

**TIOGA COUNTY PLANNING  
BOARD MEETING MINUTES**

**January 17, 2024**

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

**I. CALL TO ORDER AND INTRODUCTIONS**

- Vice-Chairwoman C. Robertson called the meeting to order at 7:02 PM.

**II. ATTENDANCE**

A. Planning Board Members:

**Present:** Art Cacciola, Joseph Budney, John Current, Bryan Goodrich, Pam Moore, James Marzen, Chelsea Robertson, Vicki Davis arrived at 7:07 PM

**Excused:** Doug Chrzanowski, Georgeanne Eckley, Grady Updyke

B. Ex Officio Members: None

C. Local Officials: None

D. 239m Review Applicants: Peter Dolgos, Delaware River Solar, LLC for NY Tioga IV, LLC

E. Guests: Steve and Linda Persons

F. Staff: Elaine Jardine, Karen Warfle

**III. APPROVAL OF AGENDA**

- Approval of agenda as presented:

J. Current/P. Moore/Carried  
None Opposed  
No Abstentions

**IV. APPROVAL OF MINUTES**

- Approval of December 20, 2023 minutes as corrected:

J. Current/P. Moore/Carried  
None Opposed  
No Abstentions

**V. PRIVILEGE OF THE FLOOR**

- None

**VI. NEW BUSINESS**

**A. 239 Reviews – (for the convenience of those in attendance, County Case 2024-002 was presented first)**

**1. County Case 2024-002, Town of Tioga Planning Board, Site Plan Review, Delaware River Solar, LLC for NY Tioga IV, LLC**

The applicant is proposing to develop, construct and operate a 3.45 MW /AC solar photovoltaic system including all appurtenances via lease agreement with the property owner

located on Glenmary Drive. This solar project will occupy approximately 15.4 acres in the western portion of this 66.7-acre undeveloped and agricultural property. This Community Distributed Generation solar project will generate enough energy to provide 600 households with a reduced energy bill.

Driveway access will occur from Ballou Road. There are nine residential properties located directly adjacent to the south and west side of the proposed solar arrays along Ballou Road that will be directly impacted by this facility. The applicant states that in negotiation with these residential neighbors they have agreed to install 7' high Trex fencing along the southern boundary of their parcel to mitigate view of the solar panels from the abutting southern residences. Additionally, they will install a vegetative buffer on the western boundary of the parcel consisting of 12" to 18" white spruce sapling trees planted in a double row design. The applicant has had a noise study conducted demonstrating that noise from the inverter (which the applicant has repositioned further from the residences) will not much exceed ambient noise levels at the area of the residences. The applicant also states that they have been in contact with the respective Town of Owego Fire Department and have worked out coordination with them in case of a fire emergency. The Fire Department is responsible for evacuating the residences if necessary.

Regarding wetlands on site that Bergmann has delineated, the applicant states that the racking/panels that are within the green/turquoise wetland area are permissible under NWP 51 (blanket permit) and do not constitute permanent conversion or impacts of wetlands (the ACOE considers solar panel posts and fencing posts in wetlands as temporary impacts). The impacts are expected to be under 1/10 of an acre and would not require Pre-Construction Notification to the ACOE. The underground line is permissible under NWP 57.

The applicant has provided a Decommissioning Plan that ensures the project owner will provide adequate financial resources to the Town of Tioga in the event they abandon the project.

This community distributed generation project is providing a direct benefit to community residents and also provides another contribution toward clean energy production.

However, there are several issues that make approval of this project more complex and challenging. There are wetlands among the arrays, plus many adjacent residential neighbors and a wilderness operation. Additionally, the land on which the array will be located is designated as medium priority for agricultural land preservation according to the Tioga County Agricultural & Farmland Protection Plan of 2015, and this solar project will result in some loss of agricultural land.

Staff advises the County Planning Board recommend approval of the Site Plan Review with the following condition:

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

**Q. E. Jardine** – Was there one or two noise studies done?

**A. P. Dolgos** – It was a single noise study, done on projects already constructed on

Glenmary Drive and extrapolated to what the noise would be at this proposed site. The two facilities on Glenmary Drive we were also involved with, as well as the project on Spencer Road in Candor and the project on West Creek Road in Newark Valley.

