

MINUTES OF THE TOWN OF BINGHAMTON ZONING BOARD OF APPEALS MEETING JANUARY 10, 2022 AT 6:30 PM IN THE TOWN HALL, 279 PARK AVENUE, BINGHAMTON, NY.

Members Present: Chairman Gerardo Tagliaferri, Theresa Taro, Mark Bordeau, Tom Bensley, Alternate Member Tim Cooper

Others Present: Alan Pope and Rose Pope (Town Attorneys via Zoom), Elizabeth Rounds (Town Supervisor), Chelsea Mozley (ZBA Secretary), Dean Nye (ZBA Liaison via Zoom), Lluís Torrent (Atlas-Applicant), John Watson (Atlas-Applicant), David Brennan (Atlas-Applicant- via Zoom), Robert Haskell (Applicant), Town Councilmen Michael Bensley and Michael Donahue

Chairman Tagliaferri called the meeting to order at 6:30 pm. He stated that the Full SEQR review would be completed at the February 14th meeting, and the Part 1 would be reviewed this evening. He thanked Atlas for the additional information provided. He asked that the following be addressed: confirm the actual acreage that is being used for the solar farm and about the option to expand. Lluís Torrent referenced the map and stated that there is not an exact location, but the full amount is up to 30 acres. The intention is to use 24 acres- they may need a little more or less, but at most would be 30. Chairman Tagliaferri addressed the map that was provided for the SEQR Part 1 and asked for clarification to avoid segmentation.

John Watson stated that for the 5 MW project, there is a need for acres. There was a possible second phase on the same property which would require a total of 36 acres for both phases. The second phase would be for the additional approximate 2 MW capacity that would be available on the substation. Member Bordeau asked for clarification of the entire amount that would be requested. Lluís Torrent advised that the amount is for 29.10 acres. Alan Pope asked for clarification of what the full acreage amount is on the variance- is it for the full entirety of the property, or the lesser amount; is there a buffer proposed for mitigation by Atlas? David Brennan stated he believed the lease was for 30 acres plus the option of six more; Lluís Torrent confirmed.

David Brennan addressed the concern about the trees being kept as a buffer. He stated that Atlas and Mr. Haskell have discussed this and there is no intention of clearcutting the property or development. Chairman Tagliaferri asked about the remaining 50 acres of the property and if the owner would have the right to clearing the land for timber. Alan Pope asked if the buffer of trees that is being proposed is part of the 30 acres, or if it is out of the leased area. Lluís Torrent confirmed that the lines of tree would be within the 30 acre area, but they also spoke with the owner and he has no intention of clearing the land.

Chairman Tagliaferri asked what type of trees would be planted, as when he visited the property he believes that leaf drop would be an issue. John Watson confirmed that evergreens would be planted.

Chairman Tagliaferri asked about the concern over access to the property. John Watson advised that there is a gap between the property and the road. Atlas would be looking into getting an easement for access. Lluís Torrent stated that on the GIS map the gap appears to be a private parcel, but it may be public. They would intend to build the 30-50 foot road if needed. Chairman Tagliaferri stated his concern about the ownership of the gap and how they would resolve the issue. He also stated that he would like to see the survey that they are using.

Alan Pope stated that this would need to be researched to see if the dedicated land reaches the Haskell property. David Brennan agreed and stated that they would need to research further. They would need to demonstrate access to the property from the spot or from another area.

Chairman Tagliaferri asked about when Atlas was looking at different locations for the proposed project and was there any consideration to develop the farm closer to the substation at a commercially zoned property. John Watson stated that they chose the Haskell property based off of the amount of land needed. Lluís Torrent advised that with attempting to develop a solar farm, there is a need for 5 acres/ 1 MW, so at least 25 acres was needed.

Chairman Tagliaferri asked if Atlas had heard back from SHPO yet. John Watson stated that they had not received a request yet. Chairman Tagliaferri stated that it was mentioned in the 239 Review.

Chairman Tagliaferri asked if there were any further questions from the board. As there were not, he turned the meeting over to Alan Pope for the SEQR Part 1 review.

