

**MINUTES**  
**Town of Geneseo**  
**Planning Board Regular Monthly Meeting**  
**and**  
**Public Hearing**  
**August 8, 2022**  
**7:00 PM – 8:52 PM**

**Members Present:**

Robert Harris, Chair  
Charles Maxwell  
Patricia Ford  
Jennifer O'Shea  
Philip Betette  
Mark Shepard  
Floyd Streeter, Alternate

**Others/Staff:**

Jared Radesi, Code Officer  
Ericka Elliott, Esq. (Town Attorney's Office)  
James Oberst, Town Engineer (MRB)  
Diane McMullan, Secretary

**Other Attendees (see page 9):**

**Excused:**

Robert Irwin

**1. CALL TO ORDER and ATTENDANCE:**

Robert Harris, Chair, called the August regular monthly meeting to order at 7:01 PM. There was a quorum of members. Robert Irwin was excused. The Chair noted that Floyd Streeter will act as alternate for R. Irwin.

**2. CODE OFFICE REPORT:**

Jared Radesi distributed a printed copy of his August Report to members. Castignetti is in a hurry to begin their solar project. They picked up their erosion control permit yesterday. Hammocks is also progressing quickly with almost daily updates. Helios Solar is hoping to "wrap up" in September. Both brands of their solar panels have been received. However, their deliveries have gone to incorrect addresses (such as the Maxwell's). A delivery even involved a truckload. CEO Radesi has told them they can use West Lake Road temporarily. Nyberg also removed several trees before CEO Radesi could arrive at the site. (The trees had served as a screen for Deer Run Winery ceremonies.) Peter Nyberg has been informed that no action can occur on leased properties. Jennifer O'Shea requested the Helios landscaping plan before the project is final. Replacement trees have not been planted. MRB will be asked to be a part of final inspection.

**3. COUNTY PLANNING REPORT:**

Jared Radesi briefly reviewed the July 14, 2022, meeting. The Town of Caledonia 5.3 MW solar facility was reviewed. Setback reductions were evaluated and adjacent landowners have been notified. (County Planning members wondered if setback notifications were specific on the setback reductions?) Each parcel should have site-specific conditions and individual protections considered. The Emergency Response Plan should also be reviewed as the access road must comply with New York State Fire Code. The zoning referral was not approved.

Mary Underhill presented a staff report for the Village of Caledonia solar facility. She worked with the local law during the process as well as considering the Emergency Response Plan. After her report was presented, the motion to approve the zoning referral for the above was carried and staff advisory comments were adopted.

A Town of Leicester referral to require labeling of maps to include recent lands uses (such as cell towers and other items) failed to pass.

The Town of North Dansville moratorium on solar facilities was reviewed and carried. It was noted that an MSDS and the chemical composition of panels should be examined as also should a landscape buffering screen and density be done prior to the issuing of a building permit.

The Livingston County Mural Project received positive feedback.

**4. REVIEW OF THE JUNE 13, 2022 UNAPPROVED PLANNING BOARD MINUTES.**

Chair Harris asked members to review and comment on the above submitted minutes.

CEO Radesi submitted his corrections to his report as follows:

*Jared Radesi briefly reviewed the most recent County Planning Board meeting projects that were submitted. The Geneseo Town Board had submitted a Battery Storage Law and the County Planning Board commented on possibly some laws to protect the water shed. Mary Underhill had presented Groveland's solar amendment; the County responded emphasizing the importance of preserving prime soil. York Travel Center had updated its plan to include the purchase of one residence to help with traffic, parking and a sound buffer.*

**Jennifer O'Shea made the motion to accept the June 13, 2022 Planning Board Minutes as amended above.**

**Charles Maxwell seconded the motion.**

**AYES in Favor: Robert Harris, Charles Maxwell, Mark Shepard, Philip Betette, Floyd Streeter, and Patricia Ford.**

**Opposed: None.**

**Abstained: None.**

**MOTION CARRIED.**

**REVIEW OF THE JULY 11, 2022 UNAPPROVED PLANNING BOARD MINUTES.**

Chair Harris next asked members to review and comment on the above submitted minutes. The Secretary asked that the following (in italics) be added to the second paragraph, referring to the Jaycox Creek Solar comment by Ryan McCune:

