

PLANNING BOARD
Town of Kirkwood
70 Crescent Drive
Kirkwood, NY 13795

January 9, 2023
Meeting Minutes

Present: Marchie Diffendorf, Chairman Gina Middleton, Attorney
 Jim Bukowski, Member Chad Moran, Building & Code Inspector
 Kevin Balachick, Member Mike Maciak, Associate Member
 Gordie Woolbaugh, Member
 Dan Wasson, Member

Absent: Matt Williams, Associate Member

Chairman Diffendorf called the meeting to order at 7:00 PM.

APPROVAL OF MINUTES:

Motion by Dan Wasson and seconded by Jim Bukowski to approve the minutes of the December 12, 2022 meeting as submitted.

All voted in favor. Motion carried.

RECOMMENDATION TO THE TOWN BOARD – REQUEST FOR CHANGE IN ZONING – FIVE MILE POINT WAREHOUSE INVESTORS, LLC – TAX MAP # 162.15-2.11 AND A PORTION OF TAX MAP # 162.16-1-18 FROM BUSINESS 1 AND PUD TO INDUSTRIAL DEVELOPMENT:

Chairman Diffendorf explained that we are charged with making a recommendation to the Town Board to change the zoning or not change it. The Town Board will have a Public Hearing on the zoning change, whether to change it or not. They can follow our recommendation or not. If the Town Board does approve the change there will be site plan review on these properties.

Adam Meinstein, Manager, Five Mile Point Warehouse Investors, was present. Mr. Meinstein explained the project to the Board. They are based in Blue Bell, PA. Over the last 20 years they have either renovated or constructed approximately 5 million SF of space, mainly in the northeast and the Southern Tier of NY. They have 2 projects they still control, one in Elmira and one in Elmira Heights, which are in mixed residential industrial areas. He also acquired the former Putnam building on Grossett Drive about 7 1/2 years ago.

The project site is 41 acres of land, currently the Five Mile Point Speedway. The current zoning is B1 and PUD and they want to turn it into Industrial Development. The property has about 5 different parcels and part of one of those parcels is on the east side of Route 81. They don't want anything to do with that one.

Mr. Meinstein showed the Board a rendering of what the 2 buildings would look like. It will be a very high-quality project with plenty of green space, setbacks, and property construction. They do not have customers for the buildings yet, they design buildings with flexibility. They are looking for manufacturing or warehousing. One building will have access on Francis Street, with the design to accommodate 1-2 tenants. The other will have access on to Roberts Street. They are not truck or freight terminals, they are generic warehouses. He showed the Board a short video of his other projects in York and Hazelton, PA.

Mr. Meinstein passed out an email regarding a potential tenant for one of the buildings that is looking for 140,000 SF of space with 175 jobs, and it is included in the file.

Mr. Meinstein explained that the most important thing is traffic and they hired a well-regarded traffic engineer. Multiple intersections were studied as well as their driveways where they enter on Francis Street. They looked at pre and post development traffic. There is an ITE manual (Institute of Traffic Engineers), which is required they follow and was used to analyze the traffic and all the intersections were at acceptable levels. The grades along Francis Street were looked at and one of the issues was the Crescent Drive and Francis Street intersection. They thought the minimum there should be a 4 way stop. From the project entrance back to Crescent Drive, which is about 1/5 of a mile, would be repaved and shoulders would be added for walking along that road. They would cover those expenses. From Crescent Drive to the interstate is another 1/5 of a mile. They won't ruin Francis Street.

Mr. Meinstein explained they operate another business here so they care about what happens here. They hire local people, they have brought good companies into this region. The property, it is not a farm, for 70 years it has been a speedway. They were approached about buying the speedway, they didn't approach anyone. They also looked at the alternate uses for the current zoning, which is commercial. That zoning generates higher traffic, shopping centers, office buildings, hospitals, schools. Some of those uses are struggling.

Mr. Meinstein explained that the site is unpaved, dirt parking lots, and a dirt track. When done they will have paved parking lots. The lot coverage is only at 26%, the ordinance allows 40%. There are some wetlands on the property, which they are respecting.

Mr. Meinstein explained they believe this project will be better for the community than the racetrack. You can hear the race cars from 5 miles away, racing around the track, and they don't follow emissions standards. They are required to follow those standards.

Chairman Diffendorf stated if we do recommend this for rezoning to the Town Board he would like to let them know that we do have some concerns regarding changing the character of the neighborhood and the traffic on Francis Street. Those are 2 of the biggest concerns the neighborhood has. This board is concerned about that.

Dan Wasson stated he would like to reiterate that because there are a lot of houses, single resident house through there that will be affected by this with 175 people coming in and out of there, if there are indeed 175 jobs.

There was a discussion regarding access to this property from the Triumph property down to Route 11 along Grossett Drive. Mr. Meinstein explained that has been asked of us before and it can't be done. Areas of asphalt at the Triumph property are leased to existing tenants. If that area was ever touched that entire area would need to be re-created somewhere else. A very long road would need to be created, which doesn't exist. They also don't want this to be a backdoor facility. They want a front door facility, coming in from the front off of Francis Street. Triumph is its own project, with its own investors.

