

**TIOGA COUNTY PLANNING  
BOARD MEETING MINUTES**

**August 16, 2023**

**Tioga County Health & Human Services Building, Room #2139**

**I. CALL TO ORDER AND INTRODUCTIONS**

- Chairman D. Chrzanowski called the meeting to order at 7:01 PM.

**II. ATTENDANCE**

A. Planning Board Members:

**Present:** Joe Budney, Art Cacciola, Doug Chrzanowski, Georgeanne Eckley, Bryan Goodrich, Pam Moore, Chelsea Robertson, Grady Updyke

**Excused:** John Current

**Absent:** Matt Tomazin

B. Ex Officio Members: None

C. Local Officials: None

D. 239m Review Applicants: Caleb Scott, United Agrivoltaics; Rob Panarsci, Newark Valley Solar; Emily Lukasik, LaBella Associates for Newark Valley Solar; Mark Ostrowski, Joseph Volquartsen, Dale Jager, Tioga Downs; Justin Marchuska, James Caramore, Tioga Learning Properties, LLC.

E. Guests: None

F. Staff: Elaine Jardine, Karen Warfle

**III. APPROVAL OF AGENDA**

- Approval of agenda as amended.

C. Robertson/P. Moore/Carried  
None Opposed  
No Abstentions

**IV. APPROVAL OF MINUTES**

- Approval of July 19, 2023 minutes as distributed.

P. Moore/A. Cacciola/Carried  
None Opposed  
No Abstentions

**V. PRIVILEGE OF THE FLOOR**

- None

**VI. NEW BUSINESS**

**A. 239 Reviews**

- 1. County Case 2023-018: Town of Nichols, Site Plan Review, Larson Design Group for Tioga Downs**

The applicant is proposing to construct and operate a an 18-site campground for

recreational vehicles on their own grounds, exclusively for their own patrons, with all utility hook-ups at each site.

The site plan shows the 18 sites that are located within FEMA's Special Flood Hazard Area 1% chance floodplain. This is a good use of land within the floodplain, because there will be minimal loss or impacts to the campground if flooding occurs.

This RV campground facility will provide a direct benefit to Tioga Downs by adding revenue for the facility. This proposal meets all applicable Town of Nichols codes and regulations. The Tioga County Department of Health has already granted the campground all required approvals. This is on Tioga Down's property, so no agricultural land is involved.

Staff advises the County Planning Board recommend Approval of the Site Plan Review with the conditions noted:

1. That the applicant obtains all required federal, state or local permits, licenses and registrations.
2. That the applicant creates an Evacuation Plan for campers in the event of an impending flood.

**Q. C. Robertson** – How long is the maximum stay for the campers?

**A. D. Jager** – The plan is to offer a daily, a weekly, and a monthly rate, using the same guidelines as the hotel - not more than 28 days.

**Q. C. Robertson** – Is there any evacuation plan in the event of a flood?

**A. D. Jager** – It will be added to our master evacuation plan.

**C. C. Robertson** – I would like to add as a condition for approval that there be an evacuation plan for all the campers in the event of a flood.

**Q. P. Moore** – So there's no plan for the trainers or other workers living at the track?

**A. D. Jager** – Workers? No. Horse trainers, if they're guests, then yes. It is ideally for our gaming guests.

**Q. D. Chrzanowski** – They have all utilities, and Tioga County Public Health has issued all needed permits. Are they concrete pads?

**A. E. Jardine** – Yes.

**Motion to recommend approval of the Site Plan Review, with the conditions noted above:**

<b>C. Robertson/B. Goodrich/Carried</b>	
<b>Yes</b>	<b>8</b>
<b>No</b>	<b>0</b>
<b>Abstentions</b>	<b>0</b>

**2. County Case 2023-020: Town of Owego, Site Plan Review, Tioga Learning Properties**

The applicant is requesting site plan review to expand their parking lot at the current BOCES

facility to add more spaces. They intend to relocate the current playground, currently located at the rear of the facility, and create a paved parking lot with 33, 10'x20' spaces. Then across Academy Street, they will create a smaller paved parking lot with 11, 10'x20' spaces, for a total of 44 new parking spaces.

There is plenty of space to accommodate the addition of these parking spaces on site. Everything flows in a logical direction.

Staff advises the County Planning Board recommend APPROVAL of the Site Plan Review with the condition noted:

1. That the applicant obtains all required state, county and local permits, licenses and registrations.

**C. E. Jardine** – JoAnn submitted this to DOT Region 9 and the reply was that NYS DOT does not need to conduct a review due to the project’s distance from the State Right of Way and lack of anticipated transportation system impacts.