*. . .40% of project energy can be allocated to businesses.*

**Mark Shepard made the motion to accept the July 11, 2022 Planning Board Minutes as amended above.**

**Charles Maxwell seconded the motion.**

**AYES in Favor: Robert Harris, Charles Maxwell, Mark Shepard, Philip Betette, Floyd Streeter, and Patricia Ford.**

**Opposed: None.**

**Abstained: None.**

**MOTION CARRIED.**

**5. PUBLIC HEARING: SHADD RE-SUBDIVISION/LOT LINE ADJUSTMENT, 5261 West Lake Rd., tax map #100.27-1-5.1; and 5256 West Lake Rd., tax map #100-1-12.**

Chair Harris invited presentation on the above subdivision. Hannah and Dan Shadd wish to sell a portion (parcel "D") of their property to their neighbors, Justin and Stephanie Hilt. This subdivision has been discussed earlier, including the June 13, 2022 meeting most recently when the Public Hearing date was set.

The Chair opened the Public Hearing for the above subdivision at 7:10 PM. Members of the public were invited to speak. Trish Jones stood up and spoke about her 25 years as a neighbor.

Previously, she said, before the Hilts moved to the neighborhood, there had been troublesome neighbors and renters. Since the Hilts had moved in, they have been a wonderful, helpful family as neighbors. She spoke in favor of the subdivision.

Chair Harris held the hearing open for a few more minutes, asking for any additional comments from the floor. There were none and he requested a motion to close.

**Charles Maxwell made the motion to close the Public Hearing at 7:22 PM.**

**Jennifer O'Shea seconded the motion.**

**AYES in Favor: Robert Harris, Charles Maxwell, Mark Shepard, Philip Betette, Floyd Streeter, and Patricia Ford.**

**Opposed: None.**

**Abstained: None.**

**MOTION CARRIED.**

Chair Harris led the board members in their review of part 2 of SEQR Short Form. All answers were "no." He requested a "neg dec" resolution.

**Jennifer O'Shea made the SEQR negative declaration motion. Based on information and analysis above, and any supporting documentation, the proposed action will not result in any significant adverse environmental impacts.**

**Mark Shepard seconded the motion.**

**AYES in Favor: Robert Harris, Charles Maxwell, Mark Shepard, Philip Betette, Floyd Streeter, and Patricia Ford.**

**Opposed: None.**

**Abstained: None.**

**MOTION CARRIED.**

Chair Harris referred to Town Attorney, Ericka Elliott's June 22, 2022 letter (attached to these minutes) dealing with this subdivision. He then asked if there was a final motion.

**Jennifer O'Shea made the motion for Final Approval of the Daniel Shadd and Hannah Shadd Subdivision with the following conditions as contained in the above letter:**

- (1) All parties involved (namely, Mr. and Mrs. Shadd and Justin Hilt) agree to be co-applicants for the resubdivision before it can be processed;**
- (2) That the parcel to be conveyed ("Parcel D") to Justin Hilt be combined with the property presently owned by the same and listed as Tax Map Id. No. 100.000-01-12; and**
- (3) That the required deed filings be made with Livingston County.**

**Charles Maxwell seconded the motion.**

**AYES in Favor: Robert Harris, Charles Maxwell, Mark Shepard, Philip Betette, Floyd Streeter, and Patricia Ford.**

**Opposed: None.**

**Abstained: None.**

**MOTION CARRIED.**

The County Planning Board had found this subdivision "local option."

Chair Harris announced that he will sign the maps later. They can be picked up at the front desk, possibly tomorrow.

