

MINUTES
LEWIS COUNTY PLANNING BOARD
October 17, 2024

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in the conference room on the 2nd floor of the Lewis County Court House, Lowville, New York. Mr. Petersen requested a roll call.

- (2) **Roll Call:**
Board Members Present: Timothy Petersen, Eric Virkler, Sarah Metott, Thomas Osborne, John Lehman, Don Cook and Larry Dolhof (Non-voting member).
Staff Present: Casandra Buell, Director of Planning and Community Development; Megan Krokowski, Community Development Specialist.

- (3) **Reading and Approval of Minutes:** The draft September 19, 2024 meeting minutes were received and reviewed before the meeting. Mr. Cook motioned to approve the minutes; Mr. Lehman seconded the motion, which carried unanimously.

- (4) **Correspondence and Communication:**
Verizon Wireless Castorland #16917512 | GSS Project #D24246-21-NY
Notice of initiation Section 106 Process-Public Participation, Merz Rd., Town of Denmark
Ms. Krokowski reviewed the following communications received from the APA:
APA Project No. 2024-0145: Application Determined
Stephen Kushnir, Construct boathouse involving wetlands, Cottage Road, Town of Greig
APA Project No. 2024-0222: Certificate for Certain Minor Regulated Activities
National Grid, Repair transmission line ground wire, Moshier Spur Road, Town of Watson
APA Project No. 2024-0251: Application Received
Blair & Rebecca Brown, Construct single-family dwelling, Partridgeville Rd., Town of Greig
APA Project No. 2024-0269: Application Received
Kurt & Penny Dittl, Two-lot subdivision, North Shore Road, Town of Greig
No comments were proposed for submission.

- (5) **Report of Officers:** None

- (6) **Report of Special Committees:**
239-M Review
Ms. Krokowski read the following review:

TOWN OF MARTINSBURG TOWN BOARD
Proposed Local Law No. 4 of the year 2024 establishing a temporary land use moratorium prohibiting large-scale solar installations within the Town of Martinsburg for 12 months.
Town of Martinsburg – Applicant

The applicant provided the following Project Documentation: 1) General Municipal Referral Form with Agricultural Data Statement; and 2) Proposed Moratorium. Land use moratoria are classified as Type II actions; therefore, the Town of Martinsburg is not required to undertake SEQR review for this action.

In summary, this proposed local law seeks to establish consistent and comprehensive plans and regulations for all actions associated with large-scale solar energy systems. Upon reviewing the proposed local law's purpose and intent, strengthening the connection between large-scale solar installations and the impact on the health and safety of the Town's residents would be beneficial. The Board should consider adding, *"In addition to visual impacts the Town wants to safeguard public health, safety, and general welfare from the increased developmental pressures and technological changes in clean energy while comprehensive regulation is created."* or similar language to the end of paragraph one of Section II.

The proposed moratorium further discloses the intent of the local law by including definitions within Section III for large-scale solar installations. Section III (B) should be better clarified by combining Section III (B) with Section III (A) or by adding a second definition for *"Non-Commercial Solar Installation- any solar panel system or array undertaken by individual landowners, households or farmers for their personal use, or the use of a business owned by them. Produced solar energy shall be consumed on-site."* Furthermore, the Town should consider integrating the following definitions into Section III of the moratorium for consistency since they are present in the current development code:

- Solar Collector
- Solar Energy Equipment
- Solar Farm (Solar Energy Production Facility)
- Solar Storage Battery

The Board should consider adding a definition for "commercial solar energy conversion devices/ farms" within Section III as this term is used several times throughout the document.

The proposed local law establishes a 12-month term for the moratorium which will go into effect once the moratorium is filed with the Department of State. Twelve months is on the lengthier end of the spectrum; however, the proposed duration is typically upheld at the court level for such actions and can be formally rescinded if the regulation is created before the twelve months expires.

