

Minutes for the Ticonderoga Planning and Zoning Board meeting held on March 3, 2022, commencing at 6:00 p.m. with a PH for Use Variance from St. Josephs Rehabilitation Center and Solar Site Plan for Catlin, Huestis and Feliciano properties

Present: Chairman Dr. W.D. McTyier, Walt Lender, Don Meserve, Ben Leerkes, Erik Leerkes (Alternate in for the St. Joe's PH & Application), Mike Powers, Matthew Fuller, Town Attorney, Tonya M. Thompson, Clerk

Others: Stephanie Mitchell (Alternate PZB member), Dave Burrows (Zoning Officer), Mike Vilardo, Don Eckert, Tim Ryan, Tim Rowland, Mark Wright, Linda Beers, Mark Sweeney, Bridget Cuddihy, Richard Frankel, Brandon Titus, Bob Ross, Michael Laramée, Alice & Joe Vilardo, Alicia & Joe Vilardo, Terri Morse, Howard Carr, Margaret Armstrong, Gail Feliciano and Gordon Woodcock.

Chairman McTyier opened the meeting with the Reciting of the Pledge of Allegiance and welcomed everyone. (Mike Powers recused himself for the St. Joe's PH and application.)

Public Hearing

Use Variance – 102 Race Track Road (150.34-9-18.019/2 & /3) St. Joseph's Rehabilitation Center, Inc. Richard Frankel, Attorney at Law (Representing)

Chairman McTyier re-opened the Public Hearing for St. Joe's and invited Mr. Frankel to speak.

Mr. Frankel with Rivkin Radler, representing St. Joseph's Rehabilitation Center in the application. He has his clients here along with some other speakers as well for support that would like some time. He also believes that we have on Go-To-Meeting, Howard Carr, who is our licensed appraiser. He knows there were some questions that might be still lingering concerning the financial hardship aspect of this and you can address those to him on our behalf. He just wanted to, in going through the minutes from the last meeting, there was a question that was raised about the self-created hardship and he just wanted to clarify for the record that once again, the applicant does not own the property yet, it is currently owned by Hudson Headwater, therefore, they have not taken this property and they are now having buyers' remorse. More to the point, in the very first hearing as you recall, a resident supplied a copy of what the 1989 original approval for the medical office building was and at that time it appeared that in September 18 of 1989, this property was in the service business area of the Town and was deemed a permitted project by this board as it was then constituted, he believes it was submitted by Mr. Hayes at the December 3rd meeting both in handwriting and also typed up. So, it is apparent from this that the zoning code changed or was reclassified to medium density, so when this project was approved it existed as a permitted use, now the zone has changed, the building is there so had this property remained in the service business or SB district as it exists today under your code, the district allows for such things as professional offices, restaurants, personal service businesses, etc. as shown on the Town schedule 1 of the Town's Zoning Ordinance. All of these could easily fit into the categories of what we are trying to accomplish today, but that is not the self-created hardship that has occurred here. The Zoning Law apparently changed so this property now #1 is not owned by the applicant, the applicant didn't create the problem and #2 the owner didn't create the problem that now exists as to this building in a new or modified district. In that context, we have to also look at the other criteria, the uniqueness of the property and that shows that this property is now unique because if you look at that resolution, it says it was

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singular to this property, that makes this property unique and the configuration of this property is also unique given the property and the building that is situated on their and we won't go into that any further. In addition, he would like to submit, if the board will accept it a letter from Jodi Gunther, you have one already from the last go round, but this one (attached to minutes) is to give an indication that with respect to the character, central character of the neighborhood, what this project might entail. We maintain that it is not going to change the character of the neighborhood, the building already exists, now be it there are looking to put on an addition, but St. Joseph's in the communities as this broker shows has, if anything, improved the surrounding properties by its presence, we have a building here that is vacant for some time, it is not abandoned but it is vacant. Having it used and useful can only enhance the property and having people employed at the building can only enhance the surrounding properties as well. So, he thinks our rate of return, the last of the 4 criteria we have already gone through, we have submitted supplemental paperwork. He does not have anything further to add to that, but if there is questions that anyone would like to ask of him of the other criteria or ask about the rate of return, we do have Mr. Carr on the agenda at the moment that can respond to those.

Chairman McTyier asked if Mr. Carr wanted to speak and to what.

Mr. Frankel explained that he is the one that did the dollars and cents analysis by looking at the surrounding properties and the rental rates that might be obtained as to whether or not any other of the permitted uses under the Zoning Code could achieve a reasonable rate of return. This is in the documents that the board has received already, but there seemed to be some lingering questions, such as from the Chairman that there were things that he had to think about and so Mr. Carr is now available if there are additional questions for, that the board can pose to him that he can answer as to how he arrived at his computations that there is a negative rate of return on the businesses that the code permits at the current time.

Linda Beers, Essex County Public Health Director and she just wanted to address that, in case you were worried or wondering if there was a need. She just thought that she would give the board a little information. So, presently in Essex County we have a little under 800 women, infants and children on WIC, that is specific to Essex County. In a recent survey of those, 9.8% of our pregnant women and 4% of our breastfeeding women reported alcohol and other substance abuse, nobody else but the Essex County mom's that were reporting. Also, above that rate, per 1,000 people in foster care, Essex County's rate is 7.1%, compared to NYS's rate of 2.9%. She would point out that in Ticonderoga alone we have 307 women and children on WIC, if she even uses 10% of that, that would mean 30 potential women in Ticonderoga alone have expressed or could have expressed that they have an alcohol or substance use disorder. Or have used alcohol or another substance use. Also, that would be 4% of that group that was breastfeeding which would make it about 12 people. That is just Ticonderoga, not the 800 mom's that are in Essex County with their children in which again is 80. That she thought coupled with this, this is Mike Mascarenas's information from DSS, she had compiled it over the last few months, in January the DSS reported out of the 55 children in foster care, of the 41 initial reports, 7 of them were allegations of drug and alcohol, in November there were 56

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children in foster care, there were 37 allegations and out of the 37, 11 involved substance use and alcohol. October, 53 children, 40 something cases, 16 of them were allegations of drug and alcohol and in September 18 of them were substance use and alcohol. If that is not a problem, then she doesn't know what else is. Essex County sincerely, this is specific to this age group, specific to our mom's, specific to our children, she can't say enough how strongly she feels that this program, if we could have another place that we could maybe get mom's that are pregnant that have a substance use disorder and get them in treatment for 6 months and have their babies delivered healthy, have mom's be clean and sober when they get out, then their babies wouldn't be taken away. We know, and she works with WIC, she oversees that program, she oversees early intervention pre-school services, she also oversees maternal child health. Just this week, we had two babies born, neonatal abstinence syndrome, we also had a mom that had already lost three children and she gave birth to a fourth one and we are in her home and it is all substance use disorder. If we had an opportunity to reroute these folks or have a program, nothing like this exists and she really thinks, not only beneficial to everybody, but literally beneficial to Essex County. She is just here to tell you about data, also in case of interest, the total overdoses per year in 2018, we had 5, these are overdoses resulting in death and 2019 we had 2 and 2020 we had 4 and 2021 we had 10, and in 2022, we are only months in we already have 4. Also, the breakdown by Town's, would it shock that almost, well a very high percentage of them are in Ticonderoga and Moriah. All substance use disorder, fatal overdoses are here. That is not like anybody is bringing these people here, these are the people in our community, these are the people that are our loved ones that we care about and just having a program like this she thinks would speak volumes to supporting the people that live here and need this. That is just really what she wanted to tell the board.