Alan Pope explained that there are 2 parts to the SEQR form, the Part 1 would be reviewed this evening and the Part 2 would be reviewed at the February meeting. He advised that if there were any answers that triggered questions to please ask. Lluís Torrent advised that their consultant completed the Part 1, so if there are questions, he may not be able to answer right away.

The following was addressed on page 1:

David Brennan asked if the Brief Description of Proposed Action should be reviewed and possibly changed. Alan Pope stated that he understood that it was filled out by the engineering firm and that the board was looking it over more to get information from it. If there was a question that could not be answered immediately, it could be addressed at the next meeting during the full SEQR review. Alan asked if the board was satisfied with the description based off the discussion this evening, with 22.69 acres being developed? David Brennan advised they may submit a slightly revised form so that it is more accurate and consistent. Alan asked the board if they had any further questions/comments about the description. Chairman Tagliaferri stated his concern was with Forest Hill Road being mentioned.

The following was addressed on page 3:

-Section C3 Question c: Alan stated that a zoning change is not being requested, as the variance being applied for is the Public Utility Variance.

Section D1 Question b: Alan stated that he believed that 84.98 was the total Haskell property and the total footprint for the variance would be 29.10 acres, the board agreed.

-Section D1 Question e: Alan asked the board if the answer to be changed to include both phases, or if it should be kept as is for the one phase as originally applied for. Member Bordeau stated he believed it should stay at what was originally applied for. Alan Pope stated that if more acreage would be needed for a second phase, it would be up to Atlas to determine if they wanted to increase the amount or not.

David Brennan agreed and stated that he would discuss with Atlas. They do not want segmentation, they will clarify in a written response.

The following was addressed on page 4:

-Section D1 Question g- Chairman Tagliaferri stated that he believed that the maximum height is 15 feet; David Brennan stated that he would look into the town code.

-Section D2 Question A- Alan Pope stated that he thought the answer should be Yes for excavation and to include details. Lluís Torrent stated that there would be some for the inverter and also a trench. David Brennan stated that he believes the question applied more for mining, not site preparation for construction. Alan Pope stated they would leave as answered and continue.

The following was addressed on page 6:

There was an issue with the form that was provided and the one that was prepared, some answers were missing on the one being reviewed.

-Section D2 Question e- David Brennan clarified that the answer should be 4.6 acres of impervious surface, and that a stormwater/pollution prevention plan was submitted.

The following was addressed on page 7:

-Section D2 Question I: Chairman Tagliaferri asked if the town has an ordinance for hours of operation; Alan Pope stated that the planning board would address that in their review.

The following was addressed on page 8:

-Section D2 Question q: Alan Pope asked if there would be any pesticides or herbicides used; John Watson confirmed there would not be.

The following was addressed on page 8:

-Section E1 Question b: Chairman Tagliaferri asked about clarification for the forested area. Lluís displayed the area on the map; John Watson explained that the area needing to be cleared would mostly be small trees and brush.

The following was addressed on page 12:

-Section E2 Question o: Chairman Tagliaferri asked about the Northern long-eared bats. John Watson explained that when the bats are nesting, there is no cutting done. David Brennan stated that there is a time frame determined by the DEC when there can be no cutting. They plan on having construction completed out of that timeframe.

-Section E2 Question p: Member Taro asked if Ash Trees should be included, as there are issues with them in the area. David Brennan advised that they would look into this to make sure.

-Section E3 Question a: Alan Pope asked if the Haskell property is designated as agricultural. David Brennan stated that they were not aware of it being designated as agricultural, but they would confirm.

The following was addressed on page 13:

-Section E3 Question f: Alan Pope asked what was identified. David Brennan explained that usually if a property is in close proximity to water, it was possibly inhabited in the past, so the area is sensitive, not just the particular property. Chairman Tagliaferri stated that the 239 Review stated that the land is adjacent to a property that is identified as sensitive.

The review of the form was completed with no further questions. Chairman Tagliaferri asked the board members if there were any additional questions or concerns, there were none. He stated that the next meeting was scheduled for February 14th at 6:30 pm. He concluded the meeting at 8:00 pm.

Respectfully submitted,

Chelsea Mozley
Zoning Board of Appeals Secretary