

PLANNING BOARD

**Town of Kirkwood
70 Crescent Drive
Kirkwood, NY 13795**

September 9, 2024

Meeting Minutes

Present: Adisen Harden, Member
Jason Maxian, Member
Mike Maciak, Member
Dan Wasson, Member
Gordie Woolbaugh, Chairperson
Gina Middleton, Attorney
Dan Griffiths, Engineer

Absent: Chad Moran, Building & Code Enforcement Officer

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

SITE PLAN REVIEW – FIVE MILE POINT WAREHOUSE INVESTORS, LLC

Chairman Woolbaugh reviewed the response from John Mastronardi regarding the project. Mr. Mastronardi is satisfied with the responses from Keystone Associates.

Motion by Mike Maciak and seconded by Dan Wasson to approve the site plan as submitted.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Ms. Middleton noted for the record that the SEQR was performed by the Town Board, it has already been completed and there is already a conditional rezoning in place.

E.A.F. DETERMINATION – WOODSHED WINE AND SPIRITS:

Motion by Dan Wasson and seconded by Mike Maciak to declare the Planning Board of the Town of Kirkwood the lead agency for the SEQR review of the proposed project addition of a drive-through window on a parcel located at 2335 NY Route 11, Kirkwood, New York 13795 with tax map ID number 228.12-1-30.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion carried.

Motion by Dan Wasson and seconded by Jason Maxian to declare the proposed project addition of a drive-through window on a parcel located at 2335 NY Route 11, Kirkwood, New York 13795 with tax map ID number 228.12-1-30 an Unlisted Action pursuant to SEQR regulations.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

There was a question regarding the owner's name on the application. The project sponsor is Thakral & Sons, LLC and the name of the applicant is Anuj Thakral. Mr. Thakral was present and said he was the owner, a single member of the LLC. Ms. Middleton asked if there was a lease agreement and Mr. Thakral will provide that lease.

Chairman Woolbaugh, referring to the SEQR, questioned #3, #5 and #10. All questions were corrected and are included in the file.

Ms. Middleton questioned if the total acreage to be disturbed is 1,100 SF and Mr. Thakral stated yes. Ms. Middleton explained that with the SEQR regulations there is a Type 2 Action which means the project itself is not substantial enough to require SEQR review because it is assumed to not impact the environment based on what it is. One of the SEQR exceptions that makes something a Type 2 Action is the expansion or alteration of an existing, commercial or non-residential premise involving less than 4,000 SF. Based on the application you have .48 acres being disturbed, which would exceed that threshold making it an unlisted action but based on what he just told us and the alterations you provided, only 1,100 SF is being disturbed, that would therefore fall within the exception that would make this a Type 2 Action.

Motion by Dan Wasson and seconded by Jason Maxian to rescind the original SEQR Determination of a Type 2 Action for an Unlisted Action for this project.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Motion by Mike Maciak and seconded by Adisen Harden to declare the proposed project addition of a drive-through window on a parcel located at 2335 NY Route 11, Kirkwood, New York 13795 with tax map ID number 228.12-1-30 a Type 2 Action pursuant to SEQR regulation based on the fact that it is the expansion or alteration of an existing commercial premises that is less than 4,000 SF.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Ms. Middleton commented a Type 2 Action does not require any additional SEQR review.

SITE PLAN REVIEW – WOODSHED WINE AND SPIRITS:

Mr. Thakral explained he wants to put in a drive-through pickup window. They have approximately 20 customers per day, not very busy. He has owned it for about 5 years. From the pick-up window to Route 11 you can fit approximately 10 vehicles. He is expecting 2-3 pick-ups per day during the week and approximately 5 on the weekends. It is specifically designed for people who can't come inside. Bollards will be installed along the building, cars will pull in off Route 11 and exit onto Nina Drive. The driveway, which is 12X90 will be blacktopped.

Chairman Woolbaugh asked if he would be losing two parking spaces and Mr. Thakral explained he would but he still has 8 spots including 1 handicapped spot.

Ms. Middleton explained there is a question in New York State whether it is permissible to sell liquor or alcohol through a drive-through window, there is conflicting case law on it and it depends on the liquor license you have. If the Board chooses to issue an approval, they can either make it contingent on the provision of your liquor license with a legal interpretation letter. That means you would have to have your attorney write an interpretation letter that states they believe this use is legal under your existing license. Mr. Thakral explained he had called the Liquor Authority and asked that same question and his license allows him to deliver it in his car as long as he has the sign on his car. Ms. Middleton explained the Board can either approve, if that's what they plan to do, contingent on the provision of a legal interpretation letter from your attorney and a copy of your license, plus a copy of the lease agreement as requested or they can hold it over and request those items prior to approval and we can have them at the next meeting.