**Q. P. Moore** – How did you come up with the figure for the wetland impacts, which are between 1/3 and 1/2 of the total site. **A. P. Dolgos** – When you look at what’s in the wetlands, what they count as the impact is the actual racking that goes in, not the entire space, which adds up to less than 1/10 of an acre.

**Q. P. Moore** – Who determines that calculation, the DEC or the Army Corps of Engineers? **A. P. Dolgos** – For purposes of the structure going in, yes the Army Corps of Engineers.

**Q. P. Moore** – So there’s not going to be any heavy equipment driving in? **A. P. Dolgos** - If you’re talking about construction equipment going in, there’s different rules to follow during construction, e.g. mats might be used. But for the equipment itself, you sum up all the racking and it totals one tenth.

**Q. P. Moore** – So nothing is going to be buried there? No lines buried there; everything is going to be above ground? **A. P. Dolgos** – Correct, other than the racking.

**Q. P. Moore** – All the cables will be above ground? **A. P. Dolgos** – They should be on the cable trace, I believe. We have a lot of projects that have to pass, and I’d have to check, but yes. We are under the one-tenth of an acre of what we’re permitted to do under that nationwide permit 51. Anything over that, up to half an acre, we have to send a pre-construction notice to the Army Corps of Engineers or to the DEC.

**Q. P. Moore** – So did you reach out the DEC also? **A. P. Dolgos** – We have not submitted our paperwork because we don’t have an approved site plan to know exactly what we’re submitting. After the site plan is approved, the Stormwater Pollution Prevention Plan is put together, and once signed off by the Town, then it will go to the DEC. **C. P. Moore** – I meant for the wetlands because there was legislation passed in 2022 and there’s always an issue with jurisdiction.

**C. P. Dolgos** – The Supreme Court ruling was earlier this year which changed the rules again. The rules are constantly in flux. But these were not DEC wetlands, they were Army Corps of Engineers wetlands, so they’re not NYS wetlands.

**Q. C. Robertson** – Are you doing a coordinated review for your SEQR? **A. P. Dolgos** – Yes, it should be. **C. C. Robertson** – Ok, so DEC would be notified at that point during that process. **C. P. Dolgos** – Yes, the Town would be doing that, but we’re not at that point yet.

**Q. P. Moore** – Wouldn’t it be cheaper to buy the land? Why lease vs. buy? **A. P. Dolgos** – It depends on the landowner. We prefer to buy rather than lease, but some landowners don’t want to sell, they prefer to keep ownership of the land and lease it. Where the project goes is completely dependent on where it can be fit on the grid.

**C. P. Moore** – I have researched this and with the exception of the soils close to Glenmary Drive that are already buildings, the best agriculture soil on this parcel is

where you're putting your panels. And we have a County Ag & Farmland Protection Plan (map showing medium and high priority preservation) and on this parcel the only part not identified by the county for preservation is the wetland.

**C. P. Dolgos** – It must be submitted through NYSERDA to NYS Ag & Markets and we have to follow their rules for construction.

**Q. P. Moore** to Mr. & Mrs. Persons, guests and property owners – Where is your property located on this map? **A. S. Persons** – indicated on the map the location of their property.

**A. P. Moore** – Looking at this map, the 67-acre parcel, the solar project is going in this yellow area, that is all actively farmed for hay, the rest of the parcel that is not being used for solar, there is a horse farm with fenced-in land. Discussion ensued regarding what is located on or near the proposed use of the property.

**Q. P. Moore** inquired of Mr. & Mrs. Persons whether they had anything they wanted to share. **A. L. Persons** – We've had a lot of questions and concerns and I feel a lot of them have not been addressed, but if there aren't any laws to address them, for example, what if there is a fire and we have to evacuate due to the toxic chemicals? Nobody knows about well systems close by. They have to put some drainage in to keep runoff from entering the well of the neighbor to the west. Our home value will drop more than usual because the solar project is so close to our home. The DRS have offered to install privacy fencing and plant trees. They've offered us compensation that will be a modest amount for an appreciated value of our home 15 years into the future. So at least there's that, but we've been fighting it for two years and it seems like a losing battle. There's no zoning in (the Town of) Tioga.

**C. P. Moore** – The setback in the site plan are an accommodation and provide for more than what we saw for a project in Owego, which does have zoning.

**C. E. Jardine** – Right, zoning wouldn't matter in this case because these solar facilities are occurring on agricultural fields all over Tioga County, whether or not a municipality has zoning.

