

PLANNING BOARD

Town of Kirkwood
70 Crescent Drive
Kirkwood, NY 13795

October 11, 2022
Meeting Minutes

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

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

APPROVAL OF MINUTES:

Motion by Jim Bukowski and seconded by Dan Wasson to approve the minutes of the August 8, 2022 meeting as submitted.

All voted in favor. Motion Carried.

E.A.F. DETERMINATION – BILQEES ABDALLAH:

Chairman Diffendorf, referring to the Short EAF, Part 1, #5 Parkland should have been included. As for #16 Broome County indicates that it is partially in the 100-year flood plain and the building is the highest point of the property and that is out of the flood plain. Kevin Balachick commented #9 regarding meeting or exceeding the state energy code requirements should be checked yes. As for #17 b. regarding stormwater discharge be directed to established conveyance systems the stormwater just runs off, there is no drainage system. Dan Wasson commented #17 a. should be yes. Kevin Balachick commented the first part of #17 should be yes also.

Ms. Middleton explained to the Board that most of these questions are targeted to new actions or the thing that is happening is going to create these things because it is an existing structure. Technically it is a Type II Action under SEQR but because they already submitted the paperwork we can go through with the short form, it isn't going to hurt anything. In 2019 they revised and created reuse of an existing residential or commercial structure became a Type II Action which doesn't require further SEQR review.

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. Chairman Diffendorf checked the second box on page 3 and filled out the bottom. The form is included in the file.

Motion by Gordie Woolbaugh and seconded by Jim Bukowski that the Planning Board, as lead agency in this Type II, 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
 Kevin Balachick Yes

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| Gordie Woolbaugh | Yes |
| Dan Wasson | Yes |
| Chairman Diffendorf | Yes |

Motion carried.

SITE PLAN REVIEW – BILQEES ABDALLAH:

Chairman Diffendorf reviewed the comments from Broome County which include the project site is located almost entirely within the FEMA Special Flood Hazard Area. The building itself is not in the flood hazard area. The site plan should address the existing condition of the parking lot pavement, drainage, and safe pedestrian access. Matt Laine from the Broome County Health Department commented that he noticed the old tanks indicated in the SPR and he has no further comments to add. Chairman Diffendorf explained that this facility used to be a gas station, which had fuel tanks. Since there is no excavation there is no concern. Chad Moran commented the tanks were removed.

Nasir Abdul-Wadud, Ata Abdallah, and Bilqeess Abdallah, representatives for the project, were present. Chairman Diffendorf commented that there was very little information on the application. He asked if they plan on paving or repairing the parking lot so there aren't any trip hazards and Mr. Abdul-Wadud stated yes, they realize the parking lot needs some work. Their first objective was to secure the building, they are in the process of completing that this week. Before opening the practice, the parking lot will be addressed. Chairman Diffendorf stated that would be a condition. Mr. Abdul-Wadud asked if there was a certain level of repair and would approval be needed of the repair and Chairman Diffendorf stated it needs to be repaired to a point where there are no hazards. Ms. Middleton commented if you want to add approval by the Code Enforcement Officer you can do that. You could say repair to the approval by the Code Enforcement Officer. The repair will require no trip hazards and the Code Enforcement Office can check to see there are none.

There was a discussion regarding the area with a curb around it next to Route 11 that used to be an island for the gas station. Options discussed were removing the island completely or cleaning it up and landscaping it. Mr. Abdullah explained they were discussing different options, filling it in to make it level with gravel, taking it out. It all depends on money. Possibly putting in shrubs and lighting to make it look nice. As a condition they will put in topsoil, grass and shrubs. They also agreed to remove the bamboo that is around the building and maintain it to their property line. The existing planter boxes will be either fixed or replaced. They will use the existing space. They will be installing a new sign and will paint.

Jim Bukowski asked what type of medical facility will it be and Mr. Abdul-Wadud explained it will be primary care, women's health, and urgent care.

Gordie Woolbaugh asked if it meets the parking requirements and Chad Moran explained for medical it is five spots per 1000 SF. Gordie Woolbaugh questioned if there are 5-10 employees, with two marked for handicapped, where are the patients going to park and Mr. Abdul-Wadud explained they probably won't start off with 10 employees. Priority will be given to the patients. Chairman Diffendorf explained that it shows 10 spots with 2 handicapped. You will have to park on your site. It may require the removal of the island for more parking spaces.

Motion by Dan Wasson and seconded by Kevin Balachick to approve the site plan with the following conditions:

1. Parking lot will be repaired and will be approved by the Code Enforcement Officer.
2. Curbing to be cleaned up with topsoil, grass and trees planted or if more parking is needed island will be removed entirely.
3. Overgrowth cleaned up to the property line, trimmed and maintained.
4. Flowers from the landscape plan will be planted around the building.
5. A minimum of 10 parking spots are required.

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| Roll Call Vote: | Jim Bukowski | Yes |
| | Kevin Balachick | Yes |
| | Gordie Woolbaugh | Yes |
| | Dan Wasson | Yes |
| | Chairman Diffendorf | Yes |

Motion carried.

