

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

**December 12, 2022**  
**Meeting Minutes**

Present:	Marchie Diffendorf, Chairman	Gina Middleton, Attorney
	Jim Bukowski, Member	Chad Moran, Building & Code Inspector
	Matt Williams, Associate Member	Mike Maciak, Associate Member
	Gordie Woolbaugh, Member	John Mastronardi, Town Engineer
	Dan Wasson, Member	

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

Chairman Diffendorf recused himself as Chair for this project, Jim Bukowski replaced him as Chair.

**E.A.F. DETERMINATION – SUBURBAN SEPTIC & EXCAVATING SERVICES, INC.:**

Ms. Middleton, referring to the Short EAF, commented that #3 the total acreage of the site is .38 and the physically disturbed is .00514, #9 should be marked yes or not applicable.

Ms. Middleton read each question in Part 2 of the Short EAF and the Board answered no to each question. The Board's responses are included in the file. Jim Bukowski checked the second box on page 2 and filled out the bottom. The form is included in the file.

Motion by Gordie Woolbaugh and seconded by Mike Maciak that the Planning Board, as lead agency in this Unlisted Action, declare a negative declaration for the purpose of SEQR, since based on the review of the Short Form EAF and the updated site plan, the proposed action will not result in any significant adverse environmental impact in the Town of Kirkwood.

Roll Call Vote:	Jim Bukowski	Yes
	Matt Williams	Yes
	Gordie Woolbaugh	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes

Motion Carried.

**SITE PLAN REVIEW – SUBURBAN SEPTIC & EXCAVATING SERVICES, INC.:**

Ms. Middleton asked if the landscaping plan is the final one or will it be revised and Mr. Wach stated it will be nice but nothing is set in stone. Jim Bukowski asked if it was needed because it is a temporary structure and Ms. Middleton explained that is up to the Board, it can be waived. Mike Maciak commented the structure will be up all the time but only used in the winter. Jim Bukowski didn't think a landscape plan was necessary in the case and the Board agreed it can be waived.

Motion by Dan Wasson and seconded by Matt Williams to approved the site plan with the condition that the applicant reviews the 239-m response from Broome County.

Roll Call Vote:	Jim Bukowski	Yes
	Matt Williams	Yes
	Gordie Woolbaugh	Yes
	Mike Maciak	Yes
	Dan Wasson	Yes

Motion Carried.

### **APPROVAL OF MINUTES:**

Motion by Matt Williams and seconded by Jim Bukowski to approve the minutes of the November 14, 2022 meeting as submitted.

All voted in favor. Motion carried.

### **COMMENTS FROM NOVEMBER 14, 2022 PUBLIC HEARING – TRACT ENGINEERING, PLLC (SOLAR PROJECT):**

Chairman Diffendorf read the public hearing notice and explained this is a continuation of the public hearing from last month because there were so many comments. Comments will be addressed first then the public hearing will be opened.

Mr. Gourley presented a packet to the Board that includes their responses to the comments they received on November 30, 2022. They are working on the comments that were received on December 10, 2022 and will have those soon. He reviewed with the Board their answers to the public and board comments from the previous meeting. Items discussed were EMS emission concerns, where the panels are made, what they are made of, if they are toxic, what to do if one catches on fire, fire training, decommissioning plan, lithium battery concerns, property values, impact on local wildlife, rodent problem creation, drainage and water runoff concerns, positive impact to Town of Kirkwood residents, noise, additional screening on the north and west sides, visibility during winter conditions, growth of grass underneath the solar panels, and connecting wire underground or having fewer poles. Additional items discussed including Green Giant arborvitae on the west side of the project, additional details in the decommissioning plan, potential field visit to the site, the maintenance of all trees and buffers, fire safety and suppression plan and fire access road approval, and the Town's right to access and inspect tree and shrubs. Outstanding items that still need to be submitted is the signed and sealed decommissioning plan, the SWPPP comments that were received on December 10<sup>th</sup>, and formalize the response on the noise part of the project. All documents that Mr. Gourley provided are included with the file.

Chairman Diffendorf asked if the 5-poles could be erected by their fencing and run the wire underground to the pole by the street and then overhead and Mr. Gourley explained they are trying to minimize it by keeping it in one spot out by the street but he agreed to look at moving them back further, if NYSEG allowed.