Jim Bukowski asked if in addition to the improvements to Francis Street would they be doing any improvements on Crescent Drive coming to Francis Street from Route 11 north and Mr. Meinstein explained there is existing industrial that uses Crescent Drive, Willow Run, Masonite, and the pipe company so they wouldn't be doing anything there.

Motion by Jim Bukowski and seconded by Kevin Balachick to recommend to the Town Board that the zoning for Tax Map # 162.15-2-11 and a portion of Tax Map # 162.16-1-18 be rezoned from Business-1 and PUD to Industrial Development with the following concerns:

1. The change in the characteristic of the neighborhood.
2. Traffic on Francis Street.

Roll Call Vote:	Jim Bukowski	Yes
	Kevin Balachick	Yes
	Gordie Woolbaugh	Yes
	Dan Wasson	Yes
	Chairman Diffendorf	Yes

Motion Carried.

RECOMMENDATION TO THE TOWN BOARD – REQUEST FOR CHANGE IN ZONING – KIRKWOOD WAREHOUSE INVESTORS, LLC – TAX MAP # 162.15-2-12 FROM MULTI RESIDENCE TO INDUSTRIAL DEVELOPMENT:

Chairman Diffendorf explained that this parcel is one that is next to the Triumph building between the racetrack and the Triumph building. It is zoned multi-residential due to Anthos apartments. They have been there for 50 years, with no expansion.

Motion by Kevin Balachick and seconded by Jim Bukowski to recommend to the Town Board that the zoning for Tax Map # 162.15-2-12 be rezoned from Multi-Residence to Industrial Development.

Roll Call Vote:	Jim Bukowski	Yes
	Kevin Balachick	Yes
	Gordie Woolbaugh	Yes
	Dan Wasson	Yes
	Chairman Diffendorf	Yes

Motion Carried.

COMMENTS FROM DECEMBER 12, 2022 PUBLIC HEARING – TRACT ENGINEERING, PLLC (SOLAR PROJECT):

Chairman Diffendorf read the public hearing notice and explained this is a continuation of the public hearing. Comments from the residents will be addressed first, but we don't have a lot of the answers tonight.

Mr. Gourley was present and asked how we wanted him to proceed and Ms. Middleton commented that we received their responses today and haven't had a chance to review them. If there are a couple of the bigger items that he wants to address today, to give the public an opportunity to hear those that would be good.

Mr. Gourley presented a packet to the Board that includes their responses to the comments they received from the December 12, 2022 meeting and is included in the file. That packets included their responses to the Stormwater Management Plan, which the Town Engineer will review, and the noise study. The Board requested that they assume that I-81 was not there and re-due their noise evaluation. Minor changes in the report were made and as a result the transformer will be moved approximately 40 feet to the east. A signed, leased decommissioning plan has been submitted. Another issue were the utility poles at the entrance. A request was made to NYSEG to push the poles back and it was denied. A confirmation letter is forthcoming and will be provided. Another issue was a request from the Town for a certified real estate agent to analyze

the potential property value impacts on neighboring residential properties. Their opinion is whenever the Town wrote the ordinance it was written to protect the values and the integrity of the surrounding properties, which they say they have met, with the original submission and with the new local law's setbacks.

Other concerns addressed in the packet include visual impact once the panels are installed, benefit of solar to the Town of Kirkwood, increased fire safety, public water run-off particularly on the west side of the property and consideration of berms along the west side, public health concerns, increased deer population in neighboring properties, consideration of alternate sites, not in a residential neighborhood, and update numbers for noise analysis without consideration of the ambient noise levels. All of their responses are included in the file.

Jeromy Holt, 40 Trim Street, commented there is an underwriter's lab in Cortland, NY that test solar panels. A former Kirkwood resident is the East Coast Regional Manager of that company hasn't been contacted to see if the size panels actually are the numbers they say they are. He may be able to give you a lot of information. Not all underwriter labs play by the same rules, some get their hands greased to get things through. Along 81 south there is no protection to that property, a couple of guidewires after the bridges from Trim Street and Johnson Road. In between there is a small fence. If there was an accident there is nothing there to stop it. The State should address that with guardrails. He checked out the Maine Endwell site and the noise was noticeable.

Larry Holt, 36 Trim Street, commented he hoped everyone had a Merry Christmas, we just had Russian Christmas and Greek Christmas also, and if you want to keep Kirkwood merry and bright scrap this solar field because it isn't right. No disrespect to the solar people, they are running a business but this is a residential area. They set up here, make their money, and it doesn't benefit the Town or the businesses. If someone can show him something tangible that will come out of this he could buy it. The one on Barlow Road is serving the gentleman's business, which makes sense. There are two signs when you come into Kirkwood, Welcome to Kirkwood, a proud Town and caring community, which is why these people are here, they care. There is also a Purple Heart sign also, which he is a Purple Heart, which stands for freedom. This solar farm just isn't right. You are doing away with agricultural land. Just a short distance up the road where the north bound crosses is land for sale, a mirror image of this one. Will that be the same thing they are trying here? Don't let this go forward.