E.A.F. DETERMINATION – T&M VENTURES, LLC, TOM MILLIGAN, AND SLC INDUSTRIES:

Kevin Balachick questioned whether the bottom right section of the 239 Review Submission Form should be filled out and Ms. Middleton explained that the 239 probably wouldn't have done it because it is not technically a Type II yet because it hasn't been declared a Type II yet.

Chairman Diffendorf, referring to the Short EAF, #4 delete Agriculture and #2 should be no. Dan Wasson questioned how they came up with .5 acres in #3 that will be physically disturbed and Ms. Canough explained from the site plan. Dan Wasson asked if they were just counting the block or each individual solar panel and Ms. Canough stated the whole area.

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. Chairman Diffendorf checked the second box on page 3 and filled out the bottom. The form is included in the file.

Chairman Diffendorf explained that the conditions we said no to we are going to be mitigating by site plan review. There will be shrubs planted. It will be mitigated that we don't impact the character of the surrounding properties.

Motion by Gordie Woolbaugh and seconded by Jim Bukowski 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.

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| Roll Call Vote: | Jim Bukowski | Yes |
| | Kevin Balachick | Yes |
| | Gordie Woolbaugh | Yes |
| | Dan Wasson | Yes |
| | Chairman Diffendorf | Yes |

Motion carried.

SITE PLAN REVIEW – T&M VENTURES, LLC, TOM MILLIGAN, AND SLC INDUSTRIES:

Chairman Diffendorf explained that this is the first application since we wrote the new law on solar energy and there are a few bugs that have to be worked out and we will try and get them corrected as soon as possible.

Chairman Diffendorf reviewed the comments from Broome County including the project tax map is located partially within the FEMA Special Flood Hazard Area. Mr. Milligan stated it has flooded a couple of times in the front. It touches the parking lot and in the 2006 flood it went into the lower part of the building, the building is built at various levels. Chairman Diffendorf asked if it would impact the project and Mr. Milligan stated no. Broome County was also concerned with the drainage. Initially there were bales of hay along the top of the site and now you have a silt fence. Chairman Diffendorf asked which way the silt fence was going to drain and Mr. Milligan explained it isn't all one direction, the silt fence drains the water away from the project. Chairman Diffendorf commented it will channel the water one way or the other and it shouldn't drain toward the road and Mr. Milligan stated it wouldn't go toward the road.

There was a lengthy discussion regarding the landscaping plan. Mr. Milligan had submitted a sheet showing the seed mix that will be planted in the spring. The most important thing is the landscaping around the perimeter, the shrubs or arborvitaes that are required. Mr. Milligan had planted 23 small arborvitaes, he was going by the old law as to what would be required. The plans show a page fence with screening, which isn't required in the new law. The new law does require a buffer shall consist of appropriate plantings with a mixture of evergreen trees and shrubs a height so as to provide a visual screen of the ground-mounted non-commercial system and no less than 8 feet tall. Chairman Diffendorf explained to Mr. Milligan that this board can't supersede the law. The only way around that is maybe going to the Zoning Board of Appeals for a variance. One of the most important aspects of these solar panels is screening them. People don't want to see them. The visual screen of evergreen trees and shrubs no less than 8 feet will be required.

Mr. Milligan had concerns about not being able to get the taller trees and the cost if he could. He would need to do approximately 125 feet along S. Woodhill alone. He would need to stagger the trees but you would still be able to see the site looking at it from an angle.

There was a discussion of where the visual buffering needs to be, the entire property or just public roads/neighboring properties. Ms. Middleton reviewed the local law and it was determined that just public roads/neighboring properties would need to have the visual buffering. Ms. Middleton commented she has spoken to the Town Attorney on this and he should be okay on the side closest to their building. In terms of the screening for the trees no one expects you to do a forest, it is going to be a reasonable number of trees to provide a reasonable amount of screening. You will probably be able to see something if you look between the trees, it just has to be reasonable screening. As for the other two sides as long as there is sufficient buffering he should be okay. They don't have to plant a visual buffer there just has to be a visual buffer on public road and neighboring properties. The front won't need any because of the building.

Chairman Diffendorf asked if the page fence was still going to be installed and Mr. Milligan stated yes, it has to be because of the kids. He added he will still screen it.

Ms. Middleton reviewed the Decommissioning Plan for ground-mounted systems, which states the removal of all footings, foundations, or similar installations to a depth of four feet below grade and on your you have two feet. We would want that updated to four feet. We also require a reasonable timeframe that it would take to decommission upon decommissioning, which should be fairly easy to add.

Ms. Middleton commented the last issue is the required cash bond or letter of credit. There was a discussion regarding the required cash bond or letter of credit. Mr. Milligan needs to decide what is best for him providing the cash or the letter of credit. He had questions regarding what happens to the cash, how does the Town keep that cash. He is concerned that his cash may be spend on another project. Ms. Middleton assured him that wouldn't happen. She suspects the money would be help in escrow or held in an interest baring account. She will have to check with the Town Attorney on that. The decommissioning plan calls for 120% of the estimate for removal. There is a company now that recycles the entire solar panel. The company that made these panels that are going in is from Ohio, they will recycle the panels.