Chairman Diffendorf explained that we would like to have a certified real estate agent do a study on property values, which would be part of the professional services fee. Mr. Gourley explained that in terms of the ordinance that was written the law was passed to insure fairness to everyone in the community. As the developer we have met everyone of your requirements. They feel they have met the letter and intent of the law. Chairman Diffendorf pointed out that in the law the Town can hire professionals to do evaluations. Ms. Middleton explained that part of this is coming from the issuance of the site plan review and special permit, our local law in reviewing those does specifically address property values. Chairman Diffendorf stated the results of the study is something we would want to know before approval.

Chairman Diffendorf asked if the residents were able to buy solar from this field and Mr. Gourley stated yes, it is a NYSEG program and you would enroll with them. Chairman Diffendorf comments that it is not an advantage to the neighborhood since anyone in the state can do it. Jim Bukowski commented it isn't a direct benefit to the neighbors but an indirect benefit.

There was a discussion regarding screening with arborvitae. It was determined that the entire westside of the property and the northside would have arborvitae screening and would be fenced in. All sides except Route 81 would have screening.

Dan Wasson commented that for the poles, the further they are set back the better and if they can't be moved back he would like a letter from NYSEG stating why. Mr. Gourley stated he would work on that.

Chairman Diffendorf opened the public hearing to public participation at 7:54 p.m.

Sherry Orals, 20 Trim Street, showed the board a current photo of what is across the street now, which is nice and country, not looking at a bunch of evergreen trees. She asked how many people live across the street from solar panels or evergreen trees and how many of you would like to. She went on to say she has been a real estate agent for 17 years and without a doubt it is going to affect property values. She spoke to an appraiser recently and asked how much solar panels affect property values and the appraiser said until they are in we can't tell you. Another issue is fire safety. If the wind is blowing south, when the fire happens, is her house going to be at risk? Will we have to have higher property insurance? Why is this allowed in a residential area? It is a nice neighborhood, let's keep it that way.

John O'Neil, corner of Trim Street and Route 11, asked why would you want to put this in the middle of a residential neighborhood? He went on to say he has a concern with property values, he can't believe they are going to go up. Another big concern is water runoff. He had put in french drains on his property to handle the water. A lot of water comes down Trim Street, in the ditch. He has been in contact with Broome County regarding the water. Mr. O'Neil showed the board a picture of the flooding that has happen on his property the water in the ditch. Another concern is the long-term health affects to the residents. Mr. O'Neil stated he went to a solar farm on West Chenango Road and spoke to the owner who said they haven't restricted the deer movement and there is no sound coming from them. The owner said he rents his property to them. Always follow the money. Another concern is the deer. The solar farm would change the migratory patter of the deer with it being fenced in. He is concerned they will start coming through his property, down by the house where his wife has food and flower gardens. If the board decides to vote in favor of the solar farm and decide against us, he would like a 4-foot berm, which will keep the water from coming down the hill onto his property and also plant trees on top of the berm. There was a discussion regarding the project being located within an area considered to be sensitive with regard to archaeological resources. The applicant did get a letter from SHPO with no affect. Mr. O'Neil stated he wished they would find another location. He suggested the old River Run Golf Course, or the old Super 8 motel lot would be great locations.

Jeromy Holt, 40 Trim Street, commented that of all the cities in the United States, in 2021, Binghamton was #12 on the list with the least amount of sunlight. This is 2.55 megawatts on about 6 acres, but the rule of thumb is you need approximately 30-40 acres for 5 megawatts. A solar farm is going in between a noisy highway and noisy train, which is just disguising the noise from the solar farm. Having lived in that area for 48 years the highway noise doesn't bother him, train noise doesn't bother him but if someone comes up the road and coughs he is going to hear it. We are going to hear this. Noise travels and on some nights, with the clouds just right and the wind just right and Five Mile Point Speedway is running he can hear the announcer. Another concern is property values. If the solar farm doesn't directly affect the people surrounding it property values will definitely drop. Even if people are getting a benefit from it values will still drop a bit. As far as fire training,

the middle of Trim Street is the fire separation and Five Mile Point would be the fire district, with Kirkwood on the other side. If Five Mile Point can't go out Kirkwood would have to and you will now have to train two fire departments. There will be no jobs added for this because the company is out of town. They are going to get tax breaks so there is no profit to the Town. He has contacts with people that are involved with solar farms and he said a solar farm this small doesn't really do a lot for anybody other than is a foot in the door for somebody to build a bigger one somewhere else.

