

Town of Stuyvesant  
Zoning Board of Appeals Meeting  
November 30, 2022

Members in Attendance:

M. Pino, Chair  
K. Handy  
A. Abbati  
S. Taylor  
C. Sweningsen  
S. Montie  
B. Rohrer  
Christopher Langlois, Attorney  
Mitch Khosrova, Attorney  
Attorney from Tooher and Barone  
Multiple residents of the community

Chairwoman M. Pino asks Secretary P. Delong to take roll call for attendance.

Chairwoman M. Pino opens with the Pledge of Allegiance and calls the meeting to order.

Call to Order: 7:00 pm

M. Pino reminds everyone in the audience that before the opening of the public hearing, there is a signup sheet over by the door for anyone planning to speak at tonight's meeting. She continues; on the agenda there are two appeals, we're doing them separately, so they'll be a public hearing, open and closed, and then the second one will be opened and closed.

**Motion:** to open the public hearing for the appeal of Paula Van Meter and Peter Lease made by C. Sweningsen; seconded by S. Montie. All in favor.

Meave Tooher, Esq. introduces herself as the attorney representing Paula Van Meter and Peter Lease on their appeal of the determination that was made by the Town CEO concerning the solar site plan review. She continues, that determination was made that the 2017 zoning law, the 2017 solar law, would apply to this application as opposed to the 2022 law because of the timing of this application. She points to and explains her timeline declaring the most important dates are the dates of your laws, the situation of the date the application that was received before April 4, 2022, that this project fits within the town law of 2017. She adds the Town was very concerned about what was going on with solar projects in the community, and the town couldn't place a moratorium, the moratorium went into effect on July 23rd, 2021. She elaborates on the moratorium, adding the community isn't trying to discourage solar development, rather the community wants to make sure that it's done properly, and it doesn't negatively impact the community, and they serve a valid purpose. She details the timeline, the application, the moratorium, and the new solar law. She adds the moratorium says that no applications will be considered reviewed or true, as of July 23rd, 2021, the Town wasn't doing anything with solar. Applications, putting them aside, until the town has a handle. She continues under the 2017 law, there were certain things that had to happen, certain procedures that you had to go through, site plan, referred to the Planning Board for site plan review, this application does get referred to the site for the Planning Board for site Plan review, but that's not until September 2, 2022, after the enactment of the

solar law. She notes the application was sent to the town March 10, 2022, the new solar law doesn't come into play until April 14, looking objectively, there is no way that the provision saying the 2017 could apply because the moratorium was still in effect when this application was filed. She discusses how the moratorium flies in the face of logic, how the moratorium would take precedence over the general zoning law, to look at the weight and weigh the intent and purpose of the lots, how the 2017 law would apply to the River Creek Road solar project because that the application had been filed prior to the moratorium, renewable energy and the solar law.

Paula Van Meter introduces herself as living at 208 Schoolhouse Rd, immediately adjacent to this project. She states she is making her statements in support of those of Peter Lease but also those of John Morgan. She reads her statement how common sense tells someone and one doesn't have to be a lawyer to recognize that Mr. Haberland's opinion as brief and devoid of analysis, it is just wrong because he doesn't give any detail as to how he reaches the conclusion, other developers were not submitting due to the moratorium, the application was not eligible for submission because it was not complete, the ELP original application was filed with payment before the effective date of the new law, well, it's under the old and that's just wrong because the application was not eligible for submission, it was not complete and it was not therefore eligible for consideration under any grandfathering clause and how the two parcels about a mile apart on Schoolhouse Road that were to be then connected with the ultimate connection to transmission carried downstate with no connection plan. She asks the Board not to reward their illegal maneuvering, as that would be like the juvenile who murders his parents and then begged for mercy because he's an orphan, and there's no shame in recognizing that mistakes were made, there's no shame in correcting them. A copy of her statement was submitted to the Board.

S. Taylor asks Ms. Van Meter about her statement, that he understands a little she is saying, she is reinforcing the argument made by the attorney about the moratorium, but he does not see how the connectivity is material, that in essence doesn't allow the site plan review to go ahead, or that it's not complete as far as application.

P. VanMeter states what Peter Bujanow told her he would have done had he looked at the application, that he would have asked for the connectivity to determine if it was legal and safe. She voices her thoughts that the application was submitted knowing they were missing a critical element, and why she feels the application was not complete.

J. Morgan introduces himself and states that he and his wife Linda Morgan live on Schoolhouse Road adjacent to the site of the proposed ELP solar power plant. He adds, as stated by written appeal, I respectfully requesting the board reverse September 2<sup>nd</sup>, 2022 decision of Zoning Enforcement Officer, Mr. Haberland. He reads his statement. A copy of his statement was submitted to the Board.