**Q. L. Persons** – So how do you decide if the land is marked agricultural? Now you have to decide if it's a risk you want to take to give up the land. **A. E. Jardine** – It is up to the Planning Board, I am not a voting member.

**A. C. Robertson** – This project does have more accommodations than other projects. There are issues such as setbacks that zoning can address, but communities around here have not adopted those zoning laws.

**C. L. Persons** – Yes, the developer has been working with us residents. There being no further discussion, Vice-Chairwoman Roberts requested a motion be brought forth.

**Motion to recommend Disapproval of the Site Plan Review:**

**B. Goodrich/P. Moore/Carried**

**Yes**                **8**

**No**                 **0**

**Abstentions**    **0**

## **2. County Case 2024-001: Town of Tioga, Planning Board, Site Plan Review, Tract Engineering – Root Bill Solar Farm**

The applicant is requesting site plan approval to develop, construct and operate two 4.95 MW /AC solar photovoltaic systems via lease agreement with the property owners located on State Route 17C. This solar project, which involves five separate arrays, will occur on 226 acres spreading over three properties. The ground-mounted solar panels will occupy 39 acres, with 53 acres fenced in.

The Bill Solar Farm will be located on the Alan Bill property and the Root Solar Farm will be located on the Alan Bill and Kerry Root properties. The layout for the ground mounted solar energy systems is shown on the included documents. The panels will be mounted to an aluminum or steel racking system utilizing a driven post or helical ground screw. The assembly, including panel, will be typically 10' high with a maximum height of 18'. Electrical equipment, including the inverters, will be mounted on the backs of the rack using Unistrut or similar hardware. The electrical wiring from the racks will be routed in conduit in the racking structure and/or via an underground trench to the transformer pad and then underground wire to a riser pole and several utility poles containing new pole mounted electrical equipment for connection to the NYSEG distribution system along State Route 17C. The solar array will be surrounded by a chain link fence of 6'-0" (minimum) in height. There will be no lighting added for this project. Additionally, the design of the project is meant to avoid impacts to wetlands and the intermittent stream.

Construction will commence after local approvals are issued. The applicant has provided a Decommissioning Plan that ensures the project owner will provide adequate financial resources to the Town of Tioga in the event they abandon the project. The applicant has also provided an Operations & Maintenance Plan as well as a Fire Safety Plan.

This community distributed generation project is providing a direct benefit to community residents and also provides another contribution toward clean energy production.

The proposed arrays are located mostly in land that is designated as medium priority for agricultural land preservation in the Tioga County Agricultural and Farmland Protection Plan of 2015, and in land enrolled in the NYS Agricultural Districts Program. However, no residential neighbors will be impacted by the proposed project.

Staff advises the County Planning Board to recommend Approval of the Special Use Permit request with the following conditions:

1. That the applicant obtains all required federal, state, county and local permits, licenses and registrations.
2. That the Town of Tioga submits this project to the NYS DOT Region 9 Site Plan Review Committee and the applicant complies with their comments and requirements.

**Q. A. Cacciola** – What's the proper acreage? It says only 39/53 – is it because they only count the posts? **A. E. Jardine** – 39/53 is what the provided material stated.

**Q. B. Goodrich** – It's segmented into two bundles. How would they access the ones farthest to the North, e.g in case of fire in the woods up there? **A. E. Jardine** – There are roads on the plan.

**A. C. Robertson** – They actually have access from both sides.

**C. P. Moore** – The bigger project on the northeastern section of the property is medium-level

priority for protection in the County’s Ag & Farmland Protection Plan. Seventy percent of the soils is prime farm soils. We have very little prime farm soil in the county, so that is significant. A neighbor’s land (near the project site) is heavily farmed. A factor to prioritizing land in the Ag & Farmland Protection Plan is the proximity of land to actively farmed land - it increases the viability of the land for agricultural use if there are viable businesses that are farming nearby. The smaller area in the southwestern area of the Site Plan is less of a concern.

**Q. P. Moore** – The decommissioning plan is based on a 20-year active life, but it also says throughout the report that depending on various factors, the project could remain active longer. If the project goes for 30 years instead of 20 and you’re doing a 2.5% adjustment each year for inflation, how does that happen with the bond? Is it automatically in the contracts?

