 5 p.m. only;

- (22) Jackson Solar 1, LLC shall retain the services of a qualified third party to perform pre- and post-construction groundwater quantity and quality testing on the residential water well that exists on the property adjacent to the Facility in the vicinity of State Route 22 identified as tax map parcel 239.-2-45. All such testing shall only be done with the express written consent of the property owner. Should the NYSDOH-certified laboratory testing results reveal that the quality of the groundwater supplied by the existing, residential water well met New York State drinking water standards prior to the construction of the Facility, but failed to meet such standards following the completion of construction activities, B&L will evaluate the water quality testing data in an attempt to determine if project-related construction activities were the cause of the degradation in the water quality. Based on its evaluation of the NYSDOH-certified laboratory test results, B&L will provide the Town of Jackson with a professional opinion regarding the cause or factor that resulted in the degradation in the water quality supplied by the residential water well. In the event that B&L determines that project-related construction activities were the cause of the water quality degradation in the residential water well, Jackson Solar 1, LLC will be instructed by the Town of Jackson to retain the services of a New York State certified water well driller to install a new water well on the property with the express written consent of the property owner. Furthermore, all abutting property owners will be notified in writing by Jackson Solar 1, LLC that project-related construction activities caused the water quality in the residential water well on the property adjacent to the project site to be detrimentally impacted;

- (23) In addition to item (22) above, should the third-party testing on the residential water well that exists on the property adjacent to the Facility in the vicinity of State Route 22 reveal that the quantity of the water supplied by the existing, residential water supply well was less than 10 gallons per minute (GPM) prior to construction and has subsequently had its pre-construction flow rate reduced by 25 percent or more following the performance of project-related construction activities, B&L will evaluate the flow rate testing data in an attempt to determine if project-related construction activities were the cause of the reduction in flow rate. In the event that B&L determines that project-related construction activities were the cause of the reduction in the flow rate in the residential water well, Jackson Solar 1, LLC will be instructed by the Town of Jackson to retain the services of a New York State certified water well driller to install a new water well on the property, so long as

the property owner consents in writing to the drilling and installation of a new water well on the property. Furthermore, all abutting property owners will be notified in writing by Jackson Solar 1, LLC that project-related construction activities caused the flow rate in the residential water well on the property adjacent to the project site to be reduced as described above, i.e. by a preconstruction flow rate reduced by 25%; and

- (24) Prior to commencing the operation of the Facility, Jackson Solar 1, LLC must install landscaping along the entire northern property line of the property located at 2577 State Route 22 where trees do not currently exist. The plantings must be in accordance with the details provided on the Landscaping Plan Sheet contained in the approved Site Plan drawings (Sheet No. C-3.1 dated December 28, 2020); and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of Jackson Town Clerk within five (5) days of the date of this Resolution, and shall be mailed to the Jackson Solar 1, LLC within the same five (5) day period.

At this time, Former Town and Planning Board Clerk Tammy Skellie-Gilbert spoke to give thanks to the entire Planning Board for their hard work throughout the last 3-4 years on this project. Planning Board Chair Maxwell thanked Tammy for her contribution as well and acknowledged the initiative of the late Noel Hanf, who had Chaired the Board throughout the beginning stages of the project.

SOLAR CHECKLIST

The Board discussed the idea of creating a solar checklist to help aid throughout the application process of any future solar projects, now that the Solar Law is passed and the moratorium is expired. Clerk Dixson volunteered to spearhead this task and will present the rough draft of the checklist to the Board members at a future meeting.

COMPREHENSIVE PLAN DRAFT

After discussions at the April Planning Board meeting, all Board members agreed that the next project they would like to revisit would be the draft Comprehensive Plan of 2014. At a recent training event held at the Washington County building, Board member Kelly Donahue spoke with County Planner Pamela Landi who agreed that this would be a great place to start as a Comprehensive Plan can help reinforce site plan and solar law, as well as secure grant funding for the Town. Ms. Landi offered to give her expertise throughout the process as well as any information she has on funding opportunities for consultants.

Chair Maxwell volunteered to present this information to the Town Board at the May Town Board meeting, and to ask that the Town Board be agreeable to returning to the Comprehensive Plan draft. She also stated that the first draft was a basic descriptive inventory of the Town that they wish to add onto with more data. Board members agreed that a 6-month timeline seemed to be a fair estimate as they already have a draft to work from. They also discussed the possibility of opening up a set time at each Planning Board meeting for the public to come in and present any ideas or suggestions that they wish to be included in the Plan. Board member Vandenberg questioned if the Town would need to create a subcommittee specifically for solar to be able to address and manage the level of applications the Town may soon receive. Board member Chuhta questioned how the Board would be able to prioritize any future solar projects along with the usual month to month projects such as subdivisions, and the prospect of returning to the Comp. Plan draft. Chair Maxwell stated that the Board must address all solar applications in the order they come in. After some discussion, Board member Donahue pointed out the 45-day time limit allotted in Site Plan Review when applications come in. Board member Chuhta requested that Chair Maxwell ask the Town Board how best to budget time with these projects and to ask that if the PB needed, would they set another moratorium on solar in order to be able to address any solar projects on hand.

JULY PLANNING BOARD MEETING

Upon the realization that the July Planning Board meeting falls on the 4th, a holiday, the Board discussed what days would be best to reschedule.

A **motion** was made by Irene Headwell and seconded by Kelly Donahue to change the date of the July Planning Board meeting to July 11th, 2023 at 6:30 pm. Motion carried in favor 6-1 with Board member Chuhta opposing.

PROJECTOR/TV SCREEN FOR TOWN HALL

After receiving approval to buy equipment for planning purposes at Town Hall, Board Member Vandenberg questioned the best way to go about purchasing. He will get in touch with Budget Officer Donna Nolan to proceed.

New Business:

- Chair Maxwell advised the Board that she may be unable to attend the June Planning Board meeting as she has another meeting prior that may run late.

A **motion** was made by Steve Chuhta and seconded by Tim Thomas to adjourn the meeting at 7:52 pm.

Motion carried in favor 7-0.

Next Meeting: Tuesday, June 6, 2023 @ 6:30 pm

Adjourned: @ 7:52 pm

Respectfully submitted,

Molly Dixon, Town of Jackson