Moreover, portions of the Town of Martinsburg have been identified as hot zones for the development of battery energy storage systems (BESS). The Board may want to consider modifying the moratorium to include battery storage systems in addition to large-scale solar installations as many times the regulations go hand in hand when developing policies and plans. Should battery storage be added, ensure the title of this local law reflects the change for transparency.

Recommendation: Approve with Conditions

1. The Town of Martinsburg Board could strengthen the connection between large-scale solar installations and the impact on the health and safety of the residents by adding, “In addition to visual impacts the Town wants to safeguard public health, safety, and general welfare from the increased developmental pressures and technological changes in clean energy while comprehensive regulation is created.” or similar language to the end of paragraph one of Section II.
2. The proposed moratorium further discloses the intent of the local law by including definitions within Section III for large-scale solar installations. Section III (B) should be better clarified by combining Section III (B) with Section III (A) or by adding a second definition for “*Non-Commercial Solar Installation- any solar panel system or array undertaken by individual landowners, households or farmers for their personal use, or the use of a business owned by them. Produced solar energy shall be consumed on-site.*” Furthermore, the Town should consider integrating the following definitions into Section III of the moratorium for consistency since they are present in the current development code:
 - Solar Collector
 - Solar Energy Equipment
 - Solar Farm (Solar Energy Production Facility)
 - Solar Storage Battery
3. For clarity, the Board should consider adding a definition for “commercial solar energy conversion devices/farms” within Section III as this term is used several times throughout the document.
4. Moreover, portions of the Town of Martinsburg have been identified as hot zones for the development of Battery Energy Storage Systems (BESS). The Board may want to consider modifying the moratorium to include battery storage systems in addition to large-scale solar installations as many times the regulations go hand in hand when developing policies and plans. Should battery storage be added, ensure the title of this local law reflects the change for transparency.

NON-BINDING NOTES:

- A) SAMPLE Definition for **BATTERY ENERGY STORAGE SYSTEM**: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

(BESS definition provided by NYSERDA)

- B) Check back in the coming months with Lauryn Tabolt, Community Development Specialist, regarding the County-wide Solar Overlay District that is in the process of being finalized. This overlay is meant to be a tool for municipalities to reference in their local laws as it has identified parcels that would have the least visual impact as well as several other key factors contributing to placement locations.
- C) Consider updating the Code of the Town of Martinsburg, where applicable, and the *Development Permit Application/Site Plan* or *Special Use Permit* as requested by the Zoning Board of Appeals in the letter dated August 9, 2024 while making the intended changes of this proposed moratorium.

Ms. Buell explained the importance of recommendation #1 relative to the legal stability of the moratorium. She then explained that clarity of recommendations #2 and #3 are significant to lower the chance for misinterpretation and that recommendation #4 was included as a proactive measure. Board members agreed with the recommendations provided and, with no further discussion, Ms. Metott motioned to approve with all conditions. Mr. Virkler seconded the motion, which carried unanimously.

Ms. Krokowski then read the next review:

TOWN OF MARTINSBURG TOWN BOARD

Review of proposed Local Law No. 5 to abolish Local Law No. 3 of the year 2021, Code of the Town of Martinsburg, Special Events.

Town of Martinsburg – Applicant

The applicant provided the following Project Documentation: 1) General Municipal Referral Form with Agricultural Data Statement; and 2) Local Law # 3 of 2021 to be abolished.

In summary, the local law from 2021 is proposed to be abolished as events and gatherings will be covered elsewhere and this law is obsolete to the Town.

The Town of Martinsburg has executed an Inter-Municipal Agreement (IMA) with the County of Lewis for Road Damage Caused by Recreational Activities. Within this IMA, when municipalities opt in, they agree to permit special events on roads, trails or other municipal property; however, permit fees from motorized events and or recreational activities will be recorded by the Director of Recreation, Forestry and Parks.

Recommendation: Approve

The Board concluded that the proposed abolishment of this law was clear and justified. With no further discussion, Mr. Petersen motioned to approve the action. Mr. Virkler seconded the motion, which carried unanimously.