**A. J. Current** – It depends on how the bond is written. It could state until a specific time, or it could state “in perpetuity.” It’s up to the Towns to keep it updated. It isn’t anything this Board has control over.

**Q. B. Goodrich** – Are the fields in the NE portion of the project maintained? Board members looked at Google Maps of the area, and it clearly showed that the northwestern area of the proposed solar project is currently mowed for hay. Discussion followed regarding possible better locations for the project on this property. **A. Cacciola** inquired whether the parcels within the application could be separately approved/disapproved. **E. Jardine** stated that this came to the County Planning Board as one project. She indicated that if the Board wants to approve only the smaller array area in the southwestern portion that a motion could be made to recommend approval with modification of the Site Plan Review. This recommendation would also force a supermajority vote at the Town of Tioga Planning Board. **E. Jardine** further stated the other options are to recommend approval or recommend disapproval of the entire project.

**Q. P. Moore** – It that northeastern parcel in the Ag District? **C. E. Jardine** – Yes, yes, it is.

**C. B. Goodrich** – It appears the priority ag land is closest to the power lines so I’m assuming that’s why it’s located there.

**Q. B. Goodrich** – What are the current megawatts we’re producing as a county?

**A. E. Jardine** – We have obtained data from some of the existing solar project owners showing actual production is only 3% of the anticipated energy production.

**C. B. Goodrich** – Companies are coming from the sunbelt region to here and with such low actual production rates, it would be interesting if they could stand on their own without PILOTS, without any other enticements.

**C. P. Moore** – They aren’t making money from energy production, they’re making money off the government. We’re taking land that is actually supporting businesses and jobs in the county and sending the money elsewhere. I believe in alternative energy as a really good thing, but not the way industrial solar is being done on farmland in New York.

**Motion to recommend Disapproval of the Site Plan Review:**

**P. Moore/J. Current/Carried**

**Yes 8**

**No 0**

**No Abstentions**

**E. Jardine** will email the Town Board the County Planning Board’s comments regarding how they might have voted otherwise if the parcels were separated or the site of the project within

a parcel was located differently.

**VII. REPORTS**

**A. Local Bits and Pieces**

1. **Town of Barton** (G. Updyke)
  - Not in attendance.
2. **Town of Berkshire** (vacant)
  - No report.
3. **Town of Candor** (A. Cacciola)
  - In Candor there is a proposed dirt go-kart track (1/10 mile in length), no buildings, but located on the county road, so it should come to this Board for review and recommendation. We have a race ordinance and a noise ordinance and a mass gathering law.
4. **Town of Newark Valley** (J. Marzen)
  - No report.
5. **Town of Nichols** (P. Moore)
  - No report.
6. **Town of Owego** (J. Current)
  - No report.
7. **Village of Owego** (G. Eckley)
  - No report.
8. **Town of Richford** (Vicki Davis)
  - No report.
9. **Town of Spencer** (Joe Budney)
  - No report.
10. **Town of Tioga** (D. Chrzanowski)
  - No report.
11. **Village of Waverly** (vacant)
  - No report.
12. **Alternates** (B. Goodrich, C. Robertson)
  - No report.

**B. Staff Report:**

E. Jardine reported that a photographer has been retained to go to board meetings to take some footage of board activity (no audio) and a photo of the entire board to be posted on social media, highlighting the work of the board, new board members, and current

vacancies on the board. Ms. Jardine requested permission from the board to allow the photographer to take photos and video of this board at the February meeting. Discussion of the purpose of putting things on social media and the pros & cons of doing so. There being no consensus on the issue, it was tabled, and members were encouraged to review the TEAM Tioga Facebook page to see how it is used to provide transparency and open government and how it promotes the activity of the various boards and associated departments of Tioga County under the umbrella of TEAM Tioga. Ms. Jardine also reminded the board that elections of officers will be held at the February board meeting.

**VIII. OLD BUSINESS**

- B. Goodrich inquired how the Rage Cage case made out in the Town of Owego. E. Jardine stated floodplain special use permit now has to go through the Village of Owego Planning Board and the Village of Owego ZBA and she explained the process.

**IX. ADJOURNMENT**

- A. Next Meeting February 21, 2024, @ 7:00 PM at HHS Building Room #2139.
- B. Motion made to adjourn at 8:09 PM. A. Cacciola/J. Current/Carried.

Respectfully submitted,

Karen Warfle, OSII  
Tioga County Economic Development and Planning