Terri Morse is here to speak on St. Joe's behalf, she is the Director of Community Services in Essex County. She responsibility is to oversee the services provided for mental health, substance use, and developmental disabilities services. There is a board of directors that oversee all of those providers in our County. Ms. Beers gave some wonderful data, which gives you some idea about the statistics of what we are talking about, but she also wanted to speak on the need for this kind of service, not necessarily the data, but also because Essex County does not have enough services for substance use, for mental health and so here we have a provider that is willing to step to the plate and establish an organization or facility that is, the closest one to us is in Malone and to the South of us it is in Glens Falls. To the North of us, it is Plattsburgh and nothing in between and so, she trusts this provider, the community services board will have oversight and not only did Ms. Beers provide stats, that demonstrate the need, but there is a deficit in our region for adequate services and this can meet a grand need.

Alice Vilardo explained that she spoke the last time that we were here, so she won't rehash all of the stuff that we do in our neighborhood. Her comment is, if they are doing all of this data with pregnant women, drug overdoses, why is it still happening? We have a drug overdoses in the house across the street, we have women that are pregnant all of the time, they... matter of fact, she was told that there is one that is pregnant with her fourth child already. They have not, in her opinion, St. Joseph's has not done anything to curb the drug abuse, the alcohol use or the sexual

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activity in the house across the street from us (Mr. Hope), what makes them think that they are going to do it in a bigger house, a 30 or 20 unit facility. She is talking about this project, based on the current house on Mt. Hope – she is against this project. She is against this going into Hudson Headwaters. They have not exhibited any, just before our last meeting or even maybe after the last meeting, they came and put a fence up, which is half done, it doesn't stop them from doing it. Two weeks ago, at 1:30 in the morning she was awoken to a loud noise, there were two people outside smoking, going back and forth into the house, talking in loud voices, the cops are there all of the time, the Sheriff is there all of the time. Her sister-in-law, who is not here right now, she has been keeping track of all of the activity because she lives right next door, her brother-in-law is here and it has not, it is not going to make any difference having another place in town. If they want mental health, then they should be in a bigger city where they have access to all of the opportunities. Ticonderoga doesn't have mental health people here.

Chairman McTyier interrupted to remind Ms. Vilardo that we are speaking of this particular Use Variance here.

Mr. Vilardo continued that it shouldn't be in that place, she is against it and the majority of the people are. You have neighborhoods there that are against it that are not here, they are elderly people. There is another neighbor that couldn't be here. It is going to be disrupted. When the summer comes, forget it, because the loud noise, the partying and the in and out, in her opinion, St. Joseph's has done nothing to curb the drug abuse and if they were having overdoses, like she said, what are they doing to curb the overdose, what are they doing to curb the drug addicts?

Joseph Vilardo has about a 12 year career on the Planning Board so he understands that you get a lot of input that if he was sitting with you right now, he would consider it extraneous. Yes, there is a need for the services as described by the previous people. The question that you have to address is does this facility meet the requirements for the existing zoning or if there is an exception for it based on what it was previously. Is it a self-created hardship, he believes that it is from what he has seen and what he has read? It is not enough to say, yes, it would be really great, it is needed, quite frankly to go to Glens Falls, all of his doctors are in Glens Falls or Saratoga and in Plattsburgh, so to travel to Glens Falls, you know, we travel because we live in Ticonderoga, that is what happens. It is a hard thing for you, but...

Chairman McTyier explained that we are well aware of the criteria.

Mr. J. Vilardo agreed, but he is not just speaking to the board necessarily, he wants the people who are in the room to understand that you have to follow the criteria, but he will add to the fact that the existing facility that we have in our neighborhood has been nothing but a nuisance and St. Joe's made a lot of promises and he understands that the previous Zoning Officer and the previous board were in a hard place because of the existing Zoning Law, but everything that they told us that they were going to do to assure that the neighborhood character would not be changed, they are very lacking. The police are there very often, between the Town, the State and the Sheriff's Department, there are times even in the wintertime when they will be out on their front lawns and you can hear the arguments, the fighting, 2 or 3 o'clock in the morning, it is even

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worse in the summertime. It has affected the character of our neighborhood and he does not see how a larger facility would not also change the character of that neighborhood. There are residential units there and he knows two of the people that own property and housing there right now and there are people that are going to be building in that area, residential. He knows you guys have a hard job and he doesn't sympathize with you.

Chairman McTyler thanked Mr. Vilardo, for his participation in the past on the board.

Mike Powers, he and his wife own property right across the road from the proposed project site and yes, we are very much opposed to it. He is not going to get into the why they are opposed to it because it is not germane to the decision that has to be made. As you know the decision has to be made on 4 tests and he agrees with the applicant that the hardship is not self-imposed because they do not own it. They haven't failed that test. He is really concerned tonight about the financial end of it. They contend that no other use on the Medium Residential Permitted uses list can recognize reasonable rate of return. One of the experts that they had write a letter, didn't really address the financials. It wasn't Mr. Carr; it was the Realtor. She more addressed the probability of a project going in there. The test is a simple yes, or no. It is not a maybe, it is not a, well, there is no probability that someone will be opening an office there, that is not the test. The test is can someone (using this as an example), can somebody put an office in there and recognize a reasonable rate of return on it. Not, well, we don't think that anyone is going to do it in this current real estate climate. That is not the test, the test is can you make money with a permitted use. With this list, that is a very, very steep slope that they have to climb to prove that nobody else can. To be honest with you, last he knew a place of worship does not need to make a reasonable rate of return. So, as it stands right now, if god forbid if something happens to one of our churches in town, they could move into this building. No problem, it is a permitted use, doesn't require a rate of return at all. If the Jewish community wanted to open a synagogue, there you go, permitted use, doesn't have to make a profit. Same with the Muslim community wanting to come in and put a mosque over there, doesn't have to make a profit. He is just going to close his comments tonight by saying that there are other properties in Essex County that are probably much more suitable for the use these folks are proposing, in fact there is one up in the Town of Moriah that the State is abandoning and he is not going to go into the name of it, but they are closing it down and he thinks that it would be a better use up there than down here. Thank you.

Mr. Carr can respond to this. He can respond to the gentleman's comments very quickly and easily. #1, let's address the building itself, the building is developed in its current state although it is in a state of some disrepair, but it was developed as an office building for use as a medical facility. If we were to use it, if the building were to be converted for use, under the NYS Building Code as a place of public assembly, which is what we can then utilize as a church, mosque or synagogue, the building would have to be modified in such a manner to meet the building code to allow that occupancy, and he would estimate that the move to remodel this building, redo all of the wiring and the HVAC and everything else that is required here and even potentially put in some kind of fire suppression system, it will probably cost more than even the

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numbers that he has given you to convert this building. That is #1. #2, the issue of a reasonable rate of return, if you look at it even to be used as a house of worship, the rate of return for a house of worship.....