**Q. P. Moore** – Where will the driveway be?

**A. J. Marchuska** – We are planning to use the existing driveway, the Academy Street driveway. Traffic to the additional 30+ parking spots would flow through the existing driveway. The 11 parking spaces in the lot recently acquired would also flow onto Academy Street, rather than flowing directly onto Pennsylvania Avenue.

**Q. D. Chrzanowski** – Just to be clear, Academy Street is a Town property, correct? It’s not your driveway.

**A. J. Marchuska** – Half of it is a Town road because there’s additional homes, but then half is owned by the Owego-Apalachin School District, and I have correspondence from the Owego-Apalachin school district that gives permission for BOCES to utilize that part of their property.

**Q. D. Chrzanowski** – With it being a street, is there any legal requirement to provide a crosswalk or anything like that?

**A. J. Marchuska** – We had it reviewed by Steve McElwain, and he did not note anything. We are doing additional work and improvements, including asbestos abatement. The roof was replaced, except for one wing, and that’s now being done this year, too. We own 6 locations that are leased to BOCES, and we are continuing to do upgrades to continue to make it useful for generations to come.

**Q. B. Goodrich** – Are you going to have fencing or some type of guards up so cars cannot access Pennsylvania Ave. from that parking lot?

**A. J. Marchuska** – We could add some type of guard rail or curbing along Pennsylvania Ave. for the lot; the larger lot has a fence, and it goes up an incline in that area. Coming in Academy, there’s a curb and a sidewalk that also serve as a barrier.

**C. D. Chrzanowski** – Yes, some sort of barrier for the smaller lot may be something to consider.

**C. J. Marchuska** – I could add in striping, curbing or a guard rail. I try to keep it as open as possible for snow removal as that area is kind of tight. Maybe we could put in some type of bollards there.

Additional discussion regarding the new traffic pattern for the school busses, teachers, and

parents dropping off students.

**Motion to recommend approval of the Site Plan Review, with the condition noted above:**

**G. Eckley/D. Chrzanowski/Carried**

**Yes                    8**

**No                     0**

**Abstentions       0**

**3. County Case 2023-019: Town of Newark Valley, Solar Energy Special Use Permit and Site Plan Review, TJA – NY Newark Valley Solar Farm, LLC**

The applicant is proposing to develop, construct and operate a 4 MW/AC solar photovoltaic system, with all appurtenances on said property on West Creek Road. This solar project will occupy approximately 20 acres of this 42-acre agricultural land property. Activities included the installation of a ground-mounted solar energy system consisting of solar modules/panels, new electrical equipment and accessories including an electric line, access road, and concrete pads containing transformers.

This subject property is within 500 feet of a property enrolled in the NYS Agricultural Districts Program; therefore, the Town of Newark Valley has gone through the Ag Data Statement process last year. Much of the actual site of the proposed solar project within the subject property is in land that has been valued High Farmland Preservation Priority in Tioga County’s 2015 Agricultural and Farmland Protection Plan. This 40-acre field is actively farmed.

The applicant’s Decommissioning Plan states that the project will have a 35-year useful life and ensures the project owner will provide adequate financial resources to the Town of Newark Valley in the event of project abandonment. This will be in the form of a surety bond in the amount of \$358,000, which is 150% of the anticipated decommissioning cost.

**UPDATES:**

TJA added an agrivoltaic component to this solar facility proposing to add sheep to graze the grass under the solar panels, as well as having honeybees. The design, of the panels, therefore, has slightly changed to have smaller panels with wider grass strips between the arrays to accommodate sheep. However, reports and research (Grazing Sheep on Solar Sites in NYS: Opportunities and Challenges, Nikola Kochendoefer and Michael Thonney, Cornell University Department of Animal Science, February 2021) shows that agrivoltaics practices with sheep grazing are best suitable for marginal, hillside pasture and not meant to replace existing field crops grown in highly fertile, prime agricultural soil, which is the case on this site. Contrary to information presented in the applicant’s materials, this parcel is still being actively farmed by the Gunther Dairy Farm.

Additionally, the 7-foot breakaway fence is extended to the 500-year floodplain, as well as surrounding 100-year floodplain. Update from E. Jardine.: A SWPPP has been prepared and

provided for stormwater and drainage facilities. But this Board does not need to see the SWPP, just have knowledge that one has been prepared and submitted.