6. **SUBDIVISION/SITE PLAN/SPECIAL USE PERMIT: JAYCOX CREEK for 31+/- Acre Solar Facility located at 4731 Lakeville Rd., 0.52 miles Northeast of Country Club Rd., Tax Map #72.-1-25.118 and #72.-1-25.122.**

**STATUS: Livingston County Agricultural & Farmland Protection Board, and New York State Agriculture & Markets (NYDAM)**

Ryan McCune, Jaycox Creek Solar, LLC, stood and immediately referred to the New York Agriculture and Markets August 8, 2022, letter. He had submitted it to Planning Board members this afternoon via email. He pointed out that the above department had received the project's Notice of Intent (NOI). The letter did acknowledge the County's Agricultural and Farmland Protection Board's opposition due to the fact a portion of the project is on prime farmland. However, NYDAM determined that an unreasonable adverse effect would not be realized.

R. McCune said he, therefore, is very anxious to begin the PILOT with the County Industrial Development Agency (IDA). He continued, saying that National Grid has approved this project and all upgrades have been made. New York Fish and Wildlife found "no impact." There are also many approvals from numerous other agencies, he added.

Chair Harris asked if there were comments from members present given the late arrival of the letter. Floyd Streeter asked if the County Farmland Protection letter to Andy Steiner was customary. The Chair said it was his understanding that it was sent in order that the Planning Board just consider it. He asked Attorney Elliott's opinion. She replied that NYDAM does not approve of the project necessarily, but that an adverse effect will not result.

Chair Harris said he had spoken to Robert Irwin although he was not able to attend this meeting. R. Irwin was not in favor of this solar project. C. Maxwell spoke about the one area located outside the project where no farming had ever occurred and which could be a potential solar facility site. Yet the prime farmland location was chosen by Jaycox Creek Solar.

R. McCune said he had no control over the lateness of the State's August 8<sup>th</sup> letter. He was attending because it was his belief the Town felt this was a viable project that had been submitted. The letter to Andy Steiner does not possess the power that the Town Planning Board does. As the 62-day limit is approaching for default approval, he needs to know whether he should return next month.

J. O'Shea said she is comfortable moving forward after receiving the August 8, 2022 letter.

Chair Harris asked Attorney Elliott about the legal effect of tabling the project, and that effect on the 62-day deadline approaching. She replied that tabling a decision is not an action and would not prevent the automatic 62-day approval. She noted that Preliminary Approval had been given in March. Chair Harris said an alternative would be conditional approval as speaking with County Planning would probably have no effect. He spoke briefly about the differing time limits of subdivision and site plan approvals. Further discussion occurred about pilot agreements and decommissioning plan importance in final approval motions.

**Charles Maxwell made a motion for Final Approval of the Jaycox Creek Solar, LLC, a wholly owned subsidiary of Nexamp, Inc. This approval is conditioned on their PILOT agreement benefitting the Town, their Decommissioning Bond being approved, and their \$30,000 escrow being deposited to the Town.**

**Jennifer O'Shea seconded the motion.**

**AYES in Favor: Charles Maxwell, Mark Shepard, Philip Betette, and Floyd Streeter.**

**Opposed: Robert Harris and Patricia Ford.**

**Abstained: None.**

**MOTION CARRIED.**

Chair Harris said he intends to have a conversation with the County Agriculture Protection Board.

**7. NEW BUSINESS/UPDATES/ANNOUNCEMENTS/TRAININGS.**

J. O'Shea spoke about short term rentals – especially pertaining to Conesus Lake properties. Recent trainings have demonstrated various ways towns have dealt with this subject. (The Secretary had sent a link on a recorded training from NYPF in an email on August 1.) These rentals numbered 256 properties on Conesus Lake when “Air B&B’s” were googled. J. O'Shea thinks the Town should consider a law dealing with short term rentals. This would help with problems of noise, drinking, and disrespecting traffic safety (mainly parking). She has downloaded the Canadice Law for those interested. Canadice has chosen to deal with parking by “one bedroom, therefore one car parking,” and yearly fire inspections (code enforcement). It was noted that would greatly increase the number of fire inspections the Code Officer would have to do in Geneseo. There was a brief discussion about whether every short-term rental needed to be inspected and what would necessitate that. Examples of details to be considered are owner-occupied residences or neighbor proximity to rentals. Code Officer Radesi said he has a new clerk who is compiling a list of properties used for public assembly which also need inspections.