Mr. Milligan stated he has a concern about the timing of all of this. He is concerned about the trees getting planted this fall. He asked if the trees could be planted in the spring and Chairman Diffendorf stated in the past we have worked with people. We have given people until June 1st.

Chairman Diffendorf and Dan Wasson reviewed the conditions as follows:

1. Silt Fence is temporary.
2. 8 ft. arborvitaes planted by June 1, 2023, this year if possible.
3. Fence will be installed around the project.
4. Cash bond or letter of credit is required.
5. Decommissioning plan updated for removal of all footings, foundations or similar installations to a depth of 4 feet below grade.

Chad Moran asked what if they decide to sell and Ms. Middleton explained there is a separate section that goes into the decommissioning plan with regards to if you sell, which is on page 19, K. (8) Ownership Changes.

Motion by Dan Wasson and seconded by Gordie Woolbaugh to approve the site plan with the following conditions:

1. Silt fence is temporary.
2. 8 ft. arborvitaes planted by June 1, 2023, this year if possible.
3. Fence will be installed around the project.
4. Cash bond or letter of credit is required.
5. Decommissioning plan updated for removal of all footings, foundations or similar installations to a depth of 4 feet below grade.

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| Roll Call Vote: | Jim Bukowski | Yes |
| | Kevin Balachick | Yes |
| | Gordie Woolbaugh | Yes |
| | Dan Wasson | Yes |
| | Chairman Diffendorf | Yes |

Motion carried.

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Planning Board Meeting Minutes

Motion by Kevin Balachick and seconded by Gordie Woolbaugh to adjourn the meeting. The meeting was adjourned at 8:33 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

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

PUBLIC HEARING

OCTOBER 11, 2022

SITE PLAN REVIEW FOR A NEW MEDICAL PRACTICE IN THE EXISTING BUILDING PREVIOUSLY USED FOR THE SAME PURPOSE REGARDING PROPERTY LOCATED AT 865 US ROUTE 11 IN THE TOWN OF KIRKWOOD, KNOWN AS TAX MAP NO. 162.15-1-17 AND LOCATED IN A BUSINESS ONE DISTRICT ON THE APPLICATION OF BILQEES ABDALLAH

Chairman Diffendorf read the notice of public hearing and commented we have the affidavits of posting by the Town Clerk, notice to property owners within 500 feet of the project, affidavit of publication in the Press & Sun Bulletin and Country Courier. We have the Broome County Planning Department 239-m recommendations and a Short EAF has been filed.

Chairman Diffendorf opened the public hearing to public participation at 7:01 p.m.

Hearing no comments Chairman Diffendorf closed the public hearing at 7:02 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board

PLANNING BOARD

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

PUBLIC HEARING

OCTOBER 11, 2022

SITE PLAN REVIEW FOR THE INSTALLATION OF A 181 KW SOLAR ENERGY SYSTEM IN THE BACKYARD OF THE PROPERTY LOCATED AT 63 BARLOW ROAD IN THE TOWN OF KIRKWOOD, KNOWN AS TAX MAP NO. 162.05-1-22 AND LOCATED IN A BUSINESS TWO DISTRICT ON THE APPLICATION OF T&M VENTURES, LLC, TOM MILLIGAN, AND SLC INDUSTRIES

Chairman Diffendorf read the notice of public hearing and commented we have the affidavits of posting by the Town Clerk, notice to property owners within 500 feet of the project, affidavit of publication in the Press & Sun Bulletin and Country Courier. We have the Broome County Planning Department 239-m recommendations and a Short EAF has been filed.

Chairman Diffendorf opened the public hearing to public participation at 7:03 p.m.

Tom Milligan, 63 Barlow Road, commented they have been planning this for 10 years and have done many things to the property. Approximately 5 years ago they regraded the back part of the property to get it ready for an installation, didn't know exactly what it would be at the time. At that time, they did a lot of investigation on what would work for the business and the building. The layout of the property faces directly south and they talked to a few different solar people and ETM Solar was the most helpful. They had them come in and do a proposal on what would be needed.

Mike Nowak, 16 S. Woodhill Avenue, commented it is great they have planned this for years but before they started clearing the land they should have figured out if it would work. People think solar is quiet but those inverters that transfer the power will be noisy all the time. Everyone thinks it won't be noisy at nighttime but it is close to the truck stop with lights there which means it will generate power at nighttime as well. The converters will run all night long. There are houses directly to the west, one is less than 50 yards away. He is a proponent of solar but this is not the right install for that situation. There are too many houses close to it. There will be approximately 400+ panels, it is not a small operation. They put trees up which is great but those trees are laughable, they are like sticks. The noise is his main concern. He doesn't think it is the right application for this use.

Gay Canough, ETM Solar Works in Endicott, commented that the inverters will not be on at night. There will be no noise at night, there is not enough light to keep them on at night. They are so far away from anybody you will not hear them. They have lot of places where you can go and listen to them.

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Hearing no other comments Chairman Diffendorf closed the public hearing at 7:08 pm.

Respectfully Submitted,

Mary Kay Sullivan
Secretary, Kirkwood Planning Board