

**Mexico Zoning Board of Appeals
Minutes of the Regular Meeting
Held March 20, 2022 at McAuslan Hall
Commencing at 7:00 P.M.**

Present: Ned Waterbury, Chairman
Lori Behling, Counselor
John Sharkey, Counselor
Marty Trey, Counselor
Dan Yawman, Counselor (Video Conference)
Ron Marsden, Code Enforcement Officer
Nicole Wild, Town Clerk
Absent: Graham Seiter, Town Attorney

And 4 in the audience.

Chairman Waterbury called the meeting to order with the Pledge of Allegiance at 7:03 pm. Chairman Waterbury gave the board time to review the minutes from the regular February meeting.

A motion was made by Sharkey and seconded by Behling to approve the minutes of the regular ZBA February meeting. The motion was adopted by a vote of 4 ayes: Waterbury, Behling, Sharkey, and Trey, 0 nays, 1 abstention: Yawman.

Old Business- none

New Business-

RIC Permit Extension

Chairman Waterbury explained to the ZBA members that RIC is requesting a 12-month extension for their Special Use Permit for a solar project on Co Rt 58, citing supply chain constraints. Waterbury said the permit was originally issued on March 21, 2022 and expires on March 21, 2023; RIC has not yet begun construction. Waterbury asked who currently owns the property at the solar project site. RIC said they have closed on the property and they now own it. Waterbury asked if RIC is still in the process of transferring the project to C2Energy. RIC said no.

RIC explained that interconnectivity delays and supply chain issues have affected everyone working on these types of projects. Waterbury asked if the interconnectivity fees to National Grid have been paid. RIC said yes. Marsden asked when RIC thought they might break ground on the project. RIC said that four to six months is realistic but they are requesting 12 months as a buffer due to unforeseen wait times for equipment and financing. Marsden said that, in his experience over the last ten years, extensions on special use permits have not been granted but that is because all projects have begun before the 12-month expiration. Yawman said granting an extension this time does not necessarily mean they need to grant future extensions. Trey said supply chain constraints are happening everywhere.

RESOLUTION

WHEREAS, RIC Development, LLC, of 1399 New Scotland Avenue, #423, Slingerlands, NY 12159, made application to the Town of Mexico Zoning Board of Appeals for an Area Variance to supplement the Special Use Permit pursuant to the Town of Mexico Local Law No. 5 of 2003, "A Local Law Regulating Land Use in the Town of Mexico" seeking permission to request relief from the lot coverage requirement in the local law. The Special Use Permit Applications proposes to dedicate land for conservation as an offset for this variance request on property located at 124 County Route 58 in the Town of Mexico; and

WHEREAS, by Resolution of the Zoning Board of Appeals dated March 21, 2022, and signed on May 4, 2022, the Special Use Permit and Area Variance were granted conditioned upon the applicant, upon compliance with all applicable federal, state, county and local laws; and

WHEREAS, the Zoning Board of Appeals for the Town of Mexico, based upon a review of the area variance application, map, public comments, as well as the recommendation of the Planning Board and all other documentation submitted in this matter, and taking into consideration the requirements set forth in Sections 300-320 of the Local Law addressing variances, it was determined that the proposed area variance should be granted with the following conditions:

1. Commercial reflective tape or slats in the fencing at the North and East sides of the lot to make the fence safer for passing snowmobilers.
2. Pollinator plants installed throughout the project site for maximum ground coverage as per the NYSERDA pollinator program.
3. A Knox box to allow for local access by the fire department.
4. RIC must create a designated off-road parking area for construction vehicles during construction.
5. The woods are to remain forever wild for the duration of the project.
6. Pesticides, herbicides, toxic chemical use is restricted for the duration of the project.
7. RIC will purchase the property.
8. The additional acreage, not part of the fenced solar area, will remain on the tax rolls, forever wild, and the property will not be transferred to a tax exempt 501-(C)3 organization.
9. There will be no on-site batteries as part of the solar farm.
10. Perimeter fencing will be 8.5 feet high and be at the edge of the solar project.
11. Maintenance includes at least two mowings per year and two inspections per year.
12. Residential energy customers who are residents of the Town of Mexico will be offered an exclusive, first-in-line, 10% community solar enrollment window.