Chairman McTyier does not believe that we need to bring up, we are not talking about houses of worship, it was brought up, but he doesn't think we need to respond to that, let's stick to the project that we are talking about, unless you feel it will have some benefit talking about church?

Mr. Carr stated that the gentleman brought it up and he wants to address his issue here because if you are going to look at all of the uses which he believes that he did that from which are allowed in the Zoning. The issue of the rate of return of investment, for a church or not-for-profit that does not require a profit on its operations is fine, however, it still must be able to afford it. So, if it would cost two or three times it would cost to rebuild this building or even a number greater than that of which he did not investigate for a place of public assembly, then that certainly does not meet the legal definition of a rate return of investment for this board to consider for a variance. He just wanted to put that out there, so there is no misunderstanding. If you have any other questions as it relates to his report, he is happy to address them.

Mike Vilardo would like to thank the board for letting him speak his peace. When St. Joe's first wanted to put this apartment house across from where he lives – he lives directly across. (Mt. Hope) We all had reservations on the problems that we foresaw that were going to happen. St. Joe's guaranteed to us that none of this was going to happen. There would be no boyfriends, no drinking, there would be no pets. They all have boyfriends, they all have pets, they all drink. The police are there all of the time. We were told that they would be monitored, he doesn't know who is monitoring. So, all he is saying is their track record to him, is not very good. If they are going to tell us that they, yes, he agrees that people need help with all good intentions, but if you can't be true to what you are telling us that you are going to do, then he would have to say no. Thank you.

Mr. Powers would like to add to his comments. There has been a lot of discussion about the property that St. Joseph's owns and operates over on Mt. Hope. It is not directly relevant to this project; however, it does illustrate the problems that can and probably will, in his opinion, will happen to and it is directly affect the community character and it is going to be a community impact. The comments that we are hearing about this other facility, you can translate those over to this property and say, hmmm, they can't run this one and they are saying that they will be doing this over here, this could ruin this neighborhood and he thinks this needs to be taken in account.

Mr. Frankel would like to respond to a few of the comments that were made. He believes Mr. Carr answered the question on the rate of return, he would also just like to point out that a not-for-profit, a 501c3, tax exempt organization is permitted to make a profit. They are not supposed to run at a loss and they, if a not-for-profit were to take on this project or property to do something and to continually run at a loss, it would eventually go out of business. In terms of, there has been a lot of discussion about the other property that is owned and operated by St.

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Joseph's, #1 he believes it is rightfully pointed out by Mr. Powers, who he believes is a member of this board, but has recused himself from the decision making aspect, but the point is, is that's that project, this is this project and this particular use and whether or not we have met the criteria for this particular use. Having said that, two different kinds of projects here. That is an apartment project, this is a Part 820 facility, licensed by OASIS. Different types of programs, different types of projects, the concerns that are faced and he doesn't want to go into large depth, the concerns that are faced over at the other apartment and removing or getting certain residents out were hampered and are hampered as a result of the pandemic, the eviction moratorium being in place, the inability to get to the court systems, these are things that are now being addressed, now that the courts are more open, the moratorium for the most part is gone for us. The client is taking steps to alleviate those situations, but that is not this project. This project, we are not talking about the situation, he believes that you would require evictions and his client can speak to this more fluently than he can. There are discharge planning, people come into this program at Race Track Road to be assisted and then they are discharged once they have completed the program. That is different from an apartment dwelling environment where other people have certain rights that we have to deal with. What he is trying to say is, the character of this neighborhood because of its constraints of the 820 program and how people enter in and how they are discharged out of the plan is totally different. Maybe not totally, but different from the other facility and the other facility should not be looked at, we have to look at this facility. He is embarrassed to say that the first letter that he handed out was actually a prior letter and has been updated as, he is just going to hand out another that included an additional property (attached to these minutes).

Bob Ross, President and CEO of St. Joseph's, thanks the board for the opportunity to provide some information. He thinks the important distinction between the two types of facilities is as Mr. Frankel mentioned, the existing facility is an apartment facility, not a treatment facility. Individuals that are there have all the rights of any other tenants during the period of COVID and it has not been possible for us to evict people, which we normally would have the opportunity of doing if they didn't follow the rules that they are supposed to follow in order to be tenants there. That has recently changed in terms of the eviction moratorium ending, we are in the process of making some changes there and he would ask Brandon Titus to explain that specifically, but what he wants to emphasize is that the proposed facility is a treatment facility, it has 24/7 staff, it has nursing staff there and as Mr. Frankel acknowledged, people come in and are admitted and then they are discharged, it is not a situation in where they are simply living there as apartment dwellers. We have an oversight from the office of alcoholism of addition and support services which licenses our treatment facilities and they are required to make sure that we are operating as we are expected to do and we are visited by them during the year to make sure that this happens. The apartment situation is very different, it is not under the OASIS licensing process and from our prospective what happened during the COVID period was an anomaly which we were very uncomfortable with but were constrained from being able to make the changes that we would have otherwise made. He will ask Brandon to give you a quick update on what is happening with that.

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Brandon Titus, Deputy Director of Housing and Community Support for St. Joe's, explained that in his role, he has oversight of our housing programs including putting the facility that is on Mt. Hope that has been spoken about many times here. One of the things that he does want to point out is that he also assists in oversight of our outpatient clinic, the clinics throughout the St. Joe's continual care, one of which is located here at 50 Montcalm, in Ticonderoga. That doesn't seem to get much mention at all, but he thinks it is a stand up facility where we serve anywhere between 30 and 80 individuals at any given time from Ticonderoga and the out laying areas. This is a location where we are providing substance use and now a series of mental health case management skill building services to individuals in the community. These are individuals that are living and working and going to school here. We also use those same array of services to support the individuals that reside in our housing units. What we do is maintain the confidentiality of the individuals that we serve. So, at any given time, we may be providing a larger array of services to support the needs the individuals we are serving, but without proper authorizations we are not explaining that or relaying that to individuals in the community, we are protecting the privacy of the individuals we serve. So, it may at some points appear as though there is not much presence in locations, but we don't advertise, our agency vehicles are not marked, our staff typically do not have badges when they are entering a unit or responding to a facility. We are doing everything that we can to maintain privacy. He also thinks that it is important to remark that we have had some turnover in our facility, we are supporting all of the individuals to identify the most appropriate housing situation for, to meet their needs. The individuals that we serve come to us homeless or at risk of homelessness and we try every method possible to discharge them to an appropriate situation to prevent homelessness. We currently have had one recent turnover and we are working with every family there to identify appropriate housing. We additionally, have increased our process and our supports in the referral, screening and rental process so the individuals that will be coming into the facility are going to receive higher levels of support than the individuals that had come in prior.

Mr. M. Vilardo would like to make one point, regarding this claim that you were unable to evict anybody because of COVID moratorium, this has been going a lot long before COVID came out and you could have addressed those at that time and you are also in violation of NYS Rules and Regulations governing you.

