

TOWN OF COVERT, SENECA COUNTY
PUBLIC HEARING FOR PERSOON/NEW LEAF ENERGY
March 4th, 2024

The Public Hearing on Application for Variance for Persoon and Interlaken Solar 2, LLC, Interlaken Solar 3, LLC, and Interlaken Solar 8, LLC, of the Town Board of the Town of Covert was held Monday, March 4, 2024 at 7:00 P.M. at the Town of Covert Municipal Building, 8469 South Main Street, Interlaken, New York.

Supervisor Michael Reynolds	Present
Councilwoman Deborah Nottke	Present
Councilman Bill Bishop	Present
Councilman Brayton Foster	Present
Councilman Todd Wyckoff	Present

Others Present: Town Clerk Leslie Adams-Compton, Town Attorney Patrick Morrell, Planning Board Chairman Rob Schoffel, Planning Board member Eric Spiegler, Jack, Jen and Jake Persoon, New Leaf reps, Andrew Ward (?), Wil Nieves, and Alicia Stoklosa, La Bella Associates Project Manager, Emily Lukasik, and other interested citizens.

Call to order: Supervisor Reynolds called the meeting to order at 7:05 pm. All rose for the pledge of allegiance.

Public Hearing: The Public Hearing to hear comments on the Variance Request for Jack + Jennifer Persoon, 8182, 8184, 8186 St Rte 96, Interlaken, Tax Map #05-1-13.2, #05-1-24.2 + 05-1-18 and #05-1-13.2 to construct three community solar photovoltaic arrays, a total of 13 MW AC, where energy output exceeds the allowable limit under the Town of Covert Land Management Ordinance (LMO).

Reynolds explained that the engineer hired by the Town for the Environmental Review of the project had not been able to complete his review yet, due to health issues.

Reynolds introduced Emily Lukasik, Project Manager from LaBella Associates, supporting New Leaf Energy, who shared a presentation of the project on the large screen. Emily said the project is a straight forward one; there would be minimal tree clearing, no wetlands or any issues like that. She explained there would be three sites: the mid + lower sites would produce 5 megawatts each and would have satellite trackers that follow the sun, the Northern site is smaller and would have fixed panels. Of the 90 acre parcels, 68 acres would be used for solar. The only new impervious surfaces would be the access road and 5 equipment pads. She said that storm water treatment for the imp surfaces would be taken care of through grass filter strips, DEC-approved, and small xx retention basin. Some run-off would be decreasing, minimal change to the land. All the wiring would be under ground at the road, there would be 2 driveway entrances.

Jack Persoon said that they picked the site because it is hidden. (out of sight from Rt 96) They want to keep their farm in the family, but Cornell has told them for 40 years that small farms need to diversify. They intend to continue as dairy farmers.

Jen Persoon shared some of their family history, beginning in 1997 when they purchased the farm. She said they had looked in Iowa but it was too expensive. Friends told them about the Interlaken farm. She says nobody loves their farm more than them. Over the 27 years, maybe 7 of them were good price years, but the business has mostly been paid below production costs. She said they truly love their farm, and Interlaken, and it has been an honor to raise their children here. She said her son and daughter-in-law (and grandchildren) have moved back here. She said that leasing some of their land for solar panels is an unobtrusive way to diversify and to supplement, not replace, their farm income. She said they care about the community and have had many groups and events at the farm over the years.

Emily Lukasik said they will not be taking the land out of Agriculture: NYS law says it will be put back into Ag use when the solar arrays are no longer in use. For the decommission, they test the soil before and after. If the soil is

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low in a nutrient that was there before, they will enrich the soil. Posts and gravel drive are the only additions to the soil. Marcia Taylor asked if they have ever decommissioned a site before. Lukasik was unsure. She said her environmental group is involved in testing and agricultural monitoring on the sites regularly.