The Town Board is tending toward a self-regulating law. A minimum and maximum day rental requirement was discussed. Complaints could incur an automatic inspection. Another suggestion was that the Town require a permit with a rental cap. Canadice grants a short-term rental permit to the owner.

There is also a Hotel Tax requirement due to the County. This tax was recently mentioned in the local newspaper. There are also taxes which should be paid to the Town for lake properties considered businesses. An example would be five days rented, but then two days to clean with a 2% tax paid to the Town. Chair Harris suggested a task force consisting of a Planning Board representative and Town Board representative. Perhaps J. O'Shea could approach Rob Deming. Chair Harris is also willing to be a part of approaching the Town Board. He also suggested another idea consisting of an Advisory Board which would allow community involvement.

Attorney Elliott said the Town of Lima will hold a public information meeting regarding Short-Term Rentals in September.

Regarding yearly training, the Secretary requested copies of training certificates as yearly totals must be kept. Four hours per member are required but excess hours are carried over to the following year. The New York Planning Federation in-person training is September 28 in Canandaigua. The Town Clerk will arrange payment for those who wish to attend.

**8. ADJOURNMENT.**

There being no further business or announcements, Chair Harris requested a motion.

**Charles Maxwell made the motion to adjourn the Planning Board meeting at 8:52 PM.**

**Mark Shepard seconded the motion.**

**AYES in Favor: Charles Maxwell, Robert Harris, Patricia Ford, Jennifer O'Shea, Mark Shepard, Philip Betette, and Floyd Streeter.**

**Opposed: None.**

**Abstained: None.**

**MOTION CARRIED.**

Submitted by:

Diane McMullan, Secretary  
Town Planning Board

dmm

- Attachments:
- (1) August Code Office Report
  - (2) Attendance
  - (3) Attorney Ericka Elliott's June 22, 2022, letter
  - (4) August 8, 2022, New York Agriculture and Markets letter

## Town of Geneseo Code Enforcement Office

Building Permits by Issued Date: 07/07/2022 - 08/06/2022

| Permit#<br>Applicant Name                 | Issued   | Final | Property Owner<br>& Location                 | Tax Map#<br>Lot# | Fee           | Project<br>Cost    | Description                                                                                                                                       |
|-------------------------------------------|----------|-------|----------------------------------------------|------------------|---------------|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| 22-0040<br>Edward R. Switzer Project Mgr. | 07/08/22 |       | Castignetti, Geno<br>5476 LIMA ROAD          | 64.-2-32.13      | 7800.00       | 8,600,000.00       | Large Scale Solar Project<br>7.53 MW DC<br>5.02 MW AC                                                                                             |
| 22-0046<br>Mary Ann Scipioni              | 07/12/22 |       | Mary Ann Scipioni<br>4607 WEST LAKE ROAD     | 82.76-1-3        |               | 5,000.00           | Deck on South Side of house 12.5' X 15.5' w/<br>11' Variance                                                                                      |
| 22-0042<br>PERKINS JOHN                   | 07/20/22 |       | PERKINS JOHN<br>3089 AVON ROAD               | 63.-1-18.111     | 75.00         | 26,915.00          | Solar, Ground Mounted PV Array                                                                                                                    |
| 22-0043<br>DEER RUN WINERY                | 07/21/22 |       | DEER RUN WINERY<br>3772 WEST LAKE ROAD       | 73.-1-28.21      | 75.00         | 3,000.00           | Renovation to Accessory Building. Enclose<br>south wall with barn door. Add a 10' and 28'<br>wall to create a storage and catering setup<br>room. |
| 22-0044<br>RW Geneseo II LLC              | 08/01/22 |       | Hammocks @ Geneseo Phase 4<br>Volunteer Road | 81.-1-2.815      | 1943.25       | 706,000.00         | Hammocks Development Building 9-12                                                                                                                |
| 22-0045<br>Hammocks @ Geneseo Phase<br>4  | 08/01/22 |       | Hammocks @ Geneseo Phase 4<br>Volunteer Road | 81.-1-2.815      | 1943.25       | 706,000.00         | Hammocks Development Building 5-8                                                                                                                 |
| <b>Total Count:</b>                       |          |       |                                              | <b>6</b>         | <b>Total:</b> | <b>\$11,836.50</b> | <b>\$10,046,915.00</b>                                                                                                                            |