13. RIC will address and correct any complaints within 60 days of notification.
14. There will be no antennas on site at construction completion.
15. Upon decommissioning, RIC will strictly comply with page 136 of the NYSEDA document entitled Using Special Use Permits and Site Regulations, specifically Restoration Requirements, Two-Year Monitoring and Remediation, and Decommissioning.
16. Compliance with the Town of Mexico insurance requirements as discussed in March 21, 2022, ZBA minutes.
17. RIC will comply with all matters on record in minutes of Town of Mexico Planning Board and Zoning Board of Appeals meetings and workshops and covers the full application term from start to finish.
18. RIC will comply with Local Law No. 5 of 2003 regulating land use in the Town of Mexico.
19. RIC will comply with Local Law No. 2 of 2017 regulating energy systems in the Town of Mexico.

The Zoning Board of Appeals reserves the right to include any further conditions discussed in prior meetings regarding the RIC Development, LLC solar project; and

WHEREAS, RIC Development, LLC, currently the sole member of Mexico PV, LLC, is planning to transfer all its membership interests in Mexico PV, LLC to C2 Energy Development, LLC c/o EDPR NA Distributed Generation, LLC, 100 Park Avenue, Suite 2400, New York, NY 10017; and

WHEREAS, the Zoning Board of Appeals had been notified by RIC Development, LLC of the membership interest transfer of the LLC, and that the Zoning Board of Appeals approved the membership interest change to C2 Energy Development, LLC subject to the same terms and conditions of the Area Variance and Special Use Permit conditionally granted to RIC Development, LLC at their December 7, 2022 meeting; and

WHEREAS, RIC Development, LLC has contacted the Zoning Board of Appeals and has requested a one-year extension on the Special Use Permit which will expire on March 21, 2023.

NOW, THEREFORE, upon motion made by MARTY TREY and seconded by LORI BEHLING, **BE IT RESOLVED AS FOLLOWS:**

RESOLVED that the Zoning Board of Appeals for the Town of Mexico, hereby approves the one-year extension on the Special Use Permit subject to the same terms and conditions granted to RIC Development, LLC by Resolution dated March 21, 2022, which are as follows:

1. Commercial reflective tape or slats in the fencing at the North and East sides of the lot to make the fence safer for passing snowmobilers.
2. Pollinator plants installed throughout the project site for maximum ground coverage as per the NYSEDA pollinator program.
3. A Knox box to allow for local access by the fire department.
4. RIC must create a designated off-road parking area for construction vehicles during construction.
5. The woods are to remain forever wild for the duration of the project.
6. Pesticides, herbicides, toxic chemical use is restricted for the duration of the project.
7. RIC will purchase the property.
8. The additional acreage, not part of the fenced solar area, will remain on the tax rolls, forever wild, and the property will not be transferred to a tax exempt 501-(C)3 organization.
9. There will be no on-site batteries as part of the solar farm.
10. Perimeter fencing will be 8.5 feet high and be at the edge of the solar project.
11. Maintenance includes at least two mowings per year and two inspections per year.
12. Residential energy customers who are residents of the Town of Mexico will be offered an exclusive, first-in-line, 10% community solar enrollment window.
13. RIC will address and correct any complaints within 60 days of notification.
14. There will be no antennas on site at construction completion.
15. Upon decommissioning, RIC will strictly comply with page 136 of the NYSEDA document entitled Using Special Use Permits and Site Regulations, specifically Restoration Requirements, Two-Year Monitoring and Remediation, and Decommissioning.
16. Compliance with the Town of Mexico insurance requirements as discussed in March 21, 2022, ZBA minutes.
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The Zoning Board of Appeals reserves the right to include any further conditions discussed in prior meetings regarding the RIC Development, LLC solar project.

NED WATERBURY, Chairman	AYE
LORI BEHLING, Counselor	AYE
MARTY TREY, Counselor	AYE
DAN YAWMAN, Counselor	ABSTAIN
JOHN SHARKEY, Counselor	AYE

Dated: March 31, 2023

Entered,


NED WATERBURY, Chairman

Other Business- none

A motion was made by Sharkey and seconded by Behling to adjourn at 7:31 pm. The motion as adopted by a vote of 4 ayes: Waterbury, Behling, Sharkey, Trey, 0 nays, and 1 abstention: Yawman.

Respectfully submitted,

Nicole Wild
Town Clerk