Joe Vilardo, Jr. would like to ask one question with the project on Race Track Road, comparing it to the same facility that they already have. They own one in Plattsburgh that is similar to the one that they want to put in out on Race Track Road and if it is run the same way. He has had conversations with multiple people in law enforcement who have been to the one in Plattsburgh and they say it is out of control, so his question is that and he doesn't know if you have contacted other Town's or Cities that have these facilities and see what their track record is. So, if they do put one on Race Track Road it doesn't turn into a fiasco. He has property behind this St. Joe's and his mother-in-law owns directly behind the project, it is not just lines for National Grid, it is people's property and he has kids that go over there and play and what is to say when they put this in, they won't be out there doing whatever and not sticking to what they are supposed to.

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His suggestion is to see what these other Town's and Cities that have these facilities in and see what the situation is and their track record is.

Chairman McTyier again explained that we are addressing this project, in this zoning area and the Use Variance. This is all information and we appreciate it.

Ms. Vilardo would like to know what having St. Joseph's on Mt. Hope Avenue and on Race Track Road, how does that devalue our property values.

Chairman McTyier stated that this is all speculation.

Mr. Ross would like to clarify that St. Joe's does not own or operate any facilities in Plattsburgh.

Chairman McTyier explained that we are going to go through as a board and discuss these four important criteria one by one and it doesn't mean that the public is shut out. If someone has a comment, raise your hand please. (The Chairman polled the board)

#1 – For each and every use under the zoning regulations where the property exists has the applicant proven that it cannot realize a reasonable rate of return as proven by substantial competent financial evidence.

Mr. B. Leerkes – believes that it was meager at best to prove that they cannot realize a reasonable rate of return

Mr. E. Leerkes – feels that he agrees that the proof that he has seen is questionable, there are a few numbers but a lot is speculative

Chairman McTyier – we did receive letters from a Real Estate appraiser and a salesperson stating about the sales market, etc., etc., and that it could be a very tough sell at this particular time

Mr. Meserve – to say that they can't do this at this particular time, who is not to say someone can't come in tomorrow with an offer to buy it with a different use. Who knows what they are planning? The only proof that he is seeing is speculative, it has not proven anything cut and dry. He does not see that they have competent financial evidence submitted. Who knows what tomorrow or next year brings? There is not enough evidence to prove that someone else couldn't reasonably buy the place and do something with it.

Mr. Lender – agrees and noted that he was not compelled by the financial evidence that they provided. He did not think there was enough to prove to him that something else substantial couldn't be done with this property and still make money on it.

Chairman McTyier noted that there were statements from real estate people, but we were really missing actual numbers and values.

Mr. Lender agreed, what does it cost to run the building now, what does it cost to run the site. None of this was provided.

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#2 - Has the applicant proven that the alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.

Chairman McTyier noted that it was stated about how much renovation it would take to do this almost to the extent of demolition to make it acceptable for a permitted use. That is what he was questioning.

Mr. B. Leerkes would like to hear the rest of the board's opinion, he could go either way on this one.

Mr. E. Leerkes - does not disagree with them, he does feel that it is a unique building.

Mr. Meserve – whatever company or person purchases this building would have to re-design it no matter what the use is, so he does not understand how they feel this will take away from the value, and it might. He does not believe that they have proven this to him either.

Mr. Lender – agrees, he does not find it particularly unique. It had an operation in there that functioned, other similar operations and uses can function there. He does not see this argument being met.

#3 - Has the applicant proven that the Use Variance, if granted, will not alter the essential character of the neighborhood.

Chairman McTyier – as you know in the past and tonight, we have a lot of pretty outspoken opponents because of issues that have been experienced with the other facility that would include the police calls and noise and other essential character concerns. As far as a credible response to the complaints, the COVID thing was brought up and he does not know that, COVID has been going on for two years, but this has been up since 2019.

Mr. B. Leerkes – this one here, yes, it will change the neighborhood. It will, for one thing, the medical center was probably from 8 – 9 at night, nothing on weekends. This will be 24/7 and it is different.

Mr. E. Leerkes – they did not meet this one at all, this is the one for him. The financial is questionable and he was on the Zoning Board with the first facility and even though it is a different facility, they made all the same claims and right from day one, we have had nothing but complaints. He knows there is a uniqueness with COVID, but that doesn't release you from maintaining it. If we had some other once in a lifetime thing happen, all of a sudden that doesn't matter again.

Chairman McTyier wants to bear in mind that these are different type of facilities, so maybe their argument is that this will not be the same type of facility, so he doesn't think it can be compared apples to apples, but.

Mr. E. Leerkes – it is a change, even as discussed at the other meeting, he had the same comment. You are talking about a daytime operation to a 24/7 operation and it is not the same.

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Mr. Meserve – agrees, it will be detrimental to the neighborhood. It has nothing to do with the other Mt. Hope property. It is just being a 24 hour, people coming, yes, people will be working and a shift may end at 11 o'clock at night and the nights are on very brightly, it will be even more lit up with people being there 24 hours a day with people that might need a little more supervision. It is just the nature of the program as it is. This is a program that is needed in every community, but maybe this is not the exact spot in the community where it would be best placed.

Mr. Lender – believes this will absolutely change the neighborhood and whether we are comparing it to another similar facility or not, it is still a substantial change in the neighborhood when it comes to operations. The 24 hour operations and the coming and going, it would substantially change the neighborhood and this is not to discuss the merits of the program itself, he absolutely agrees with Ms. Beers and Ms. Morse that this is a necessary and needed program in the Community in Ticonderoga and Essex County. We recognize the problem, but we have to work within our Zoning Law. Our Town Board has set this policy and he does not believe that we can take it upon ourselves to alter that and he does not believe that the applicant has stated a strong enough case that it would not change the character of the neighborhood in this case.

#4 – Has the applicant proven that the alleged hardship has not been self-created?

Chairman McTyier noted that this goes back to the aspects that the property is not purchased yet.

Mr. Frankel noted that it is two aspects, one we haven't bought it yet and two the zoning, when this building was built or approved to be built back in 1989 there was an SD district, by itself basically according to what the decision was, so it was unique in that it sat there, it was approved for this project, now it is in the MD district so as a result of that the owner at the time when they bought it and got approval to build this you changed the zone on them as he understands it. So, there are two issues here, 1. The applicant hasn't bought it and 2. The owner has had a change in circumstances that was not created by it, by changing the zone. If it had stayed in the SD district you would see that there is a list under your schedule one of all of these other things that it could fall into, the project potentially with us would fall into.

Chairman McTyier explained that they must have re-zoned the Town for the future and it happens.

Mr. Frankel stated that this is not a self-created hardship.

Mr. B. Leerkes – understands their reasoning.

Mr. E. Leerkes – this is not a self-created hardship

Mr. Meserve – agrees that you haven't bought it, but what concerns him is to say that nobody else can make a reasonable return, what makes them feel that they can make a reasonable return if this property gets changed.

Chairman McTyier agrees – they have not really proven that they have a hardship at this point.