Motion by Dan Wasson and seconded by Adisen Harden to approve the site plan with the following conditions:

1. A copy of the lease agreement.
2. A copy of the liquor license.
3. Interpretation letter from an attorney stating they believe this use is legal under your existing license.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

E.A.F. DETERMINATION – STANLEY HOLLOW CREEK, LLC:

Motion by Dan Wasson and seconded by Jason Maxian to declare the Planning Board of the Town of Kirkwood the lead agency for the SEQR review of the Stanley Hollow Creek, LLC/Blue Wave Solar proposed solar project to be located at 388 Colesville Road, Kirkwood New York, Tax Map ID: 146.04-1-48.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Motion by Dan Wasson and seconded by Adisen Harden to declare the Stanley Hollow Creek, LLC/Blue Wave Solar proposed project to be located at 388 Colesville Road, Kirkwood, New York, Tax Map ID: 146.04-1-48 a Type 1 Action pursuant to SEQR regulation 617.4(b)(6).

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Chairman Woolbaugh, referring to Part 1 of the Full E.A.F., questioned the following answers from the applicant: Page 7, j. iv., v., vi., vii., and viii should all be left blank. Page 7, k., iii should be left blank. Page 8, p. was a concern on the 239 comments. Gabrielle Hayes explained the vegetation will be managed with sheep grazing, which eliminates the needs for herbicides. Typically, there will be hand pulling of weeds or the sheep will eat the weeds. There maybe a need for a vet treatment of the animals at some point. There won't be any pesticides or insecticides. Page 8, q., ii., should be left blank. Page 10, h., i., and iii., should be left blank. Page 13, e., If Yes: should move that down to f.

Dan Wasson, referring to Part 1 of the Full E.A.F. questioned Page 3, C. 4. a. should be Windsor Central School District.

Chairman Woolbaugh asked the applicant if he had received the SWPPP comments from the Town Engineer and Mr. Steve Wilson, Project Manager for Bohler Engineering stated no. A copy was given to Mr. Wilson and he will provide responses to the comments. Dan Griffiths commented the biggest thing is to get the preliminary visual analysis with the solar panel field in place.

Ms. Middleton explained to the Board that if there is any additional information that you feel you need to make a determination on the EAF, including information related to visual impact, sound, anything relating to the ground water, anything that is environmental now would be the time to ask so we can forward it to them and they can respond. What we often do with these projects when there is public comment we will give you an opportunity to respond to the public, it is being held over to the next public comment period. We will send you the concerns and questions for a response at the next meeting.

Mr. Joe Seman-Graves, BlueWave, explained the project. They have been working with the Bartleson family since early 2023 on this project. They met with town officials in June 2024 and updated their site plan based on feedback they received. As a result, what you see today is based on the local law as well as comments received from town officials. They will respond to the engineer's comments. They are proposing a 2.8 MW alternating current system located on about 18 acres. This project has a dual use perspective. Their system will use advanced single-axis tracking panels, which follows the sun throughout the day to maximize energy production. The panels will be installed at a height to allow sheep grazing. The project location was selected for its suitability taking into consideration the proximity to existing electrical infrastructure, the landowner's commitment to preserving the properties agricultural roots, and compliance to local zoning regulations. The site will interconnect with NYSEG's distribution system delivering clean energy directly to the grid. The power generated here will benefit local consumers and help meet the owner's ambitious energy goals.

Mr. Seman-Graves went on to say solar projects can raise valid concerns with the community, including potential for decreased property values. Numerous studies, including a 2018 report, showed no significant correlation from the proximity to well-designed solar projects that highlight well-designed solar projects and a

decline in home values. Solar installations have found to retain their value among property owners adjacent as long as adequate site design consideration are in place. Another concern is hazardous materials in solar panels. Modern solar panels are built to vigorous industry standards. The panels are not easy to break. They are safe. They have done a few sites that are on water. They are adhering to all setbacks. As far as noise, the noise from the solar inverters is minimal, it falls well within the acceptable limits by the NYS Department of Environmental Conservation. The noise is comparable to a refrigerator hum, generally undetectable beyond 150 feet. EMF generated by solar panels is very low and well below safety limits. Comparable technologies have the same output are cell phones, microwaves, televisions. They pose no health risk to residents or livestock. Wildlife and environmental effects, their project has been designed to avoid sensitive ecological areas such as Stanley Hollow Creek. The project incorporates appropriate buffers. They are looking for feedback from the community. Their landscaping plan is very light. They are also here to balance the agricultural use of the land. They are installing a 2.8 MW system and that system won't increase over time, the contract they have is the contract they have. There is no room for increasing in size.

Mr. Wilson explained the project. Of the total 91 acres of the parcel they are only using 18-19 acres for the panels, anything east of the creek will remain undeveloped. They are keeping the solar panel footprint within the existing agricultural land; no tree clearing is needed. The property is gently sloping so almost zero grading will be done. They will maintain natural existing contours across the property. Access to the property is at the existing driveway with a turn around, and the electrical equipment is there. The closest the modules get to Colesville Road is 740 feet, about 2 ½ football fields. The closest resident is about 700 feet. There will be a fence around the solar field for security purposes and will be designed for wildlife purposes so they can still migrate underneath the fence. The access road is a pervious road, the only place that isn't is for the electrical pad. They won't have any stormwater issues or runoff issues, trying to maintain the natural stormwater flows across the site.