This community distributed generation solar project is providing a direct benefit to community residents and provides another contribution toward clean energy production. However, this is active agricultural field with row crops/hay on it now. Furthermore, according to Tioga County's 2015 Agricultural & Farmland Protection Plan, the entire 40 acres of this property is within the highest preservation priority of agricultural land. Therefore, the highest and best use of this property, which is also in the floodplain, should continue to be agricultural row crops.

Staff advises the County Planning Board recommend Disapproval of the Site Plan Review and Solar Energy Special Use Permit. Conditions noted:

- That the applicant obtains all required federal, state or local permits, licenses and registrations.
- If this solar project is ever decommissioned, the land be restored in a manner that follows NYS Department of Agriculture and Market's guidance for agricultural mitigation restoration requirements.
- That the applicant meets with the local fire department to discuss potential hazards procedure and to obtain a 911 address.

**Q. D. Chrzanowski** – What has changed between last time and this time?

**A. R. Panarsci** – The first thing that has changed is they have proposed a complete change to what was going to be under the ground. Caleb will explain what will be done and how this is agricultural – sheep farming and what kind of crops to put in that would help with the floodway issue that you were concerned with last time. Secondly, to redress that floodway issue, such as using breakaway fencing.

Discussion of the difference between floodway and floodplain and the proximity of the proposed project to both.

**C. E. Lukasik** – We are not entering the floodway and do not want to.

**Q. D. Chrzanowski** – besides what you're going to put in the ground, what else has changed? Footprint? Fencing? Waterways? Protection features?

**A. E. Lukasik** – The panels and racking have changed configuration from a 2-in-portrait racking system to a 1-in-portrait, reducing the overall height significantly to about 1/3 of the original height, resulting in less visual impact. The fences are breakaway fences which have been extended to the 500-year floodplain. As a reminder, all the equipment and the panels themselves will be, at a minimum, 2 feet above the 500-year flood elevation. Due to the racking changes, the footprint shrunk slightly. The roadway was going to be an impervious gravel surface but is now proposed to be a pervious gravel surface for better stormwater runoff and maintenance. Two small equipment pads will either be on gravel or concrete once final equipment has been chosen and they will be treated with filtered strips, which are approved practices by the DEC.

**Q. C. Robertson** – Please describe the difference between pervious and impervious gravel.

**A. E. Lukasik** – Extensive details are provided at the end of the plan. (Ms. Lukasik provided summary description to the board.)

**Q. P. Moore** – To be sure I’m clear, the road, panels, power infrastructure are still going to be in the flood plain?

**A. E. Lukasik** – Yes, portions of it will be; some will be outside/above the 500-year flood plain.

**Q. P. Moore** – But there’s still going to be buried lines there, it’s still going to be connected to the grid and there’s going to be a connection through there?

**A. E. Lukasik** – Yes.

**Q. P. Moore** – Why have you chosen to put any of this infrastructure in the flood plain rather than up the hill a little more? I understand it would require a longer driveway and would be a greater distance to get to NYSEG’s lines, but we have so precious little prime farmland in Tioga County. As previously mentioned, the highest and best use of flood plains is agriculture, and we can mitigate the terrible impact of flooding by keeping the floodplains in agriculture.

**C. E. Jardine** – In addition to that, animals would need to be evacuated.

**C. P. Moore** – There are already honeybees in the area, there are sheep all over the county, but prime farmland is needed for farmers to be able to grow corn, soybeans and other critical crops economically and profitably.

**Q. C. Robertson** – So the Town has zoning and this is in a Mobile Home zoning district?

**A. E. Jardine** – The Town of Newark Valley does not have zoning, this a completely false statement on the part of the applicant.

**C. D. Chrzanowski** – So the answer to my question is that nothing has really changed, other than some minor changes. You’re still in a floodplain. You still do not have all the mitigation risks for floods. Last time you were here, we discussed our concerns about the lack of security and protection for the electricity and how to shut it down in the event of a flood, and so far, that has not been addressed. C. Scott, please go ahead and explain the agricultural component.

**C. Scott** of Agrivoltaics, which acts as a farm co-op, explained the history, reasoning, process and plan used when combining sheep farming with solar arrays.

**Q. A. Cacciola** – Wouldn’t it work on a hillside as well as the proposed project that is currently in the floodplain?

**A. C. Scott** – It works well.

**Q. D. Chrzanowski** – Do you have a contract with Sarah Hines that specifies where the barn will be, where the animals’ water source will be, where the animals will be placed? Is this a contract, or a concept?