Ms. Krokowski then proceeded to read the last review:

VILLAGE OF LOWVILLE BOARD OF TRUSTEES

Proposed amendments to various sections of the Village of Lowville Zoning Law.
Village of Lowville – Applicant

The General Municipal Referral Form was submitted by Village Trustee Timothy Widrick and Village Mayor Joseph Beagle. Unsigned versions of Parts 1, 2, and 3 of the Full Environmental Assessment Form (FEAF) were submitted along with a draft negative declaration resolution in preparation for their upcoming meeting.

In reviewing the proposed amendments, it appears they are proposing a variety of updates, revisions, and additions. Within the proposed definitions to be added were the following:

DUMP: A land site used primarily for the disposal by dumping, burial, burning, or other means and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, and other waste, scrap, or discarded material of any kind that is not approved by the village for such purpose.

LANDFILL: An outdoor site used for the disposal of waste.

As written, these definitions appear to have some overlapping language that could lead to misinterpretations. Clarification between the two should be made prior to adoption unless they should be treated the same as both uses appear to be prohibited.

Throughout the presented law changes, references directing the user to ‘See Appendix A, Attachment **4** for more information regarding signs’ should be corrected to reflect Attachment **3**. This appears to be an eCode 360 reference error versus a local law language correction.

Article 201-840(G) could be clarified to read...”The required spaces assigned to one use may be shared with another use when able to satisfy the expected capacity of both uses.”

Because there are multiple jurisdictional right of ways connecting to the Village Street System, it is suggested that the references to just the ‘Village Street System’ be revised to read ‘Street System’.

In order to complement the proposed Section 201-1080, Stormwater Prevention, and promote the use of permeable surfaces, Section 201-1050 should remove the requirement to provide ‘concrete’ sidewalks.

While the additional proposed Stormwater Prevention measures added in Section 201-1080 are certainly warranted, it could be unnecessary to require grading and drainage plans for proposed adaptive re-use with no ground

disturbance. Further clarification as to whether this is limited to new development would help to avoid misinterpretation.

Being that the Village has an Inter-Municipal Agreement (IMA) with the Lewis County Buildings and Codes Department for Zoning Enforcement duties, it is understandable that permit fees have been included in Section 201-1325; however, it is important that they are known to be distinctively different from those collected by the Town/Village Planning Board. Revised language is suggested to ensure that the Applicant and appropriate Clerks are aware that there are fees that are paid to the Village for certain applications, as determined by the Village Board via resolution, and fees paid to the Lewis County Building and Codes Department as the Village ZEO for the actual permit. As written, it reads as though fees should only be paid to the Lewis County Building and Codes Department.

The proposed amendments to Section 201 Attachment 1, Schedule A, Permitted Uses, include various revisions and additions. While most revisions appear to reflect the revisions within the textual amendments, the Park/Open Space Zone does not appear to allow an Open Space use. Since the proposed definition of Open Space is 'Land that is mostly underdeveloped and set aside for agricultural or recreational purposes. This land may be owned by public or private entities and can have restricted or unrestricted access,' one would interpret this use to be allowed on Schedule A, just as a Park use is allowed, with a zoning permit.

Recommendation: Approve with Conditions

1. As written, the 'Dump' and 'Landfill' definitions appear to have some overlapping language that could lead to misinterpretations. Clarification between the two should be made prior to adoption unless they should be treated the same as both uses appear to be prohibited on the revised Schedule A.
2. Throughout the presented law changes, references directing the user to 'See Appendix A, Attachment 4 for more information regarding signs' should be corrected to reflect Attachment 3. This appears to be an eCode 360 reference error versus a local law language correction.
3. Article 201-840(G) could be clarified to read..."The required spaces assigned to one use may be shared with another use when able to satisfy the expected capacity of both uses."
4. Because there are multiple jurisdictional rights of ways connecting to the Village Street System, it is suggested that the references to just the 'Village Street System' be revised to read 'Street System'.
5. In order to complement the proposed Section 201-1080, Stormwater Prevention, and promote the use of permeable surfaces, Section 201-1050 should remove the requirement to provide 'concrete' sidewalks.
6. While the additional proposed Stormwater Prevention measures added in Section 201-1080 are certainly warranted, it could be unnecessary to require grading and drainage plans for proposed adaptive re-use with no ground disturbance. Further clarification as to whether this is limited to new development would help to avoid misinterpretation.