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Mr. Carr would like to make a statement relative to the issue about reasonable return. Let's deal with the real estate as it stands, we don't get to change any of that. The building is there and the land is there. The numbers that he has provided to you in his report were derived from the market. They were not just fabricated out of nowhere, he actually got insurance pricing on this property, we picked up the real estate taxes, we know what repairs and maintenance is. If you have anyone in the community or on the board who can refute the elements of which these expenses were generated, he would appreciate them showing him their resource and what they are utilizing, that is #1. #2 the vacancy in question here of 25% is excessive and that is proof, when he goes back to the allowed uses under the current zoning ordinance, there really isn't a use for this building other than some form of commercial use. It is not going to be turned into Town houses, it is not going to be turned into a duplex or mobile home or off street parking. There is, in this instance, improvements on this real property, it certainly is not going to be used as a cemetery. So, to utilize a building of this size and magnitude for single family residential, that is just preposterous in his opinion, all right. Now, he has been doing this for 54 years and has a pretty good handle on what things cost and that. The issue though, of the reasonable rate of return, we have to look at what the improvements are. Not, what they maybe, and we have to look at them in terms of today, not what maybe tomorrow or not what maybe the day after or the month after, but only today and the fact that there is no viable use that meets the zoning requirements, current zoning classifications, all right, is factual, not fabricated in any means, by any means, all right. So, we have to look at those elements to apply the issues of the law, ok, and how they apply to this property. The immediate neighborhood consists of multiple uses, just down the street there is a heavy industrial use, so to say that there is going to a substantial change in the neighborhood, he takes issue with that because the issue, the substantial change to the neighborhood has been existing and operating there for quite a number of years. So, when you consider all of those things as a whole against this property and eliminate the self-created hardship because they don't own it, so that goes out the window, the other three criteria that you are trying to apply and say that there could be, there might be, there may be, I don't know, he is sorry, that does not work, right. Because today, we are all here and tomorrow we may not be, but then again, we may be. So, maybe's have to go out the window. With all due respect to the board's position on this, he thinks that you have to apply the reality of the market and the situation and the conditions of the improvements and what the improvements that exist on the property are, not what they might be, or could be. We have looked at what they might be and could be and in accordance with the zoning they would cost a small f., they would cost even greater monies to modify them to become something that meets the criteria for the zoning. The reason that he thinks that it doesn't hold, when you give that consideration is one thing, this property was granted a variance previously, it didn't meet the zoning then and it was given a variance. It is much better for a community to have buildings that are used and occupied, rather than vacant and deteriorated. His recommendation to the board is, look at this, look at his report and if you don't have anything that you don't agree with that you can refute with facts not fiction, right, please tell him. Thank you.

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Mr. Lender – his thought of the self-created hardship and he doesn't believe that it does, but they are on the cusp of creating a hardship if they purchase the building knowing that it is in a zone that the use is not allowed in. That is where he struggles with this, they haven't purchased the property yet and that is smart, but they are looking at a piece of property, a building that they are looking at changing the use of that building to something that is not allowed in. We have our zoning laws, the Town Board set that up. That is not up to us to decide.

Mr. Frankel believes that the board is concerned about and some of the residents are concerned about the 24 hours of a day a week nature, he would remind the board that one of the permitted uses under special exception are nursing homes. Nursing homes are 24/7 and certainly depending on the size of the nursing home, which he doesn't know if there are any 25 bed nursing homes that are out there, but certainly a more intensive use would apply and that would be permitted with a special exception, not to mention mini storage facilities, which he didn't look at the zoning code to verify, but his speculation is that those can be accessed 24/7 and that is also a special. So, he just wants to point that out to the board, the concern about the 24 hour 7 days a week, those concepts are permitted in this district.

Mrs. Vilardo stated that she has been working at a nursing home for 36 years and this clientele is not nursing home clientele and not only that, the way the staffing is nowadays, you are lucky if you can get staffing to cover the place. We have a hard time in the nursing home, who is going to guarantee them that they will have coverage 24/7?

Chairman McTyier stated that we have heard from everybody and if there is nothing else, he is going to ask for a motion to close the public hearing.

Resolution #14-2022 brought by Erik Leerkes, seconded by Ben Leerkes to close the Public Hearing on the Use Variance for St. Joseph's Rehabilitation Center, Inc. at 7:06 p.m. **5 – Aye, 0 – Nays. Carried.**

Chairman McTyier is going to present his notes to the board addressing each of the criteria with the input of the general feeling he has heard from the board members.

In Accordance with Town Law section 267-b, the board makes the following findings concerning whether or not the applicant has demonstrated any unnecessary hardship.

- A. For each and every use permitted under the zoning regulations for the particular district where the property is located, has the applicant proven that it cannot realize a reasonable return as proven by substantial competent financial evidence?

The applicant submitted letters from both a real estate appraiser and a real estate salesperson, both attempting to make the case that a reasonable return is not possible. The appraiser submitted this opinion without any figures or financial evidence concerning this property directly. The wording of the correspondence is based on data from the

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appraiser's experience. The underlying data is not supported by actual underlying exhibits. The real estate person simply stated that the commercial market is "stagnant" and that selling the property would be a tough sell.

This is from the Real Estate person, not the appraiser.

The Board therefore does not find that the applicant has submitted substantial competent evidence, nor has it proven that a lack of reasonable return can be realized for this property.

This is what Mr. Carr was going through, he says that he gave us figures, but we did not find how that applied directly to that particular property.

B. Has the applicant proven that the alleged hardship is unique, and does not apply to a substantial portion of the district or neighborhood?

The applicant detailed all of the changes including possible demolition, that would have to go into the building to make it conform to permitted uses. The applicant has not provided any discussion as to why this specific property is unique and that its hardship does not apply to the district or neighborhood.

The feeling of the board was that some felt that possibly there was some uniqueness to it.

C. Has the applicant proven that the use variance, if granted, will not alter the essential character of the neighborhood?

In concept this intended facility could be said to not alter the essential character of the neighborhood. We have had a lot of opponents speak out about significant detriments posed by another facility owned by the Applicant, which has included Police calls, noise and other concerns and as we heard, this is definitely a different type of facility but based on how the other facility has gone, there is no real feeling as to whether this is going to be upheld with this one and the applicant has not had, based on what we are hearing a credible response to the complaints.

D. Has the applicant proven that the alleged hardship has not been self-created?

The applicant offers that since it has not purchased the property, its alleged hardship has not been self-created. Which some can agree with that. That due diligence is a proper exercise by the applicant. However, the Board finds that the applicant simply has not documented any hardship. The applicant provided letters of support for the application; however, these letters of support say nothing of the Use Variance, but rather the support of the services provided by the applicant and we have no disagreement with that whatsoever. We realize how important this type of a program is. We as a Board make no determination as to the pros and cons of the services provided by the applicant. These services are very good, but not necessarily relevant to the Use Variance request.