John O'Neil, 1291 US Route 11, asked if the Board had done the property value research, an independent realtor with no skin in the game, and Chairman Diffendorf stated we are going to be doing it, still looking for a realtor. Referring to a comment Mr. Gourley had made regarding not asking for a variance change, they are changing the variance by putting the solar farm in, which is going from residential to commercial. Chairman Diffendorf explained that Town Law, the way it was written, allows solar in residential areas. Referring to a comments Mr. Gourley made regarding a berm would cause water disruptions on other properties, he walked that property several times, standing out in the field looking down and the area goes from northeast to southwest and his property runs along the west side of Trim Street and if a berm is installed the water is not going to go anywhere but down toward Trim Street into the ditch. He put in french drains and they are working. If this is allowed he would like to see a 4 ft. berm with trees on top, then water isn't going to come down on his property. Very interested of what the impact is on property values, especially for the properties on Trim Street.

Sherry Orals, 20 Trim Street, commented that since she is a real estate agent she has contacts through Broome County and can give a list of every agent that is on the Broome County MLS and asked if the Board wanted her to do that and Ms. Middleton stated she would prefer that we did it independently. She went on to say she had her house appraised in August or September and when this goes in she feels like they are fighting a losing battle. When it goes in will they pay me the difference in her value? The picture she showed from last month is from her picture window and it will change the value. Chairman Diffendorf explained that part of the criteria

for a Special Use Permit says it can't affect the property values. Ms. Orals commented that when they moved in she put a real estate sign out front, advertising that she was a real estate agent, not knowing that it wasn't allowed, she couldn't put a real estate sign up to let people know a realtor moved into the area but you can have solar field. It doesn't make sense.

Mark Fabrizio, 8 Valley Vista Court, commented he has lived there for close to 15 years and he has watched that back creek erode away, trees are starting to fall. His concern is you put a solar farm up there it changes the landscape. He doesn't know what goes under them, stone, concrete pad, is there going to be a berm there, because he is worried about the water. If one of the panels breaks, fails, there is probably some kind of rare earth mineral or something in there that can be toxic. If the panel breaks, leaks, that water runs down the bank and goes into that creek. That may not be a big deal to you but they have kids and even he that goes down and walks around there.

Chairman Diffendorf explained that the solar panels are mounted on a pedestal, a steel I-beam and there will be a fence around the perimeter and also 8 ft arborvitae around the perimeter. Mr. Fabrizio asked if there is a concrete pad and Chairman Diffendorf stated no, they are driven into the ground. Mr. Fabrizio commented when you start changing things, digging holes, moving dirt, it changes the way water flows. He is more concerned of what can run off the solar panels, if there is a lot of rain is there a film on the panel or something that could get washed off into the waterway?

Chairman Diffendorf commented that we will suspend tonight's meeting and will have a continuation of the public hearing at the February Planning Board meeting.

Mr. Gourley asked when the public hearing is expected to be closed, they have heard the same comments again and again and now we are down to a more technical review and Ms. Middleton explained that we can't close the public hearing until we have a final plan, with final everything because anything new that is brought to the board including an evaluation of property values the public has a right to comment on. We as a board can't close it until we have a final project, complete and fully with any changes that we are requesting. Mr. Gourley asked that the outstanding item is the property evaluation so what are we looking at for the timeframe on that and Ms. Middleton explained we have property evaluation, we still have to do the SEQR review and still waiting on the letter from NYSEG. We are going to try and get the property evaluations in motion, no promises on timeline. Mr. Gourley commented you had made that commitment to do that after the last meeting and Ms. Middleton explained at the last meeting there were discussions as to whether it was even necessary. Chairman Diffendorf explained there will be a meeting shortly with the Town council and this board's council to discuss how to go about doing this. They will try to expedite it.

Chairman Diffendorf asked if they had looked at the Special Use Requirements and Mr. Gourley stated yes and they feel they have met all those requirements.

John O'Neil asked if the Board would consider the 4 ft. berm and Chairman Diffendorf explained we would consult with the Town Engineer on that. There are four different drainage zones from the solar farm and most of it goes into your direction.

Larry Holt commented that the gentleman from the solar company is worried about a timeline, the residents are worried about it too. Don't let someone tell you how much time they have because there will be more questions, the timeline is out the window. Chairman Diffendorf stated we are not hurrying this along, these usually are resolved in one meeting.

Chairman Diffendorf explained we are going to suspend the EAF Determination and the Site Plan. Hopefully we can move this along and get it done and done right. That is the whole goal, this being the first solar farm it is trying times for everyone and we are trying to do it right. We know the residents don't want to see or hear this solar farm.

Motion by Kevin Balachick and seconded by Jim Bukowski to adjourn the meeting. The meeting was adjourned at 8:17 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board

cc: Planning Board Members
Kelley Diffendorf
John Finch, Jr.
Chad Moran
Scott Snyder
Katie Legg
Bob McKertich
Gina Middleton