Bob Hamm, 30 Trim Street, commented he feels there needs to be a more in depth look at the property values, need a definite figure on where we are going.

Sandy Wasson, 7 Williams Street, asked are there any other in a residential area that we can go look at and Jim Bukowski stated there is one in the Town of Maine, next to the Elementary School, and is less than 50 yards from the playground and the school.

Chairman Diffendorf explained as before we will do a continuation of this public hearing at our next meeting.

Ms. Middleton explained that the special use permit requires that we analyze the impact on the neighboring property values and whether the special use permit is going to have a substantial impact on neighboring property values. In addressing the public Ms. Middleton stated if there is anything you want to submit in writing for the Board for consideration, because we are holding this public hearing open, you are welcome to submit written comments or material as well that you want the board to review for consideration. Chairman Diffendorf explained that the special use permit adds a higher level of degree to prove that it should be on this property. That is something this board will have to determine whether or not the project fits the criteria of that special use permit.

Chairman Diffendorf asked if they would be asking for a PILOT and Ms. Middleton explained that we had opted out of the PILOT programs, we don't currently offer them. Mr. Gourley stated we are still being taxed, just won't be a PILOT program.

John Mastronardi commented he reviewed the SWPPP, comments were given to the applicant, and they will provide answers. Some areas of concern included the runoff with the additional impervious surface of the panels and the stone access drive. The stone is a crushed #1 and #2 mix, which is pervious which allows stormwater to infiltrate. The issue he has is driving on the existing ground further compacts it and DEC has strict guidance of compaction of soil by vehicles. Upon completion of the project when trucks and vehicles compact the existing ground and the soils that are supposed to be pervious you have to do deep ripping, you have to reintroduce the pervious characteristics of that soil back. By allowing vehicles to drive around on this access road during construction, after construction it is compacting those soils and is not achieving that pervious soil layer that the SWPPP is claiming. He is waiting for a response from Keystone on that.

Chairman Diffendorf explained we need to do our own study on noise. What everyone is telling us is we don't want to see it, we don't want to hear it, and no runoff.

Ms. Middleton explained one of the comments she sent with the SWPPP is a request for the measurement of noise without considering the ambient noise, which should be forthcoming. Mr. Gourley commented that their closest transformer to the property lines is almost 170 feet away.

Chairman Diffendorf stated snow removal is required around the perimeter, it is in the law. Mr. Gourley asked in terms of what and Chairman Diffendorf explained if the fire department needs access, it is required. Mr. Gourley stated they were looking at access to the gate. With their fire prevention plan they were not opening

the gate unless they had to. They determined access was from Trim Street to the gate. Chairman Diffendorf asked what the road is there for, emergency services and Mr. Gourley explained the road is for construction, traffic in and out. They will look at that.

Chairman Diffendorf commented it was brought up in the public hearing about looking at the arborvitaes across the street and asked if they could do anymore landscaping to make it look like a forest, in front of the arborvitaes so it breaks it up and Mr. Gourley stated they are leaving all the vegetation along the street. Right now, it is bad because there are no leaves on the trees but come summer time they aren't cutting anything in the front. The arborvitaes will be staggered, not in a straight row.

Ms. Orals commented that the leaves start falling off the trees in October and the new ones don't come in until May.

This project will be continued until January 2023. Ms. Middleton will forward the comments from this public hearing to the applicant for their comments.

**RECOMMENDATION TO THE TOWN BOARD – A LOCAL LAW AFFECTING A TEMPORARY MORATORIUM WITHIN THE TOWN OF KIRKWOOD ON BATTERY ENERGY STORAGE SYSTEMS:**

Chairman Diffendorf explained this would be a 6-month moratorium of battery energy storage systems.

Motion by Dan Wasson and seconded by Gordie Woolbaugh to recommend a 6-month moratorium on battery energy storage systems.

Motion by Jim Bukowski and seconded by Matt Williams to adjourn the meeting. The meeting was adjourned at 8:40 pm.

Respectfully Submitted,

Mary Kay Sullivan  
Secretary, Kirkwood Planning Board

cc: Planning Board Members  
Kelley Diffendorf  
John Finch, Jr.  
Chad Moran  
Scott Snyder  
Katie Legg  
Bob McKertich  
Gina Middleton