

2/7/22

Dear Board of Trustees,

You'll be glad to know that your Planning Board has continued to closely follow the application process for the Matrix/HNGC solar array. In doing so, we've learned that the BOT recently determined to reset the SEQRA process by going back to Part 1 and requiring the applicant to complete the Long Form (originally a Short Form submission), thereby providing clarity and corrections where appropriate.

We commend you for having the wisdom to do so. We agree this was warranted given the severity of community concern but more importantly the extent of misinformation originally submitted.

However, we the Planning Board, believe you may not be fully compliant with your SEQRA responsibilities by merely requiring the applicant to resubmit their paperwork to you. We believe the SEQRA process requires you to allow the Planning Board to also do a reset by sending the applicant back to us to re-review our initial step of making a recommendation to the BOT. The same misinformation that is informing your decision to require a new submission should apply to the PB's review process to determine whether to make a positive or negative recommendation on the application.

The determination to only require new paperwork at the step of initial BOT review may be deemed arbitrary and capricious. If any lawsuit were to occur down the road this could be a serious misstep that would create additional legal jeopardy for the village.

We also believe the concept of the PB's initial recommendation (positive or negative) being only advisory and therefore a justification for not sending this new reset back to us is flawed. We believe this to be an incorrect interpretation of SEQRA. The PB is a legislatively mandated board that is created to use its knowledge and experience in land use matters...expertise that the state charges us with and therefore presumably believes the BOT does not inherently possess. (NOTE—furthermore, a revised set of information within the application may—or may not—alter the PB's initial recommendation, but, again, it's a legally mandated process.)

We believe another flawed argument against sending this reset back to the PB is due to the fact that the PB would eventually see the application again under site plan review. While it's true the applicant has to eventually come to the PB for site plan review (assuming the BOT green lights the Special Permit), it would be a direct violation of the SEQRA process. It undercuts the precise nature of a legislatively mandated step-by-step process. As it is, what the BOT has just done (i.e. determining for a "reset") is a highly unusual process with little, if any, legal precedent. Therefore, it's all the more important to adhere as closely as possible to the intended SEQRA process so as to avoid future potential litigation.

Finally, as you know, this application is under a microscope. If there is even a minimal deviation from the appropriate and reasonable process of review, this may create additional exposure for the village and increased consternation for the neighbors. We believe this small "additional reset" will further protect our beloved village.

Respectfully,  
Rob Luntz, Chairperson, Planning Board