John Ditmars, 8301 Main St, whose family have owned a farm in Interlaken since the 1890's, spoke of individual rights and that everyone should be able to do what you want for yourself. He asked what is the capacity factor, explaining that 100% output would be the maximum output 100% of the time. He thought solar was around 30% and said that solar is not for this region, when measuring capacity factor per acre.

Lukasik said their professionals have determined that this area is good for solar. Wil Nieves said he thought the capacity factor for theirs was around 66%. Ditmars said if it was, you would be leading the world in solar panels.

Ditmars asked where the panels are made. Nieves said that it is currently a Japanese manufacturer, but by 2025, '26 they should be domestic sources. He said they were not made in China. Possibly Argentina? Persoon pointed out that 95% of the Dollar General is produced in China.

Taylor said it is about clarification of the manufacture of the panels the disposal of them. Nieves said the current panels will last from 20 – 25 years. Ten years ago it was different. Nieves said they are incentivized to buy local through the Inflation Reduction Act.

Ditmars said he had travels down I-90 and has seen a solar panel company. It would be nice to source our solar panels locally.

David Ferguson asked about the number of panels and what kind of heat they produce with concern for microclimate. They deduced there would be a total of 32,000 panels. Lukasik said they increase the temperature by 1°-2°. Lukasik said it is making it warmer, over a larger surface. Nieves (?) said panels are made out of glass/silicone. While the panel is capturing the heat, if it overheats, it will set off an alert to the monitoring center.

Marcia Taylor said their property butts up against the panels/across the driveway. Lukasik said they are following setback requirements of the Land Management Ordinance. Andrew Ward(?) said solar panels will be over 30 feet from Taylors'. Lukasik said the closest the panels would be is 90' from Taylors' property.

Ron McArde asked what will be done to curtail the increased runoff. Lukasik said this will not increase runoff. The type of vegetation under the panels will help slow the run-off. Jake Persoon said it will be like a permanent sod field, with less runoff and greater root system. The cover crop/hay field will absorb the runoff.

Taylor asked that if they are taking that much property out of production, how do they maintain their farm? Persoons said they've had years of 40-60 extra acres of grain to sell.

Jake Persoon introduced himself, son of Jack + Jen, saying that he grew up loving this community, went into the army for ten years, and he and his family have moved back to Interlaken. He said he gave up a successful career to move back to the family farm and raise his kids in this community.

He asked, how many small dairies there were 20 years ago? A lot more than now. He said they're a hardworking family. He said they did not have all good years for the 20 years in business. It was very hard on family, not knowing if they were doing the right thing, but through stubbornness and the grace of God, they kept fighting the good fight through hard work. He gave honor to his hardworking father. The solar farm will allow them to keep dairy farming. They have a strong commitment to this community, and want what's best for this community. Jen

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Persoon concurred, saying the reason they can put fields out of commission for the panels is because Jack is an excellent farmer.

Pete Messmer, cheese maker, production manager, whose family owns and operates Lively Run Dairy, said that he also grew up in this community with Jake. He said Lively Run Goat Dairy has bought cow milk exclusively from Persoons for their cow cheese for 10 years. He says they probably have doubled their cow milk production every year up till the last two years. If they go out of business, they're in trouble. He said we need to have a local economy with an agricultural dairy component, cows eating grass, making milk. He said, "We have to support small farms", otherwise we will have mega farms with 30,000 cows. They have been able to support Persoons by paying double the market price allowing them to stay in business. He wants to see them and small farms continue to exist. "We have to find small ways to support them." He said this (solar) will help the Persoons stay in business. Messmer also pointed out theirs is the only non-Amish not-mega farm.

Peter Messmer, Pete's dad and his son were co-founders of previous farm, said the reason that he supports the project is because we're in a war to save family farms. Family farmers are fighting big corporate businesses. The array of forces against the family farm is incredible and Jack's is one of the few left. He is not really a fan of solar and windmills, but he is a fan of saving the family farm. (letter on file with Town Clerk)

Emily Aman asked what happens after the 25 – 30 year solar panels life. Nieves spoke about the decommissioning plan. Barry Ford said there is already a recycling issue, the tech is not new but the reclaiming of them is still new to us, and it is just like the US to legislate before the plan. He said the issue is not about supplying better or more electricity, but is about certain individuals or companies making a profit on Wall Street. He asked, what are we weighing here: We're going to make somebody very wealthy at the expense of what? He then asked about the basin to filter out what?

