

**TOWN OF JACKSON  
PLANNING BOARD SPECIAL MEETING  
September 18, 2024**

The Town of Jackson Planning Board met on September 18, 2024 at 6:30 pm at the Town of Jackson Town Hall to continue the discussion on the site plan review of the Jackson Solar 1, LLC project. The following people were in attendance-

**Board Members:**

- Kelly Donahue
- Erik VandenBerg
- Mark Mahoney
- Irene Headwell
- Amy Maxwell [entered at 6:52 pm]
- Steve Chuhta

**Others Present:**

- Jay Skellie
- Lewis Steele
- Alita Giuda and John Ahearn
- Gary Ackley
- Dan Shaver
- Teresa Bakner & Steve Lefevre (via video conf.)

**SITE PLAN DISCUSSION – JACKSON SOLAR 1, LLC**

Following the discussion at the September 3<sup>rd</sup> regular Planning Board meeting, Chair Donahue reopened the discussion on the Jackson Solar 1, LLC site plan project and the Town’s path forward in regards to its review. Chair Donahue welcomed Steve Lefevre of Barton and Loguidice to give a brief update on the engineering review of the preconstruction drawings. Steve stated that he sat in on an hour-long call with Mill Creek Renewables where routes were proposed for stormwater management. They have provided B&L with an updated SWPPP and site plans. Steve advised that there is still a small issue with the impervious slope on the site that DEC has offered differing guidance on how to resolve. Mill Creek Renewables advised they will be hiring a company to handle reviews of erosion sediment control. Board member Chuhta requested we receive the name of the company that will be handling erosion sediment control reviews.

At this time, the Planning Board Clerk read aloud two (2) resolution options to proceed with the Jackson Solar 1, LLC project. Resolution option A resolves that the Planning Board has determined that the purpose of it’s April 2023 resolution was to confirm that all conditions of approval necessary for the signature of the site plans were met with the understanding that the project may not be completed in the summer of 2024; that the solar law and site plan review law are somewhat ambiguous as to whether the Planning Board can grant multiple extensions or “reapprovals” of the project as these solar projects appear to take years to obtain the collateral approvals from the State agencies and utilities involved, as well as having membership interests

in the project be transferred to other entities; that the moratorium on solar projects clearly states that it does not apply to projects that have already been approved by the Planning Board as this project has been; and that the Planning Board hereby continues its practice of extending the approval of the solar project or reapproving it granting the project until September 18, 2025 to complete the construction of the solar project.

Resolution option B resolves that the Planning Board has examined the site plan review law and has determined that it lacks the authority to grant a further extension to the approval last granted on May 2, 2023 and that no such extension was requested by the solar project sponsor; that the moratorium on solar projects clearly states that it does not apply to projects that have already been approved by the Planning Board as this solar project has been; and that the application for the solar project is complete, including the issuance of a negative declaration for this solar project, and that procedurally the only requirement for a reapproval is a public hearing while there have been no substantive changes to the project and a further referral to County Planning is not technically required the Town Planning Board Clerk will send a copy of the latest plans and this resolution to County Planning, as well as publishing and filing the notice of public hearing as required by the site plan review law and solar law.

Board members considered both resolution options presented. Board member Mahoney spoke to say that he believes the order of conditions that were originally written for the project were pretty good and detailed necessary actions that needed to be taken. He questioned the intent of bringing this issue forward, as stalling will just prolong the process and stopping the project won't happen. He added that the Planning Board has already put thousands of hours into reviewing this project already. Board member Vandenberg stated he believes that it's obvious that the project sponsors would have needed to ask for extension for the construction of the project and he does not want to allow bad behavior from applicants. Board member Chuhta stated he would like to move forward with the project as is.

[Board member Amy Maxwell enters at 6:52 pm.]