S. Taylor asks Mr. Morgan about his statement, to make sure he understands correctly, he is suggesting to them that the reason to reverse Kevin Haberland's determination is because of a series of material errors, that could include one of those material errors, just meaning that because Mr. Haberland didn't write 17 pages and only wrote 1 page, or a check was cashed however many days late versus other, or the fact that when the submission was made it was made directly to the Planning Board. He adds this is in is not the case and asks if the former ZEO had resigned why would they be making submissions to the former ZEO? He continues, that he just doesn't understand how these errors are relevant to the whole. question of the is the moratorium applying or not.

J. Morgan replies that his belief would be, if you look at a six sentence document that has about 10-12 mistakes in it, some of which are meaningless, an important document from our code enforcement officer and it has all those mistakes, it is not that big of a leap to conclude that if this short brief document has all these mistakes, that the conclusion he came to is also a mistake. Adding that there was no focus, no detail and no rational explanation as to how he arrived at his decision.

M. Scannell introduces himself as a small farmer and states there is no technological solution to a biological problem. He adds he is a grass farmer, knows what can be done with grass and any good piece of land, that most places in Stuyvesant can yield 6 tons of grass, and that there is a lot of energy in the grass. He continues, it's going to be serious covering all this land and if it doesn't yield the most efficient thing on it, it doesn't make sense. He speaks on efficiency and that he is not afraid of change, just that it should be positive, and better decisions. He states it is the subject he has spent 40 years reading about. And he is pretty proficient, that's why he is talking with us. He concludes, if there's no technological answer, people think that there's no answer, his farm is a biological answer to agriculture and that is what we should be thinking about if we're going to have any future.

L. Creeron reads her statement about being in the town for 34 years, and how our precious lands are being turned into things that give financial gain to companies, in this case a solar company, that isn't really isn't going to affect the Town of Stuyvesant, and asks, "where is it going to benefit us? It's not." She reads the rest of her statement. A copy was **not** submitted to the Board.

S. Stockman introduces himself as living at 247 Schoolhouse Road, directly across the road from the proposed 20-million-watt power plant. He presents his timeline to the audience and reads his statement. A copy of his statement and timeline were **not** submitted to the Board for the file.

M. Pino adds the Board can not speak to the second site plan review because it is not before this board. S. Stockman asks how can the board make their determination if they are not aware of the differences between the two proposals. He asks which proposal Kevin Haberland is even referring to, because he, himself doesn't know. M. Pino explains that this has to be resolved here first, before that can even go before the Planning Board and the process. C. Sweingsen observes that his ruling occurred before that application he is referring to. S. Stockman points out that his ruling came in September and sites ambiguity.

K. Stockman states that he is fully in support all the hard work his neighbors have done, thoroughly researching, spending a lot of the time, not working their jobs using their free time to fight this and do research that helps the cause, he is in full agreement with them that the moratorium was in effect when this application was submitted and disagree with the idea that it could even be viewed by any board member.

M. Stockman introduces herself as living on Schoolhouse Road, directly across from the proposed industrial solar plan project. She states she supports both grievances and their opposition to the ELP determination letter. She reads her statement. A copy of her statement was **not** submitted to the Board.

B. Bellanger Embry introduces herself as living at her address for over 57 years with 4 generations living at that property. Even after leaving the service she and her husband decided to live in this area. She reads her statement which includes that she concurs with the grievances that have been filed by her neighbors and concludes by asking members of the zoning board not to bend to pressure that might come from ELP, the state or even the property owner for the site project. S. Taylor asks, from her perspective, there is no solar project on School house Road that she would find acceptable, whether

that was under the 2017 law or the new law and asks if this application was in fact filed under the new law with the prime soils, set back and everything else, would you have an issue there? B. Bellanger Embry asks in response, why he is asking her how she would feel about their new application when it was just brought up, and the board said that they couldn't acknowledge that. The board and the residents discuss at length their thoughts, that they did not say no solar, support for residential solar, and the size of the project

T. Seeberger introduces herself as living on Schoolhouse Road for 25 years. She reads here statement. She voices her uneasiness about a solar project that will not benefit the Town and is an industrial solar plant. She states her letter is in support of the grievances. A copy of her statement was submitted to the Board.