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Resolution #15-2022 brought by Dr. W.D. McTyier, seconded by Erik Leerkes in reviewing the totality of the application materials, and the testimony of the applicant's representatives and those commenting on the application, the Board finds that the applicant's request has not satisfied the test for a use variance under New York law or the Ticonderoga Zoning Ordinance. The applicant has shown that a use variance would further its operations, but unfortunately that discussion is more suited for the Town Board and not particularly a Use Variance. Based on the foregoing, the applicant's request for a use variance is denied. **5 – Aye, 0 – Nays. Carried.**

Planning and Zoning Board of the Town of Ticonderoga

Resolution No.15 of 2022

Adopted March 3, 2022

Introduced by Dr. D. W. McTyier

who moved its adoption

Seconded by Erik Leerkes

**RESOLUTION CONCERNING USE
VARIANCE REQUEST OF
ST. JOSEPH'S REHABILITATION CENTER, INC.**

WHEREAS, pursuant to the Town of Ticonderoga Zoning Ordinance, the Planning and Zoning Board of the Town of Ticonderoga (hereafter the "Board") is authorized and empowered issue variances in accordance with said Zoning Ordinance and Section 267-b of the Town Law;

WHEREAS, St. Joseph's Rehabilitation Center, Inc. (hereafter the "Applicant"), have proposed to convert an existing professional office building located on property at 102 Race Track Road, Ticonderoga, New York and identified as tax map parcel 15034-9-18.019 into a mixed used facility of what appears to be residential and drug treatment related uses; and

WHEREAS, the proposed use is not a permitted use in the Medium Density Residential Zoning District under the Town of Ticonderoga's Zoning Ordinance; and

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WHEREAS, the Applicant has submitted a use variance application requesting a use variance to permit the uses noted above (all materials submitted by the applicant and part of the record are herein referred to as the application); and

WHEREAS, the Board has also received and reviewed documentation and information from individuals concerned with the application presented by the applicant and has taken such documentation and information into consideration on this application; and

WHEREAS, in accordance with Town Law Section 267-b and the Town of Ticonderoga Zoning Ordinance, the Board is required to review the criteria as set forth in such laws and issue a determination on the variance as requested by the applicant; and

WHEREAS, a public hearing was duly held on the requested variance at which time the Applicant and members of the public were entitled to comment on the requested variance; and

WHEREAS, the Board has reviewed the Application and supporting materials, and has taken into consideration the comments from the public, and has reviewed the criteria found in the Zoning Ordinance and Town Law Section 267-b and wishes to render a determination on the application.

**NOW THEREFORE BE IT RESOLVED THAT THE BOARD FINDS AS
FOLLOWS:**

RESOLVED, that in accordance with Town Law Section 267-b, the Board makes the following findings concerning whether or not the applicant has demonstrated an unnecessary hardship.

- a. For each and every use permitted under the zoning regulations for the particular district where the property is located, has the applicant proven that it cannot realize a reasonable return as proven by substantial competent financial evidence?

The applicant submitted letters from both a real estate appraiser and a real estate salesperson, both attempting to make the case that a reasonable return is not possible. The appraiser submitted this opinion without any figures or financial evidence concerning this property directly. The

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wording of the correspondence is based on data from the appraisers experience. The underlying data is not supported by actual underlying exhibits. The real estate person simply stated that the commercial market is “ stagnant “ and that selling the property would be a tough sell.

However, no information was submitted relative to the actual current carrying costs, and although the applicant’s representative, Mr. Carr, submitted financial figures, no supporting documentation as to those figures was submitted.

For each use, the applicant’s representative Mr. Carr also dismissed them in summary fashion rather than evaluating each of the uses with any financial information. It appears to the Board that instead of a competent financial analysis, what the applicant submitted was an opinion aimed at supporting its desired conclusion, not an analysis based on financial data.

The Board therefore does not find that the applicant has submitted substantial competent evidence, nor has it proven that a lack of reasonable return can be realized for this property.

b. Has the applicant proven that the alleged hardship is unique, and does not apply to a substantial portion of the district or neighborhood?

The applicant detailed all of the changes including possible demolition, that would have to go into the building to make it conform to permitted uses or its intended use. The applicant has not provided any discussion as to why this specific property is unique and that its hardship does not apply to the district or neighborhood.

The applicant has not provided any discussion as to why this specific property is unique and that its hardship does not apply to a substantial portion of the district or neighborhood. In fact, no credible discussion of the district or neighborhood is provided at all.

c. Has the applicant proven that the use variance, if granted, will not alter the essential character of the neighborhood?

In concept this intended facility could be said to not alter the essential character of the neighborhood. Adjoining landowners and residents of the Town near another facility owned by

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the applicant appeared at the board and have spoken about significant detriments posed by another facility owned by the applicant in the Town of Ticonderoga. These complaints have included police calls, noise, trash and other essential character concerns such as representations that the applicant made concerning that facility. The applicant responded that eviction prohibitions during Covid have interfered with its ability to evict problem tenants. However, neighbors correctly pointed out that some of these issues predate Covid. The applicant did not have a credible response to the complaints. While sometimes complaints on applications are general in nature, in this particular application, the complaints were targeted to actual issues such as police presence, noise, trash and similar issues noted in the minutes, which go to the actual impacts to the neighbors. These complaints the board finds more credible than general complaints.

- d. Has the applicant proven that the alleged hardship has not been self-created?

The applicant offers that since it has not purchased the property, its alleged hardship has not been self-created. That due diligence is a proper exercise by the applicant. However, the Board finds that the applicant simply has not documented any hardship. As one of the Board members noted, the applicant attempts to justify its request for a use variance by pointing to the potential inability of it to realize a reasonable return on the investment in the property unless it is allowed to use the property for its desired use. This would seem to create a hardship where none otherwise does not exist. The Board struggled to find any hardship, let alone an unnecessary hardship and does not find that the applicant satisfied this burden of proof.

The Board does recognize that the applicant provided letters of support for the application and testimony at the March 3, 2022, meeting from county representatives as to the need and value of the services provided by the applicant. These apply more to support of the services provided by the applicant. The Board, and even the public, did not take issue with the need or value of the services offered by the applicant. However, that testimony is not relevant to the use variance test. The Board does not make a determination as to the benefit or value of the services of the applicant. Indeed, all of the Board recognized the efforts of the applicant. In the end the Board did not find this testimony or letters of support relevant to a use variance application. That support might be more appropriate to a zoning request to the Town Board, not the Zoning Board.

In reviewing the totality of the application materials, and the testimony of the applicant's representatives and those commenting on the application, the Board finds that the applicant's request has not satisfied the test for a use variance under New York law or the Ticonderoga

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Zoning Ordinance. The applicant has shown that a use variance would further its operations, but unfortunately that discussion is more suited for the Town Board and not the Board.

Based on the foregoing, the applicant's request for a use variance is denied.

RESOLVED, that this resolution shall take effect immediately.

PRESENT:

Dr. D.W. McTyier, Chairman	Aye
Erik Leerkes, Alt. Board Member	Aye
Don Meserve, Board Member	Aye
Ben Leerkes, Board Member	Aye
Walt Lender, Board Member	Aye

Planning and Zoning Board Secretary

Chairman McTyier called the meeting back to order to continue business with Erik Leerkes (alternate) stepping down and Mike Powers returning to the table for the remaining of the PZB Meeting.