Lukasik explained about the basin used for runoff from impervious surfaces, asphalt or hardpacked gravel on the roads and equipment pads. Lukasik said the runoff is filtered through them. The DEC requires them for every development. Water will run off the panels into the ground, however. She said they have a pollinator mix for dual use, that will be mowed once or twice a year, under the panels. Representatives for the project said there will be a fence around the project to keep people and deer out, with a 6" gap underneath.

There was explanation about the wiring to boxes to converters to poles by the road and hook-up to NYSEG/power grid.

Ford asked whether there would be reflection or glare. Lukasik said there would be no glare, panels have anti-glare properties, and with the vegetation. Nieves explained about the trackers that would cause panels to point on the sun maximizing the solar occlusion causing a reduced glare.

Ditmars asked about an environmental statement. Lukasik said there were no concerns from the DEC + US Fish + Wildlife. Morrell said the Town is required to complete an environmental review, but the engineer could not complete it by this evening. He said the notices were sent out to agencies and responses would be ongoing.

When asked about the project property tax-wise, Morrell explained that the state gives exemption for the project, not for the land, for the improvement. The law provides for the ability for affected municipalities to obtain a Payment In Lieu of Taxes agreement. The Town of Covert has expressed a desire for this, but a PILOT is still in the beginning stages of the process.

Ditmars asked who is on the hook for the cost of decommissioning if the decom fund isn't enough. The taxpayers?

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Morrell said it would be between the landowner and the applicant, and Nieves said they will work with the Town engineer for a plan and the fund.

Ford said there is no benefit to the Town for projects like this. Lukasik said that's an over-simplification. Survival of a small farm affects the community. Ditmars asked what is to stop other farmers from doing the same.

Nieves said they reached out to the Persoons is because of the location, proximity to the Interlaken substation. It will have to be upgraded. Once upgrade is complete, you cannot expect there to be more than 3 mW available on the grid for the foreseeable future.

Nieves said he has an environmental conservation background and concern for the farmers. He is helping farmers to diversify their land. The community will be eligible for a 10% savings on electricity bills. As an environmentalist and conservationist, it's important to him to not put these things in places that take up active Ag land.

At prompting from Jake Persoon, Morrell elaborated on the Town's request for a PILOT, payment in lieu of taxes. Morrell explained that the PILOT law is from the same law for the exemption. The PILOT is not to exceed what the assessment otherwise would be, taxing the land and the project. It would be generating tax revenue for the Town. The law is intended to promote solar.

Alicia Stoklosa said there is a model in place that the assessors must follow.

Marcia Taylor asked if there would be more taxes, since the ag exemption would go away.

Morrell said the property would be exempt if there were no PILOT.

In answer to a question about flexibility in timing, ie. instead of taking over 25 years, Morrell said you could try to take it all now, but generally there is an escalation after 5 years (PILOT to be divided up between the Town/County/school).

Stoklosa said generally there is a 2% escalator, with a yearly payment. Morrell said the advantage to PILOTs is predictability.

There was a question about PILOT's longevity tied in with the lease. Morrell said it is open to negotiation. An expected time limit on the useable life of the panels, a possibility of better technology in a couple years, may extend the PILOT to 30 years. The applicant may want to extend the PILOT rather than leave it to the assessor.

Ditmars asked about the precedent the Town Board's decision would set.

Stoklosa said "there is absolutely no basis to say that if this project is approved, any and all future solar projects the Town must approve." She said the Board has to evaluate every single application on its own. She said that municipal boards are vested with wide lateral deferential approval. As long as they can articulate in a well-written resolution, it will not be an issue. She said it is not likely they will have a completely identical project.