M. Razanousky reads his statement that is in support of the grievances and voices his concern about this type of development in the community with no community benefits and allowing commercial industrial development in zoning, agricultural and residential areas. A copy of his statement was *not* submitted to the Board

M. Pino and C. Langlois discuss the two public hearings being treated with the same sentiments.

M. Khosrova introduces himself as the attorney to ELP and asks the Board to think about fairness, if something new that hasn't been said tonight, that could have been said, and everyone who wanted to speak spoke, is it fair to then allow something that hasn't been said, hasn't been discussed without me having an opportunity to look at that. He continues that he will be very brief, states that the substantive arguments that many of this community have with large solar, he doesn't disagree, but that's the review that is to come on any application. She mentions some of the comments and adds that with out knowing what a complete application is, you really don't know what it's going to look like and the impact, all that stuff has to be discussed. He continues that we are here tonight to discuss the wording in the moratorium, that there's been a lot said about intent, discussions about former CEO's saying things, current supervisors, making innuendo about something that wasn't done, all of that is irrelevant. He continues, the opposition tonight is stating is that the words of the moratorium on approval of any applications related to the solar, says no applications shall be considered, reviewed or approved. He adds, what it doesn't say is it can't be submitted and points out that his clients had meetings with the town starting in the summer of 21 well before the July moratorium went into effect. He then references a paid application and the item on the Town website called the Planning board overview, points out line 2 says the ZEO will determine if the proposed project is permitted under the town zoning law. He adds that there has been a lot of talk about the application being complete, whether it's been withdrawn, whether it's been revised so much that it's new, that it's been illegally put in, but it comes down to the misunderstanding of submission of an application and something that is deemed complete as an application. He explains that is a legal term used for planning boards, to be able to hold a public hearing an application has to be deemed complete, which logically tells you it can't be complete before that and adds that everyone who has been to a planning board meeting knows that an application is put in and then changes based on feedback. He mentions the public meeting his client had with the community, that was not mandated by law, explains that his clients heard what the community had to say and made changes. He adds that is how the process is supposed to work, discusses what the town could have put in the moratorium, that the CEO did exactly what he needed to by law, and that this comes down to the wording in the moratorium, the wording in the actual law .

S. Taylor states he has a question, that if the application was submitted and accepted why it couldn't be considered and accepted under the new solar law. M. Khosrova states that the new solar law specifically grandfathered it. C. Sweningsen states that is not specific to this application, they discuss.

M. Tooher replies that You had a moratorium in place, it has very specific language, the paid application issue also included in your new solar law and that paid application is an important distinction, not so much in terms of allowing this, but because your moratorium said it couldn't be reviewed. She adds if the CEO couldn't review it, he couldn't accept it and it couldn't be paid for, that's why the check wasn't cashed, because it didn't move forward, the very purpose of the moratorium was to say no, you can't accept it. She states that the language of your site plan approval has very specific processes, those processes weren't followed, and those processes would be part of the 2017 law, so even under the 2017 law this was not the appropriate process, which again would cater to the 2022 law. She encourages to look at the wording of the statute, look at the intent of the statute, and find that an error was made in this interpretation.

M. Pino asks if everyone has spoken who would like to speak. No response from the public. She asks if there is any Board discussion. S. Montie asks if ELP will be able to respond to the letters after the 10 day period. The Board and C. Langlois discuss. J. Morgan asks request if ELP is given an opportunity to respond as being each other attorney is, he would likewise like that opportunity as well. All are in agreement. The Board and residents discuss what can be posted to the website. M. Pino states that anything that comes from the public can be requested and given a copy. M. Pino talks about how she takes her own notes at the meetings and a resident makes a statement that the minutes are hardly ever published. The Board discusses the responses being scanned and emailed.

**Motion:** to close the public hearing for the appeal of Paula Van Meter and Peter Lease made by S. Taylor; seconded by K. Handy. All in favor.

**Motion:** to open the second public hearing for the appeal of John Morgan made by C. Sweningsen; seconded by S. Montie. All in favor.

**Motion:** to open recognize and incorporate all the comments that was offered during the course of the first public hearing be deemed as been said in the second public hearing for the appeal of John Morgan made by C. Sweningsen; seconded by S. Montie. All in favor.

The floor is opened. No additional comments are made.

**Motion:** to close the public hearing for the appeal of John Morgan made by S. Taylor; seconded by S. Montie. All in favor.

C. Langlois and the Board discuss keeping the record open to submit something in writing for 10 more days and decide on December 12<sup>th</sup>, with any responses from the appeals be the so one week after the 12th will be the 19th, at which point the record would be deemed officially closed. The residents and the Board discuss further. M. Pino adds the Board can make the decision after the public hearing closes and then they have 62 days to make a decision and have a resolution. C. Sweningsen notes that the Board takes everything, all responses into consideration.

**Motion:** to keep the public record open until Monday, December 12<sup>th</sup> and response to those submissions would end on the 19<sup>th</sup>, made by K. Handy; seconded by C. Sweningsen. All in favor.

**Motion:** to adjourn made by S. Montie; seconded by C. Sweningsen. All in favor.

Adjournment: 9:02 pm.

Respectfully submitted,

Patricia DeLong  
Zoning Board of Appeals Secretary