**C. Scott** explained that Agrivoltaics acts as a co-op and how they support and educate the sheep farmer to get access to this type of farming.

**C. D. Chrzanowski** – The two concerns that remain are: we have limited good land and yet plenty of “goat country” or unpopulated areas that might serve as better options for solar companies; and second, now the plan is putting animals in the risk of flooding water and danger of electrocution due to putting a 4–5-megawatt system in a floodplain and adding sheep.

**Q. C. Robertson** – What is the evacuation plan for the sheep, what are the procedures, and how does that work and what agreement have you come to?

**A. C. Scott** – As a part of our action plan, when it comes to our grazing model – we have 3 different models that we can implement on any given site: 1. We can mob graze it with a larger number of animals for a shorter period of time and do that 3-4 times a year, so the animals are not here all the time and through this rotational grazing is how we’re doing regenerative

agriculture. Part of our action plan is to have an emergency evacuation plan.

**Q. C. Robertson** – The Community Host Benefit Agreement, have you come to an agreement on that and what is it?

**A. E. Jardine** – I did not include that because we don't know if this proposed project will be approved.

**A. R. Panarsci** – There is an environmental review that will be completed by the town.

**Q. P. Moore** – Are you just focusing on larger parcels, owned by farmers, and in close proximity to NYSEG's infrastructure? Or do you look at other considerations, like checking in with Economic Development and Planning (ED&P) before you start pursuing grants for particular parcels? Or do you send out blanket letters and if a landowner contacts you, you pursue it from there?

**A. R. Panarsci** – This company itself does not send out blanket letters. They are going to look at the town and its zoning restrictions, if any, then next step is to find a landowner with a certain number of acres, but more importantly is the proximity to a NYSEG line that can be connected to. The cost to connect a project is about \$1,000,000. So, the further away from those lines, the costlier it becomes.

Additional discussion of the various paths of contacts and opinions as to who should be contacted first for input and why.

**E. Jardine** explained the process of making motions and clarifying what is being voted on if moving forward either way. Chairman D. Chrzanowski asked for a motion to be made.

**Motion to recommend disapproval of the Solar Energy Special Use Permit and Site Plan Review:**

	<b>P. Moore/G. Updyke/Carried</b>
<b>Yes</b>	<b>8</b>
<b>No</b>	<b>0</b>
<b>Abstentions</b>	<b>0</b>

**Q. C. Scott** – So your main concern is the flood plain?

**A. D. Chrzanowski** – Absolutely. **Others** – And the soil.

**A. E. Jardine** – Of the 18 solar projects, this is the only one that's been proposed in a flood plain, and the only one proposed in prime agriculture land.

Additional discussion regarding the positive aspects of the sheep farming combination with solar projects. Mr. Scott provided his phone number to the board.

**VII. REPORTS**

**A. Local Bits and Pieces**

- 1. Town of Barton (G. Updyke)**
  - No report.
  
- 2. Town of Berkshire (vacant)**
  - No report.
  
- 3. Town of Candor (A. Cacciola)**

- The Town Planning Board received approval to contract with Cornell Design Connect, to assist with the Town’s comprehensive plan survey.
  
- 4. Town of Newark Valley (M. Tomazin)**
  - Not in attendance.
  
- 5. Town of Nichols (P. Moore)**
  - No report.
  
- 6. Town of Owego (J. Current)**
  - Not in attendance.
  
- 7. Village of Owego (G. Eckley)**
  - No report.
  
- 8. Town of Spencer (Joe Budney)**
  - No report.
  
- 9. Town of Tioga (D. Chrzanowski)**
  - No report.
  
- 10. Village of Waverly (vacant)**
  - No report.
  
- 11. Alternates (B. Goodrich, C. Robertson)**
  - No report.

**B. Staff Report:**

E. Jardine again welcomed new Planning Board member, Joe Budney, Town of Spencer, and stated an updated board member list will be emailed to the board.

**VIII. OLD BUSINESS**

- None

**IX. ADJOURNMENT**

- A. Next Meeting September 20, 2023, @ 7:00 PM at HHS Building Room #2139.
- B. Motion made to adjourn at 8:11 PM. G. Eckley/B. Goodrich/Carried.

Respectfully submitted,

Karen Warfle, OSII  
Tioga County Economic Development and Planning