08/06/22

Page 1

### Town of Geneseo Code Enforcement Office

Other Permit Summary by Application Date Range: 07/01/2022 - 08/06/2022

| Permit#<br>Applicant Name     | Date     | Property Owner<br>& Location        | Tax Map#<br>DBA | Fee    | Type<br>Description                                                                                   | Notes                              |
|-------------------------------|----------|-------------------------------------|-----------------|--------|-------------------------------------------------------------------------------------------------------|------------------------------------|
| 22-0041AG<br>Ben Kenney       | 07/11/22 | Ben Kenney<br>4361 HUSTON ROAD      | 63.-1-14.3      | 30.00  | AGRICULTURAL BUILDING<br>Temporary 30' X 40' Hoop Barn for Hay Storage<br>& Agricultural Use          | Requires a final visual inspection |
| 22-0047E<br>Castignetti, Geno | 08/06/22 | Castignetti, Geno<br>5476 LIMA ROAD | 64.-2-32.13     | 600.00 | EROSION CONTROL PERMIT<br>Timber Mat Road Installation Above Grade, For<br>Deliveries & Rescue Access |                                    |
| <b>Total Count:</b>           |          | 2                                   | <b>Total:</b>   |        |                                                                                                       |                                    |
|                               |          |                                     | \$630.00        |        |                                                                                                       |                                    |

### Town of Geneseo Code Enforcement Office

Violation Summary by Date Range: 07/01/2022 - 08/06/2022

| Violation#          | Violator Name     | Violation<br>Date | Property Owner<br>& Location             | Tax Map# | Offense         | Comply by<br>Date | Corrected<br>Date |
|---------------------|-------------------|-------------------|------------------------------------------|----------|-----------------|-------------------|-------------------|
| 22-0042V            | BENTLEY WILLIE JR | 07/16/22          | BENTLEY WILLIE JR<br>5584 LAKEVILLE ROAD | 73.-1-24 | Outdoor Storage | 10/01/22          | 07/16/22          |
| <b>Total Count:</b> |                   | 1                 |                                          |          |                 |                   |                   |



## TOWN PLANNING BOARD MONTHLY MEETING and PUBLIC HEARINGS

## ATTENDANCE

| DATE: August 8, 2022 | LOCATION: Geneseo Town Offices |
|----------------------|--------------------------------|
| NAME (Please print)  | PROJECT/COMPANY/ASSOCIATION    |
| Ryan McGowan         | Nexamp Solar                   |
| Stephanie Hilt       | Hydro-Hut                      |
| Justin Hilt          |                                |
| Kathy Macey          | Kathy Macey                    |
| Ken Macey            | Ken Macey                      |
| Jucker Elliott       | Bob Baur                       |
| Dan Spoor            | Dan Spoor                      |
| Hannah Shadd         | Hannah Shadd                   |
| Irish Jones          | Shadd Enterprises              |



ERICKA B. ELLIOTT, ESQ., ASSOCIATE  
(585) 258-2830  
elliott@underbergkessler.com

June 22, 2022

VIA FIRST-CLASS MAIL & EMAIL

Town of Geneseo Planning Board  
4630 Millennium Drive  
Geneseo, New York 14454  
Attn: Robert Harris, Chair

Re: *Shadd/Hilt Application for Resubdivision Approval*

Dear Mr. Harris:

Our office has reviewed the Application for Subdivision Approval of Daniel Shadd and Hannah Shadd ("Mr. and Ms. Shadd").

