

June 3, 2021
7:00 PM
Owego Town Hall
2354 State Route 434
Apalachin, NY

MEETING OF THE TOWN OF OWEGO ZONING BOARD OF APPEALS

Present: Chairman Gary Phelps, Janet Brown, Jack Legg, David Kresge and Dan Myers.

Absent: None

Others Present: Planning & Zoning Administrator Joann Lindstrom, Town of Owego Attorney Irene Graven.

Chairman Phelps called the meeting to order. A quorum was present. The minutes from the Regular Board Meeting held May 6, 2021 were considered. Jack Legg made a motion to accept the minutes as written. Dan Myers seconded the motion. Chairman Phelps, Mrs. Brown, Mr. Legg, Mr. Kresge and Mr. Myers voted in favor of the motion.

Appeal No. 2091

The Board considered Appeal No. 2091 submitted by West Bay Star LLC. They are requesting a Special Use Permit to construct a medical center in an Industrial (IN) District at 936 Taylor Road in the Town of Owego.

Appearance: David Dimmick of West Bay Star, LLC

*Exhibits: Application for a Special Use Permit dated May 7, 2021
Project Description; Grading Plan; Survey; Floor Plan*

Chairman Phelps read a letter from the Town of Owego Planning Board dated May 27, 2021, recommending approval for the Special Use Permit request contingent on Site Plan review by the Town of Owego Planning Board.

David Dimmick, representing West Bay Star LLC, was present via telephone. Chairman Phelps asked if Mr. Dimmick had any information to add to his application. Mr. Dimmick replied that he did not have anything to add.

Chairman Phelps opened the public hearing. There were no comments from the public. No comments were received by the town. Chairman Phelps closed the public hearing.

Chairman Phelps asked if the Board members had questions. Mr. Legg asked if the plans submitted were final. Mr. Dimmick stated that the plans submitted were still preliminary. Mr.

Legg asked if the basic square footage would change in the future. Mr. Dimmick replied that it probably would not, the building would be close to the 18,000 SF as proposed.

Chairman Phelps asked the applicant if the town would see a final landscaping plan prior to issuing a building permit. Mr. Dimmick stated yes.

Mr. Myers then asked Ms. Lindstrom to clarify the Zoning Board's role in the Site Plan review process. Ms. Lindstrom replied that the Zoning Board of Appeals' charge was to determine if the construction of a medical facility in an Industrial District was a permitted use under the Special Use Permit requirements; the project would not go before the Zoning Board again unless the applicant requested variance relief.

Chairman Phelps asked if the facility would offer 24-hour walk-in services. Mr. Dimmick replied no, the facility would be open Monday-Friday 8-5. Mr. Dimmick further stated that Lourdes had mentioned the possibility of operating a walk-in clinic at the location but the hours would remain Monday-Friday 8-5.

Chairman Phelps then asked the applicant to remain in contact with the Campville Fire Department as they move closer to a final plan, sharing Fire Chief Kevin Ford's phone number. Mr. Dimmick agreed.

Mr. Myers made a motion to approve a Special Use Permit for Appeal 2091. Mrs. Brown seconded the motion. Chairman Phelps, Mrs. Brown, Mr. Kresge, Mr. Legg and Mr. Myers all voted in favor of the motion.

Reference:
Appeal No. 2091 dated June 3, 2021

ACTION OF THE ZONING BOARD OF APPEALS of the Town of Owego, Owego Town Hall,
2354 State Route 434, Owego, New York.

To: West Bay Star LLC
320 N. Jensen Road
Vestal, NY 13850

At a meeting of the Zoning Board of Appeals held on the 3rd day of June 2021, the above referenced Appeal was considered and the Board by resolution GRANTED your request for a Special Use Permit pursuant to Chapter 125 of the Code of the Town of Owego.

The resolution adopted by the Board of Appeals follows, viz:

WHEREAS, a public hearing was held on the 3rd day of June 2021, on notice according to law, at which David Dimmick appeared via telephone and gave testimony to questions put to him by this Board; and

WHEREAS, the Town of Owego Planning Board reviewed West Bay Star LLC's request for a Special Use Permit and recommended approval subject to their own Site Plan Review when the project is further developed; and

WHEREAS, Mr. Dimmick stated that his company is in the preliminary stages of building a medical facility, the stamped plans for which were submitted with this application;

WHEREAS, Mr. Dimmick stated that the square footage of the facility (18,000 SF) would likely remain the same if built;

WHEREAS, at the request of Chairman Phelps, Mr. Dimmick stated that his company would include landscaping plans with the Site Plan review and would request input from the Campville Fire Department;

WHEREAS, no public comments were received;

NOW, THEREFORE, be it

RESOLVED, that the Board makes the following findings based on the entire record:

1. Applicant is requesting a Special Use Permit to construct a medical facility in an Industrial (IN) zoning district;
2. Property is located at 936 Taylor Road in the Town of Owego;
3. Property is situate in an Industrial "IN" zoning district;

And be it further

RESOLVED, that the application for a Special Use Permit is hereby GRANTED.

Any and all other provisions of this Chapter not waived or modified by this decision are to be observed.