Discussion about bringing an industry to the Town ensued. Ford made comparison with Seneca Meadows.

Ferguson said it is an industry we are going to need if we are going to live on this planet. He said one benefit is that it is energy that does not contribute to global warming.

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Marcia Taylor said that there are studies that will say that it will take more energy to produce this solar farm (make the components) than it will ever produce.

Someone said, you're harvesting the sun, its clean energy, and we're not putting out pollution harvesting the sun.

Recycle-ability of the panels was questioned and whether they contain heavy metals.

Nieves said, maybe in the past; they can research that.

Ford said there is no perfect solution. The question is, Do you want this industry in your community?

The site of the panels was chosen because they were off the main drag, not visible from the road.

Peter Messmer (Elder) said that coming from Lodi, Rt 96A, you will see the whole thing. He said it would need a hedgerow of trees. He also suggested the Town Board request a document ensured the panels are sourced from friends of the US.

Jake Persoon said that they talked with the developers about the row of houses and the school corner and spoke with Amans, and are putting in trees around every gap. Jake also spoke of the economics saying we are trying to create energy independence, but the nation has dependency on OPEC countries, that we are all entwined in the economy and the Chinese economy. He said soldiers sacrifice to secure energy resources for this country, so we can lessen our dependency abroad. He said it is a little unfair to put that on the Persoons, that because we're bringing in foreign material to help build this project, when everyone in this room has foreign product in their homes, that seems a little bit hypocritical.

Nieves said it is difficult today, because we don't know what the supply chain is going to do. They will try to make a pivot by 2025/26 as domestic production ramps up. He would not want it to be required that they use domestic product, that's still speculative. They, the manufacturers and the installers have made a pledge to not support manufacturers that have known impacts to the ??? community and they will comply with federal law. Ditmars said, if they have got to do this to survive, then he is all for it.

Jen Persoon said (the excuses/reasons) are not a reason not to try, and mentioned that John Deere is building a plant in South Carolina to build electric powered tractors.

Emily Aman asked who is going to buy (electricity) from these solar panels and said the electric bills have gone up and asked, will solar cause NYSEG bills to go up more?

Nieves said They pay for the "market driven upgrades" and there would be no cost to the user for the "upgrade". He said a notice would be sent out that your community has solar available to save you 10%. He also explained that New Leaf is the developer, and someone else maintains the panels.

Ferguson said it will back up to his house. But he thinks solar is a good way to go, not perfect, but he would not say "not in my backyard".

Art Taylor(?) asked, are there trees to be planted to obstruct view for properties adjacent to the farm. Yes. Lukasik said if they're uncomfortable with the visual, they can look into trees, species, heights, that is something they can do. The fence is a state requirement.

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Nieves said they can put in what you want. He invited the public to look at the materials available on DropBox through the Town of Covert website (townofcovert.org/Home Page, 2024 Board Reports)

Stoklosa asked the Town Board and Morrell about the draft escrow agreement. Morrell said they would look at it with the Town Board and engineer and get back with her.

Foster said the biggest issue is: Are we changing the character of the community? He thinks we are a little bit. He said it's unfortunate that it would be next to a Village but sees the reason for access to the grid. He said we've talked about PILOTs, but if we're changing the character of the community, maybe we need a host agreement, for example a royalty, such as with a gas well model, taxing up to 3% gross sales, although he's not suggesting 3%. He said instead of a PILOT or something tied to the assessment, you create a contract with the developer and the school + town + county share in some economic benefit or some consequence. He said the tax revenue is not enough. He said, according to the Farm Bureau news, it takes a few million to start a solar farm, with federal reimbursements and tax credits, the payout is like 2 years. He said that in his opinion, if that's true, this has more to do with money than the environment. Foster asked of the applicant: If not a monetary benefit, why do it? Foster said, in the past, there has been an aversion to commercial development in this town.