As presented, we have determined that the Planning Board may grant this application on the following conditions: (1) that all parties involved (namely, Mr. and Ms. Shadd and Justin Hilt) agree to be co-applicants for the resubdivision before it can be processed; (2) that the parcel to be conveyed ("Parcel D") to Justin Hilt be combined with the property presently owned by the same and listed as Tax Map Id. No. 100.000-01-12; and (3) that the required deed filings be made with Livingston County.

Please contact the undersigned with any questions.

Very truly yours,

Ericka B. Elliott, Esq.

cc: William S. Wadsworth, Town Supervisor



## Agriculture and Markets

KATHY HOCHUL  
Governor

RICHARD A. BALL  
Commissioner

August 8, 2022

Candace Rossi, Program Manager  
NY Sun-NYSERDA  
17 Columbia Circle  
Albany, NY 12203

Re: Final Notice of Intent to Undertake an Action within an Agricultural District, Nexamp Solar LLC, Jaycox Creek Solar in the Town of Geneseo, Livingston County Agricultural District No. 2

Dear Ms. Rossi:

Pursuant to Agriculture and Markets Law (AML) §305(4), the Department of Agriculture and Markets has completed its review of the Notice of Intent (NOI) submitted by the New York State Energy Research and Development Authority (NYSERDA) for the advance of public funds for the construction of a 5.0 mW solar array facility in the Town of Geneseo, located in Livingston County Agricultural District No. 2.

The Final Notice of Intent was sent to the Commissioner of Environmental Conservation (DEC), the Advisory Council on Agriculture (ACA) and the Livingston County Agricultural and Farmland Protection Board (AFPB) for their review of the proposed action. The ACA and DEC did not submit any comments. The AFPB indicated that it opposes the proposed solar facility location because it does not meet the goals of county's agricultural protection plan, does not sufficiently protect prime soils, and it is not clear whether the project will achieve full protection of wetlands.

Based on all relevant information before me, I have determined that the proposed action would not have an unreasonably adverse effect on the continuing viability of farm enterprises within the district or State environmental plans, policies and objectives. This determination is due, in part, to NYSERDA's NOI filing, including the Project Company's commitment to adhere to the Department's *Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands* (10/18/19), in its entirety, and its commitment to return the affected parcel to its current condition once the project is decommissioned. This determination is also due to NYSERDA's commitment, as represented by its NOI filing, to require that the Project Company comply with the agreed upon mitigation.

The Department acknowledges the AFPB's objections to the siting of this project, and notes that the Project Company appears to have minimized, to the extent practicable, the impact to soils classified as Prime Farmland in selecting the layout of the proposed project based on applicable setback requirements and avoidance of land in active agricultural production. However, the Department recommends that NYSERDA continue to work with associated project companies, as recommended by the AFPB, to minimize impacts to prime farmland and to avoid the loss of viable farmland throughout the State for future generations. The Department also recommends



Candace Rossi, Program Manager  
NY Sun- NYSERDA  
2 | Page

that NYSERDA and the related Project Company consider consulting with the DEC, the County Soil and Water District, and/or any other appropriate entities to evaluate and mitigate potential impacts related to wetlands raised in the AFPB's comments.

This determination does not limit the Town of Geneseo or any other federal, state or local authority to approve, approve with conditions, or deny this project under applicable laws and regulations, nor does it affect any required environmental review which may be undertaken related to the proposed project.

Please be advised that in order to complete its filing obligations under §305(4), NYSERDA must certify to me at least ten days prior to advancing the funds to construct the solar arrays, that it has made an explicit finding that the requirements of §305(4) have been met, and to the maximum extent practicable, adverse agricultural impacts revealed in the Notice of Intent process will be minimized or avoided. The certification shall set forth the reasons in support of the finding and is more fully set forth in AML §305(4)(f).

Sincerely,



Richard A. Ball  
Commissioner

cc: Bryan Ellis, NYS Department of Environmental Conservation  
ACA Members  
Jon White, Chair, Livingston County AFPB  
Hon. William Wadsworth, Supervisor, Town of Geneseo  
Ryan McCune, Nexamp Solar LLC

File: AP 22/061-NOI