7. Revised language is suggested for Section 201-1325 to ensure that the Applicant and appropriate Clerks are aware that there are fees that are paid to the Village for certain applications, as determined by the Village Board via resolution, and fees paid to the Lewis County Building and Codes Department as the Village ZEO for the actual permit. As written, it reads as though fees should only be paid to the Lewis County Building and Codes Department.
8. Since the proposed definition of Open Space is 'Land that is mostly underdeveloped and set aside for agricultural or recreational purposes. This land may be owned by public or private entities and can have restricted or unrestricted access,' one would interpret this use to be allowed on Schedule A, just as a Park use is allowed, with a zoning permit.

A brief discussion was had about paragraph 201 Section 585 regarding hedges. The Board discussed whether zoning was the right mechanism to have these provisions and that perhaps it would be more appropriate in the property maintenance law. The Board resolved to add the following recommendation: "The additional language proposed in Article V § 201-585(C) relative to separate hedge setbacks should include justification as to why four (4) feet is needed for hedge setbacks while two (2) feet is needed for fencing. Additional clarification for measurements should be provided for hedges as the property line, right of way, sidewalk, and such all vary. Furthermore, based on §201-585 (E), the enforcement of §201-585(F) should only apply to situations with a documented line of sight and/or public safety concerns. "

With no further discussion, Mr. Virkler motioned to approve with the conditions with the additional condition regarding the hedge regulation set forth above. Mr. Lehman seconded the motion, which carried unanimously.

(7) Report of County Planner:

Ms. Krokowski noted that the following communication was received from a recent referral
Town of Turin- Approved Valley Brook Cabins' Special Use Permit without the conditions the CPB set forth.

Don Cook indicated that the Town of Pinckney Planning Board has resolved and moved forward with Kevin Doyle's Site Plan Review and asked Megan or Casie to reach out to Chairman Scott Randall for a status update.

(8) Unfinished Business: None

(9) New Business: Ms. Buell discussed the anticipated movement of multiple solar laws and how the Department has been working on template language to provide to municipalities who may want to proactively prepare this type of development by integrating a solar energy overlay district into their zoning regulations. Mr. Lehman discussed his concerns with land use regulations and how he disagrees with telling people what they can and cannot do with their land. Members of the Board noted that they understand his concerns and mentioned that he and others have the right to voice their opinions at the public hearings required prior to local law adoptions and amendments. Ms. Buell reminded Mr. Lehman that the goal of

land use planning through zoning laws is to promote efficient land use and prevent land use conflicts while ensuring environmental and agricultural protection. It is typically also welcomed by solar developers so that they know where a community would support their projects.

Mr. Dolhof asked if town moratoriums supersede NYS laws and Ms. Buell indicated that ORES (Office of Renewable Energy Siting) is trying to uphold local laws; however, once the application for solar development is received, they must use the law that is on the books.

Mr. Lehman indicated that he feels schools are lacking in the sustainable energy department and Ms. Buell indicated that this is a great point to add to the negotiations of the host community agreements referencing a recent agreement shared via AES in which they made an Educational Benefit Agreement with school districts in their impacted project area.

- (10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Virkler and seconded by Mr. Cook which carried unanimously. Mr. Petersen adjourned the meeting at 3:20 PM.



Megan Krokowski
Community Development Specialist

Note: *These minutes have been transcribed from a recording but are not verbatim or quoted version, they are rather a documentation of the meeting events.*