Ticon Solar, LLC (139.4-1-10.100 and 139.4-1-36.100) Charboneau Road (Catlin Property)

Presented by Bridgett Cuddihy - follow up from February's meeting

- Updated Environmental Assessment Form
- Updated Exhibit F – contains all the same dates and info – just a bit more robust for descriptions of the studies and reports that had been generated
- Interconnection agreement between Cypress Creek and National Grid - from May of 2021 - the name was Junction Solar – now updated to Cypress Creek
- Civil Set update L100-L500 for landscaping – APA recommended removing the screening on the Eastern and Southeastern portions of the system because it did not provide any screening at all – now removed in the detail
- Simulations that were submitted take this into account also
- 13 different locations with 3 views along each road, the printout has provided the view that was directly on in the electronic version there are also views coming east/west; north/south depending on the road that you are traveling on.
- Provided an updated survey, originally it was listed as a subdivision but it is a lot line adjustment as we discussed

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- Signed letter for the Decommission Agreement review - \$250 fee was paid
- Draft letter was provided for the SEQR review of intent to be the lead agency, provided the supplemental attachments for those packets
- APA will be meeting next Thursday and we are scheduled for that meeting – today is last day for the comment period

Mark Sweeney noted that at the end of the meeting last month the board did declare its intent to be lead agency, so basically where we stand right now, we would ask for the board to determine whether the application is complete under the zoning code and also to set a public hearing and a subsequent meeting and to direct the letter to be circulated to all of those involved agencies to keep this moving.

Chairman McTyier inquired what was decided at the last meeting with regards to the Public Hearing.

Mrs. Thompson noted that the board, at that time, determined a Public Hearing was not warranted. You can change that and vote to hold one now.

Mr. Sweeney agrees that this was discussed, but their concern was that the zoning code does require it since it is a special permit and believes there were conversations that Ms. Cuddihy engaged in.

Ms. Cuddihy agreed, our interpretation of the code is that it is required. She did discuss this with Mr. Burrows the Zoning Officer to make sure we are going about this in the proper way.

Mr. Sweeney noted that we are happy to review whatever, like if there is a practice or guideline or something that the Town utilizes to vary that requirement, by all means we would have to take a look and follow along. It does seem that it is required and Mr. Burrows agreed.

Resolution #16-2022 brought by Doug McTyier, seconded by Walt Lender to hold a public hearing regarding the Ticon Solar, LLC 5MWac solar Photovoltaic system be located at 149 Charboneau Road, Ticonderoga, NY (Leon & Dan Catlin - tax map #'s 139.4-1-10.1 & 139.4-1-36.1) on May 5, 2022, at 6:00 p.m. **5 – Aye, 0 – Nays. Carried.**

Mr. Sweeney explained that we have the provided information that is listed in your code, that you can determine as complete which allows us to move forward, but you still have the ability to ask us for any relevant information to clarify what we have provided, answered questions that you may have or anything like that. It just kind of checking off that procedural step to move forward. Hold a Public Hearing and until you close the public hearing and there is no more evidence to be provided you can ask us anything you want and we will be obligated to provide that to you or explain why we think it is not necessary. That is all we are asking, is these two things to be done today to make sure that we are following the procedure in the law.

Mr. Leerkes noted that not all the boxes are checked on the second page for the referrals, and page 12 they list the bat. This is the first time he has seen it that you have an assessment completed. Is that in here?

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Ms. Cuddihy noted that there is an assessment that is attached to the original SEQR that had already been handed in. There are 2 potential roost trees identified in one of the hedge rows on the property and that identifies where those 2 trees are in the exhibit to the SEQR that was provided in the initial application, what was provided tonight was just the first 13 pages.

Mr. Sweeney asked if there were any other particular items that this board is looking for in order for them to get them prepared for the board.

Chairman McTyier noted that the public hearing will be for May but asked Ticon to be prepared to come to the April meeting to answer any questions we may have on the application itself.

Mr. Leerkes asked if this project will go to the Hague Road substation or the Baldwin Road substation.

Ms. Cuddihy answered that it will be the 9N Road station (- Hague Road).

There was conversations about other substations that are closer, but as was explained the current interconnection agreement was reviewed with the Hague substation with that, they have secured their spot and Q and any change would be a major modification and would require a complete restudy and resubmission. More discussion about the grid and substations.

Ms. Cuddihy explained further that for this project specifically, we obtained National Grid's approval before we submitted to the APA or the Town. With that approval the document that was provided tonight you have to pay 25% of the upgrades cost to build the system. Since then, we have made the remaining 75%, so we are paid in full and we are in conversations with National Grid where we are working through their construction schedule.

Further discussion on National Grid's role in solar programs and when is it enough.

Ms. Cuddihy explained that it really comes down to what the grid can handle and what is the cost of upgrades to take on more projects is and how that can be disbursed amongst developers

Mr. Leerkes asked who makes the decision.

Mr. Sweeney explained that this is somewhat market based in that if grid says our existing infrastructure is maxed and even with the improvements that the developers before you are making, and they say ok, to put another project in would require a much larger leap in terms of cost of reconstruction or perhaps a new substation, doing that can affect the economics of a project to the point to where it is not feasible. They do have a PILOT program that they are identifying some substations in certain areas and undertaking certain improvements. So, instead of being the developer that walks in the door and has to pay upfront to get that improvement done, National Grid has already done it and then they basically bill back and that is a PILOT program that they are trying to see if it facilitates development in certain areas where they think it is necessary and where it is desired or there is a lack of interest from developers to do it. There are certain upgrades that are quite costly when you hit a certain point and a certain type of upgrade to that substation that can occur if there are a lot of things. So, it just affects the

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economics and also what the grid can to and the more you add in the more power you are moving, so there are certain limitations on the wires and things and then the cost to upgrade those is another element that has to get built into it. There are limitations there as to what is going to happen and how much can go in. Most communities of this size, there are smaller substations and certain improvements can be made, but there is a threshold where trying to upgrade further would basically make it uneconomic to come in with any further projects.

Ms. Cuddihy will provide hard copies to be sent out with the referral letter to the referral agencies in the next few days.

Chairman McTyier inquired about the wetlands, there were none where these panels were going. (correct) He also asked about the terrain storm water wise?

Ms. Cuddihy noted that the terrain does drop down to a stream that cuts through the property that really defines where our lot line adjustment is running. So, in terms of storm water the majority would go there, but we really don't see any real change in terms of run-off from this project.

Mr. Sweeney reviewed that we have a Public Hearing May 5th, he will submit the additional information, work with the Decom plan estimate and then if we need to come back, we will be back in April.