Appeal No. 2092

Next the Board heard Appeal No. 2092, a request for an Area Variance of the 200 foot setback requirement for a Private Outdoor Recreation Area submitted by Dr. David Gallagher of 988 South Apalachin Road in the Town of Owego.

Appearance: Sarah Campbell, Attorney for Hinman, Howard & Kattell representing the applicant

Dr. David Gallagher, Applicant

Chris Maby, Delta Engineering

Exhibits: Application for an Area Variance dated May 12, 2021

Sarah Campbell, an attorney for Hinman, Howard & Kattell, was present, representing the applicant, who was also present. Ms. Campbell explained that Dr. Gallagher was extending his personal residence to open it to the public on a very limited basis: Saturdays noon-10:00pm and Sundays noon-8:00pm, seasonally due to the use of the pool and waterfall. Ms. Campbell noted that although the plan is to keep the existing building footprint intact, the applicant is seeking a variance of 72 feet on the north side, 37 feet on the south side, and 113 feet in the rear yard.

Ms. Campbell stated that it was her understanding that the Zoning Board would not be making a decision on the Area Variance at this meeting as the Town Board had met on June 1 to review the request for the Town Board Special Permit and decided to wait until their next meeting to vote.

Chairman Phelps then read the letter from the Town of Owego Planning Board to the Owego Town Board into the record, which recommended the project with the following conditions:

1. The passenger loading area for accessible parking spaces needs to be defined better to discourage use for loading/unloading;
2. Fencing, compliant with the NYS Building Code, must be installed around the perimeter of the pool;
3. Architectural plans need to include specific detail on lighting (wattage/intensity, direction, mounting, etc);
4. Final approval by the Apalachin Fire and emergency squad;
5. Well and septic approval by the Tioga County Department of Public Health;
6. Approval of the Area Variances (Appeal No. 2092) by the Town of Owego's Zoning Board of Appeals scheduled for review on Thursday, June 3, 2021;
7. Town Board issuance of a negative declaration under SEQR.

Ms. Campbell added that the Tioga County Planning Board also recommended approval.

Chairman Phelps then read a letter from the Apalachin Fire Department, which stated that the driveway(s) should remain clear of overflow parking to enable emergency vehicle access and the buildings will need to be in compliance with the NYS Uniform Fire Code, particularly if sprinkles are required.

Chairman Phelps then opened the meeting to public comments. Greg Misner of Box 421 Apalachin, NY stated that he owns the property on the east side of the planned project and has been cleaning up garbage from the work being done at Dr. Gallagher's property. Mr. Misner also expressed concern about a septic system that would be able to accommodate as many people

as the applicant is projecting. Last, Mr. Misner questioned the impact of the large, paved driveway as there may be oil, grease, diesel fuel, and other contaminants that, when it rains, may pollute the stream on his property posing environmental concerns.

Chairman Phelps asked Ms. Lindstrom if any comments had been received regarding this request. She stated that none had been received. Chairman Phelps then asked for a motion to close public hearing. Mr. Myers made the motion, Mr. Legg seconded the motion. All were in favor and the public hearing was adjourned.

Appeal No. 2094

Next the Board opened Appeal No. 2094 a request for Special Use Permit for the construction of a community solar farm at 2635 Day Hollow Road submitted by NY-Owego III/Delaware River Solar.

Appearance: Kelly Sullivan, Bergmann Associates, representing the Applicant;

Exhibits: Application for Special Use Permit dated May 21, 2021

Ms. Lindstrom introduced Kelly Sullivan of Bergmann Associates, who was representing the applicant. She introduced the project, stating that it is a 4.98 MW solar farm sited on a 116 acre parcel with 28 acres (18%) of solar panel coverage. The panels would be installed using a pile-driven system to reduce the effects of stormwater and the facility would be enclosed by a 7-foot wire mesh fence.

Chairman Phelps recommended Ms. Sullivan get in touch with the Campville Fire Department as the project moves forward as they may have concerns about fire access. Ms. Sullivan agreed, stating that Delaware River Solar typically installs a Knox box on the gate. Chairman Phelps then shared Fire Chief Kevin Ford's telephone number.

Chairman Phelps then introduced the resolution to declare Lead Agency under SEQR.

RESOLUTION
TOWN OF OWEGO ZONING BOARD OF APPEALS
A RESOLUTION DECLARAING INTENT TO SERVE AS LEAD AGENCY
FOR THE NY OWEGO III SOLAR FARM PROJECT AT 2635 DAY HOLLOW ROAD OWEGO NY
June 3, 2021

In accordance with the New York State Environmental Quality Review Act (SEQR) the Town of Owego Zoning Board of Appeals declares its intent to act as Lead Agency for a 4.98 MW solar project proposed by NY Owego III (Delaware River Solar) at 2635 Day Hollow Road, Owego, NY, Special Use Permit #2094.

Mr. Kresge made a motion to act as Lead Agency. Mrs. Brown seconded the motion.

Chairman Phelps adjourned the meeting.

Respectfully submitted,

Joann Lindstrom, Planning & Zoning Administrator
On behalf of the Zoning Board of Appeals