Foster continued with more issues: Screening -height of the trees? Reclamation - who holds the bond? Who determines when reclamation is completed? With gas wells or gravel pits, it is the State of New York, but in this situation the contract is between the landowner and the corporation. The Town shouldn't be the judge of reclamation. After the 25+ years, if the project is successful, will they be replaced and repaired, could it go on indefinitely? Why not continue using the infrastructure.

Foster said taxes will go up, costs will go up. We do not necessarily want to change the character of the community but change is inevitable. If it's using land that is less productive, wouldn't that be a good place for this?

Stoklosa answered some questions. The decommissioning written plan that goes along with the bond, is held with the Town. Who determines whether reclamation is completed is laid out in the plan. The attorneys would work together on an agreement for decommissioning.

Stoklosa said royalty concept does not exist in the renewable energy world. Municipalities can negotiate a host/community agreement. It is separate from a PILOT. You can have both.

Nieves said they plant trees with a height of 7' to start, 12' apart, 2 rows.

Nieves said the project is 1 mile from the substation, so, not the best. He said by no means is this the best location but it is a good location. 1 mile to the grid costs ≈\$1 million. Because they use direct feeders from the site to the substation, it limits options for other projects.

Hypotheticals of the bond logistics were discussed. The bond should be upgraded every five years and they generally have escalators built into them.

Foster said he wanted to get away from a fixed amount, fixed assessment, for when they have a good year, we (the Town) should benefit as well, or during a poor year or during development, the amount should be minimal.

Stoklosa said generally with the HCA (Host Community Agreement) is dollar amount per megawatt.

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Foster said that if approved, we will probably be changing the character of the community, and he doesn't see why the taxable community shouldn't see the benefit, like a commission.

Nieves said the Town can opt for both PILOT and HCA. Foster questioned the need for a PILOT. He said he could not say that the agreement would be tied to the production but he thought they could come up with an acceptable figure.

Morrell reminded the Town Board has a land use matter that we are trying to work our way through. Though agreements, while they are directly related to this project, should have no impact on the land use determination to be made by this Board.

Foster said that it is backwards, and we are going to do the negotiating before we approve this variance.

Ditmars(?) asked if the agreement is based on a flat rate and is it renewable? Stoklosa said it is not that it is not negotiable, but it will not be production-based, metered.

Foster said that we settle with the developer and when it transfers to the new owner, the obligation transfers to them.

Lukasik said, as a resident of Covert, she believes that LaBella has integrity, but it can't be finalized if we don't know if the project is even happening.

Stoklosa said the decommissioning agreement and the bond have to be in place before the building permit.

Ferguson asked, "What is the process for getting this variance approved?"

Morrell said, in other communities there would be another board that would handle various aspects. The way our land management ordinance is set up, discretion on any variances is with the Town Board who also negotiate agreements, and is also responsible for the fiscal budget and everything else. All that discretion rests right here. Morrell's intention is to try to keep them separate for a clear record: land-use considerations, environmental review, budget, etc. Environmental review first, then considering the variance, conditions or changes to the project. Simultaneously, they will be considering the decommissioning plan and the PILOT agreement (on the County's timeline). Then, it's permits and construction project.

Nieves said, while applying for permits, they are mobilizing construction units, in a procurement process, then 2-3 months of staging, another 6 months of construction; beginning to end, 9 months to 1 year.

Nieves said, for the community, in the beginning a lot of activity, tractor trailers making deliveries, then 25 vehicles in, 25 out, then 12 cars and pickups, 12-20 people on site, some noise with driving in the racking, then torque-based impact guns screwing in the panels for a few weeks (most obnoxious noise). Once it is up and running, once or twice a year maintenance and once or twice a year mowing. The sound of the transformers and converters is 30-50 decibels (whisper to light rainfall), only on the pads.

Nottke moved, seconded by Foster, to close the Public Hearing and adjourn at 9:18 p.m.

Respectfully submitted,
Leslie Adams-Compton, Town Clerk