Resolution #17-2022 brought by Walt Lender, seconded by Don Meserve to table the Ticon Solar, LLC (139.4-1-10.100 and 139.4-1-36.100) Charboneau Road (Catlin Property) applicant until April 7, 2022, at 6:00 p.m. **5 – Aye, 0 – Nays, Carried.**

Huestis – Solar PV Ground Mount (139.2-2-37.000) 218 Vineyard Road

Presented by Garrett Lee – New Leaf Solar LLC

- Solar system is for his single family tiny home
- Home is across the road from Lisa & Chris Huestis - whom owns the property
- Ground mounted unit only for the tiny home
- Tier II
- No Wetlands

Resolution #18-2022 brought by Ben Leerkes, seconded by Don Meserve to declare a complete application for Huestis – Solar PV Ground Mount (139.2-2-37.000) 218 Vineyard Road. **5 – Aye, 0 – Nays, Carried.**

Resolution #19-2022 brought by Ben Leerkes, seconded by Mike Powers to specify that the project for Huestis – Solar PV Ground Mount (139.2-2-37.000) 218 Vineyard Road will have no significant environmental impact. **5 – Aye, 0 – Nays, Carried.**

Resolution #20-2022 brought by Ben Leerkes, seconded by Mike Powers to approve the complete application for Huestis – Solar PV Ground Mount (139.2-2-37.000) 218 Vineyard Road. **5 – Aye, 0 – Nays, Carried.**

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PIVOT Energy – 139.2-3-6-200 (599 Delano Road – Rigoberto & Gail Feliciano) 2.5 Megawatt Solar Energy generating facility

Presented by Gordon Woodcock

- Community Solar project
- 2.5 MW community solar project
- Feliciano property
- Working on since June 2020 – field studies, environmental and National Grid
- Approval from grid to interconnect at the Hague Road substation
- Approval from APA received

Mr. Leerkes asked if there would be soil disturbance on this old orchard parcel? Are there soil tests completed?

Mr. Woodcock acknowledged that this is an old orchard, and it was looked at with the APA as part of their review, soil levels that were studied some 10 years ago did not have measurable levels of contaminants. There were no current tests taken.

Mr. Leerkes suggested that we go through the same process as we did earlier tonight. Declare Lead Agency and set a Public Hearing. According to the newspaper, this was cited as positive because they were going to allow live grazing.

Mr. Woodcock agreed, we actually took the feed back from his first application in front of this board last year and it was valid criticism. You are not going to graze from November to April and we went back to the APA and said, you know we heard this feedback and everyone we talked to agreed, it is really not good grazing time, so the APA has revised that. So, no mowing in that window when they want the pollinator habitat and the growth to be doing what it is supposed to be doing with the pollinators but grazing in that window is ok.

Mr. Leerkes asked if they specified which animals could graze? Are you going to also have mechanical removal?

Mr. Woodcock does not believe that they did, we specified sheep and provided a rough grazing plan, a rotational plan that was provided by somebody that we are working with, but it was good feedback and it helped us with this. There will be some mechanical removal.

Resolution #21-2022 brought by Walt Lender, seconded by Don Meserve to Declare the Ticonderoga Planning and Zoning Board as the Lead Agent for the PIVOT Energy – 139.2-3-6-200 (599 Delano Road – Rigoberto & Gail Feliciano) 2.5 Megawatt Solar Energy generating facility. **5 – Aye, 0 – Nay. Carried.**

Resolution #22-2022 brought by Walt Lender, seconded by Doug McTyier to call a Public Hearing on May 5 at 6:00 p.m. for the PIVOT Energy – 139.2-3-6-200 (599 Delano Road – Rigoberto & Gail Feliciano) 2.5 Megawatt Solar Energy generating facility. **5 – Aye, 0 – Nay. Carried.**

Minutes for the Ticonderoga Planning and Zoning Board meeting held on March 3, 2022, commencing at 6:00 p.m. with a PH for Use Variance from St. Josephs Rehabilitation Center and Solar Site Plan for Catlin, Huestis and Feliciano properties

Mr. Woodcock inquired about a special request that he had included in the packet regarding land clearing. The APA will not allow this between April and October. They are seeking approval from this board to start this since they do have APA approval on the issue.

Much discussion was held – the Board decided that they cannot make a determination on this request.

Resolution #23-2022 brought by Walt Lender, seconded by Mike Powers to table the PIVOT Energy – 139.2-3-6-200 (599 Delano Road – Rigoberto & Gail Feliciano) 2.5 Megawatt Solar Energy generating facility until April 7, 2022, at 6:00 p.m. **5 – Aye, 0 – Nay. Carried.**

Other Business

Resolution #24-2022 brought by Doug McTyier, seconded by Don Meserve to accept the Minutes from the February 2, 2022, Planning and Zoning Board Meeting. **5 – Aye, 0 – Nay. Carried.**

Discussion regarding the Town's current sign law and camper restrictions.

Code Officer Burrows has concerns with the current law with regard to signs. Discussion was held with the board, suggestions made, the board will review the current sign law as well as a draft that was passed out and opinions will be brought to the April meeting. Code Officer Burrows also had concerns with camper trailers, people are staying in them behind houses hooking up to water and electric. There is nothing on the books governing the length of which you can stay in them, if you can stay in them. The board would like Mr. Burrows to review other Town's laws and give the board his recommendations at the next meeting April. More discussion will be held at that time.

Resolution #25-2022 brought by Ben Leerkes, seconded by Walt Lender to close the meeting at 8:20 p.m. **5 – Aye, 0 – Nay. Carried.**

Respectfully submitted, Tonya M. Thompson, Town Clerk



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March 1st, 2022

Re: Property value Impact opinion

In the process of evaluating the property in Ticonderoga located at 102 Racetrack Rd., it has always been extremely important to consider the community as a whole and the direct impact to surrounding property owners.

One great way to judge this metric is by other similar projects. Here are a couple examples that have been shown to be a great asset to their communities.

Saranac Lake- Main Campus. 159 Glenwood Drive and Veterans center on Kiwassa rd.

Both of these properties are located outside the main village in a residential community in Saranac Lake. Properties that are in a proximity of roughly a mile radius, have continued to appreciate at the same or better rate than all other residential properties within the community.

Massena- McCauley Manor. 35-41 Sycamore Street

Massena as a whole has a slower rate of appreciation and recently had some economic setback with a large industry closing. When reviewing the data in this residential neighborhood, the properties are still increasing at the same rate as the rest of the community. The property run by the St Joes treatment center has had no negative impact on property values to the neighborhood.

Malone- Main on Elm. 90 Elm Street

This property lies within in a residential neighborhood, and there have been several recently sold properties that are direct neighbors and have all appreciated in their value of sale. Currently the property next door that shares a property line sold in 2014 for \$85,000 and with a renovation is currently listed for sale for \$349,000.

I think the evidence shows that St Joe's makes every effort to compliment a neighborhood and prioritizes surrounding property owners impact in their decision processes.

I do NOT believe there would be any negative impact to any area property values if zoning and permitting allowed this project to move forward.

Sincerely,

Jodi Gunther

Jodi Gunther- Licensed Real Estate Salesperson



2429 Main Street Lake Placid, NY 12946
1774 NYS RTE 73 Keene Valley, NY 12943



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Ticonderoga- 64 Mount Hope street

There is limited data available on the sale of properties in Ticonderoga. One thing the data shows that both the property sales available, as well as the assessed values of properties in the entire community in the last 2 years seem to collectively been adjusted to a lower rate of value. This is not something that is specific to a particular neighborhood, but is more defined as values have fallen for the entire area as a whole. A community with depreciation tends to improve with growth of business and valued employment opportunities, such as the proposed project at 102 Racetrack rd.





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