Gabrielle Hayes, BlueWave's Agrivoltaics team, explained that agrivoltaics combines agricultural and energy production, also called dual-use. In addition to the energy production there is also agricultural production happening on the site. BlueWave is a leader nationwide, they developed the first array on a blueberry farm in Maine and since then they have partnered with many town, farmers and landowners to develop and build many more of these kinds of farms to support agricultural. They recently finished or almost finished construction on a portfolio of five agrivoltaics projects, one will have sheep grazing, just like what they are proposing here. The other ones will have hay, beef cattle, and vegetables. A project like this that uses sheep grazing reduces the needs for herbicides or eliminates it completely, it reduces the green house gas emissions associated with maintenance of the array. There are soil benefits when using sheep grazing by adding organic matter to the soil, helps improve the water retention and water filtration of the soil. Because there will be sheep, they will help the agricultural vibe, the land still being used for agricultural production. It will also help the local food system because sheep are edible, the grazer will likely be selling lamb. It will help support local farms. They are already talking to sheep farms who would be interested in grazing this site. The population of sheep in NYS has been increasing. A solar array like this one, studies have shown that soil health improves over the lifetime. This is a low impact and reversable type of development. The panels will all be removed at the end of the solar array's life and the land will still be able to be used for whatever type of farming is going to be happening in 40 years.

Ms. Hayes showed the Board members a drawing of an agrivoltaics farm that was recently completed in Palmer, MA, and is a beef cattle farm. They were forced to make design changes for that project, as part of their conditions from the Planning Board, that caused some unintended consequences for the agricultural. That project could have been a single array but it is now split into two. The original design was a single array that would have only used the existing farm access road instead of adding a second road through the pasture. Roads are some of the more impactful parts of an agrivoltaics array. They also had to abide by setbacks from a

wetland even though it was agriculturally managed up to the boarder prior and still is agriculturally managed and still would have been if they were able to put the fence there but now there are little strips of land that have to be managed in a less efficient manner for the farmer. They also had to put screening in so now there are trees planted in the hay field, which takes out more land that could have been used for agricultural. In their project they are trying to balance the visual impacts to the town with helping this land maintain its agricultural value for the life of the project.

Ms. Middleton explained this is going to continue to the next meeting, this is not the end of the site plan review, it is not the end of all the questions. What will happen now is the Board is going to submit all the questions that the public had this evening as well as their own questions to the applicant for a written response and they will be back again to further review the site plan and address any additional questions the public may have. This is not the end, this isn't the only presentation you are going to have, you have further opportunities to comment, further opportunities to submit written or other commentary. The next Planning Board meeting is October 14th. This will be on the agenda and the applicant will be here again. There is no determination being made this evening. If you have any additional questions in the interim you can either bring them to the next meeting, you can submit them in writing to the board. We have been taking notes on all of the public questions we received throughout this process and we will be submitting them to the applicant for comment at the next meeting. This will be on the agenda again, for the public to review and comment again next meeting.

There was a question asked if the solar farm on Trim Street from last year had been resolved and Ms. Middleton explained it has been resolved, it was not approved. If you want further information you can request from the Town a complete and full record of that project. It will also contain the reasoning for the disapproval.

Mr. Semen-Graves asked if it was appropriate to ask the Board for feedback on the landscaping plan that was submitted or any comments and Ms. Middleton, speaking to the Board, commented if you have any questions right now that you know of regarding the landscaping plan, otherwise often times they will review everything afterwards, they will provide it to her and she will send it to the applicant for response at the next meeting. Mr. Semen-Graves is requesting any comments be sent to them as soon as possible. The board would like their response approximately 1 week prior to the next meeting. The board agreed that the 7 viewpoints for visual impact analysis was sufficient.

Chairman Woolbaugh commented this project will be on the next month's agenda, once we have all responses.

SOLAR ENERGY SYSTEM FEES:

Chairman Woolbaugh explained that the Town Board has asked the Planning Board for a recommendation on the proposed amendment.

Ms. Middleton explained this is a minor amendment to the Zoning Code for Solar Systems and just changes the application fee from a flat \$750 fee to a fee to be established by the Town Board.

Motion by Dan Wasson and seconded by Jason Maxian to recommend the amendment to Section 706.E(3) of the Zoning Code regarding Solar Energy System Fees to the Town Board.

Roll Call Vote:	Adisen Harden	Yes
	Jason Maxian	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes
	Chairman Woolbaugh	Yes

Motion Carried.

Ms. Middleton asked the board members to send her any questions, comments, or concerns you have on the solar project to her by Friday and she will forward them to the applicant over the weekend.

Motion by Mike Maciak and seconded by Adisen Harden to adjourn the meeting. The meeting was adjourned at 8:46 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board

cc: Planning Board Members
Kelley Diffendorf
John Finch, Jr.
Chad Moran

Bob McKertich
Gina Middleton
Katie Legg
Scott Snyder