Board member Mahoney questioned the construction schedule and how long it would take the applicants to build at this point. Steve Lefevre stated construction would probably last around 12 months depending on when construction officially begins. Terresa Bakner stated she could add more time to the September 18, 2025 deadline that is in the resolution. Board member Maxwell stated that at the time the site plans were signed, the Board had found that the project sponsors had completed the necessary actions that were required in the order of conditions. At the time, they had advised the Planning Board of setbacks that would stall construction and it was well understood by the Board that construction may not be complete within a year. Board member Maxwell added that the Planning Board did not make the completion requirement clear to them, so it is a Planning Board oversight as well. Board members agreed that the Site Plan law is in need of updating.

Resident Lewis Steele spoke at this time. He stated that his intent with bringing forth his concerns is to follow the law as it is written. He stated the minutes are clear that no further extensions would be granted for the project. He added that he believes the site plan for the project is no longer valid, and the Planning Board should not have the authority to allow them to proceed as is. As he believes the approval is no longer valid, he added that the project should need to wait the duration of the solar moratorium. Terresa Bakner stated that under the solar law, the Board would have to hold a public hearing, followed by a review and then they would be free to affirm they had met reapproval. She added that the moratorium does not apply to previously approved projects, as this project is. Chair Donahue questioned who would make a motion for one of the resolution options to move forward with. Board member Mahoney stated he does not believe the September, 2025 deadline is enough time to allow them to complete construction.

A **motion** was made by Amy Maxwell and seconded by Steve Chuhta to amend Resolution option A, striking the September 18, 2025 deadline for completion of construction and changing the date to May 1<sup>st</sup>, 2026.  
Motion carried in favor 6-0.

A **motion** was made by Amy Maxwell and seconded by Mark Mahoney to approve Resolution option A as amended, confirming that the Planning Board hereby continues its practice of extending the approval of the solar project or reapproving it granting the project until May 1<sup>st</sup>, 2026 to complete the construction of the solar project.  
Motion carried in favor 5-0 with Erik VandenBerg abstaining.

Roll Call:

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

Motion as amended:

**Whereas**, the Town of Jackson Planning Board adopted a resolution dated May 2, 2023 attached hereto as exhibit A;

**Whereas**, the purpose of the resolution was to confirm the satisfaction of all the conditions to the signing of the site plan review by the chair of the Planning Board;

**Whereas**, the resolution also set forth the remaining conditions to be satisfied before the commencement of construction;

**Whereas**, one of these conditions involved Barton and Loguidice, the Town's Designated Engineers for the project, reviewing the construction plans for the solar project and confirming that no substantial changes had been made deviating from the Plans approved by the Planning Board;

**Whereas**, after the submission of a number of sets of final plans and extensive discussion over compliance with the stormwater plan requirements, Barton and Lojudice has issued a final memorandum dated September 13, 2024 confirming the final changes that need to be made to the construction plans in order for the construction plans to be approved;

**Whereas**, although the solar company has commenced limited activities on the site such as mobilization and the start of the installation of soil erosion and sedimentation control features, no installation of the solar system has occurred to date;

**Whereas**, the Planning Board has been asked to confirm that the solar company remains authorized to proceed with the project;

**Now therefore be it resolved**, that the Planning Board has determined that the purpose of its April 2023 resolution was to confirm that all conditions of approval necessary for the signature were met with the understanding that the project may not be completed in the summer of 2024;

**Be it further resolved**, that the solar law and site plan review law are somewhat ambiguous as to whether the Planning Board can grant multiple extensions or “reapprovals” of the project as these solar projects appear to take years to obtain the collateral approvals from the State agencies and utilities involved, as well as having the membership interests in the project be transferred to other entities;

**Be it further resolved**, that the moratorium on solar projects clearly states that it does not apply to projects that have already been approved by the Planning Board as this project has been; and

**Be it further resolved**, that the Planning Board hereby continues its practice of extending the approval of the solar project or reapproving it granting the project until May 1<sup>st</sup>, 2026 to complete the construction of the solar project.

A **motion** was made by Kelly Donahue and seconded by Mark Mahoney to adjourn the meeting at 7:24 pm.

Motion carried in favor 6-0.

**Next Meeting:** Tuesday, October 1<sup>st</sup>, 2024 @ 6:30 pm

**Adjourned:** 7:24 pm

Respectfully submitted,

Molly Dixon, Town of Jackson