



GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **T-01-STAF-1-18**
Review Date **1/11/2018**

Municipality	STAFFORD, T.
Board Name	TOWN BOARD
Applicant's Name	Town of Stafford
Referral Type	Zoning Text Amendments
Variance(s)	
Description:	Zoning Text Amendments to extend for another 6 months a moratorium that prohibits solar farms.
Location	Entire Town of Stafford
Zoning District	All Districts

PLANNING BOARD DECISION

APPROVAL

EXPLANATION:

The proposed moratorium extension should pose no significant county-wide or inter-community impact. The extension appears to meet the intent of the municipality to have enough time to study and draft changes to their Zoning Law to protect the health, safety and welfare of the community.

Director

January 11, 2018

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.

SEND OR DELIVER TO:

GENESEE COUNTY DEPARTMENT OF PLANNING
3837 West Main Street Road
Batavia, NY 14020-9404
Phone: (585) 815-7901



*** GENESEE COUNTY *
PLANNING BOARD REFERRAL**

DEPARTMENT USE ONLY:
GCDP Referral # T-01-STAF-1-18

RECEIVED
Genesee County
Dept. of Planning
12/21/17

Required According to:
GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N
(Please answer ALL questions as fully as possible)

1. REFERRING BOARD(S) INFORMATION

Board(s) Stafford Town Board
Address 8903 Rt. 237
City, State, Zip Stafford, NY 14143
Phone (585) 344 - 1554 Ext. 4

2. APPLICANT INFORMATION

Name Supervisor Robert Clement
Address 8903 Rt. 237
City, State, Zip Stafford, NY 14143
Phone (585) 344 - 1554 Ext. 4 Email tcstaf@rochester.rr.com

MUNICIPALITY: City Town Village of Stafford

3. TYPE OF REFERRAL: (Check all applicable items)

- | | | |
|---|--|--------------------------------------|
| <input type="checkbox"/> Area Variance | <input type="checkbox"/> Zoning Map Change | Subdivision Proposal |
| <input type="checkbox"/> Use Variance | <input checked="" type="checkbox"/> Zoning Text Amendments | <input type="checkbox"/> Preliminary |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Comprehensive Plan/Update | <input type="checkbox"/> Final |
| <input type="checkbox"/> Site Plan Review | <input type="checkbox"/> Other: _____ | |

4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:

- A. Full Address All of the Town of Stafford
- B. Nearest intersecting road _____
- C. Tax Map Parcel Number _____
- D. Total area of the property _____ Area of property to be disturbed _____
- E. Present zoning district(s) _____

5. REFERRAL CASE INFORMATION:

- A. Has this referral been previously reviewed by the Genesee County Planning Board?
 NO YES If yes, give date and action taken _____

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

C. Please describe the nature of this request To implement a 6 Month extension Moratorium of Local Law 1 of 2017 to stop processing of applications for the issuance of permits, certificates & approvals for certain land uses relating to solar energy including solar farms.

6. ENCLOSURES - Please enclose copy(s) of all appropriate items in regard to this referral

- | | | |
|---|--|---|
| <input type="checkbox"/> Local application | <input type="checkbox"/> Zoning text/map amendments | <input type="checkbox"/> New or updated comprehensive plan |
| <input type="checkbox"/> Site plan | <input type="checkbox"/> Location map or tax maps | <input type="checkbox"/> Photos |
| <input type="checkbox"/> Subdivision plot plans | <input type="checkbox"/> Elevation drawings | <input checked="" type="checkbox"/> Other: <u>Copy of Local Law</u> |
| <input type="checkbox"/> SEQR forms | <input type="checkbox"/> Agricultural data statement | <u>No. 1 of 2018</u> |

7. CONTACT INFORMATION of the person representing the community in filling out this form (required information)

Name Walter Kershenski Title Town Clerk Phone (585) 344 - 1554 Ext. 4
Address, City, State, Zip 8903 Rt. 237, Stafford, NY 14143 Email tcstaf@rochester.rr.com

LOCAL LAW NO. 1 OF 2018

MORATORIUM AND PROHIBITION WITHIN THE TOWN OF STAFFORD ON SOLAR FARMS AND SOLAR POWER PLANTS 6 Month Extension

SECTION 1. PURPOSE AND INTENT

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Stafford by staying the establishment and operation of, and the submission and processing of applications for permits, zoning permits, special permits, Planned Unit Development district designations, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary certificates, and other Town-level approvals respecting Solar Farms and Solar Power Plants, for a reasonable time, so as to allow the Town time to study the potential impacts and effects of, and possible controls over, such activities and to consider enacting updates to the Comprehensive Plan and perhaps new laws, and amendments to the Town's existing laws, to address the same.

SECTION 2. LEGISLATIVE FINDINGS

In recent years, New York State and the Federal Government have promoted the use of solar-generated electricity, and many planners predict that a large number of facilities to produce solar-generated electricity may soon be constructed throughout New York state. The Town of Stafford Town Board does hereby find that without a temporary prohibition on the establishment and operation of, and halt on the submission and processing of applications for permits and approvals (as herein provided) regarding, Solar Farms and Solar Power Plants, there is the potential that such uses could be unsuitably or inappropriately located within the Town or could be constructed without adequate safeguards in place.

The Town Board also finds that it is in need of a reasonable amount of time, so as to allow the Town to study the potential impacts and effects of, and possible controls over, Solar Farms and Solar Power Plants and to consider enacting updates to the Town's Comprehensive Plan and perhaps enacting new laws, and amendments to the Town's existing laws, to address the same.

SECTION 3. DEFINITIONS

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Photovoltaic System: A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity when light strikes them.

Small-Scale Solar: Solar photovoltaic systems that produce up to twenty (20) kilowatts (kW) per hour of energy.

Solar Farm or Solar Power Plant: Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, in any case with the primary purpose of wholesale or retail sale of electricity.

SECTION 4. MORATORIUM AND PROHIBITION; 6 Month extension of Local Law 1 of 2017

A. From and after the date of this Local Law, no application for a permit, zoning permit, special permit, Planned Unit Development district designation, variance (except as contemplated by Section 8 of this Law), building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town for any of the following: (i) Solar Farm or (ii) any Solar Power Plant.

B. From and after the date of this Local Law, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town for any of the following: (i) Solar Farm or (ii) any Solar Power Plant.

C. The moratorium and prohibition set forth above in Sections A. and B. of this Section 4. are not intended, and shall not be construed, to apply to: (i) Small-Scale Solar; (ii) the use of solar energy facilities designed to generate electric power solely for the use of improvements located on the same property where such facilities are situated; or (iii) photovoltaic systems that are mounted on or affixed to municipal buildings.

D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is three(6) months [?] after said effective date, or (ii) the effective date of a duly enacted repeal of this Local Law.

E. This moratorium and prohibition shall apply to all real property within the Town.

F. Under no circumstances shall the failure of the Town Board of the Town, the Zoning Board of Appeals of the Town, the Planning Board of the Town, or the Code Enforcement Officer for the Town to take any action upon any application for a permit, zoning permit, special permit, Planned Unit Development designation, zoning variance, building permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. PENALTIES

A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than Two Hundred Fifty Dollars (\$250) or imprisonment for not more than 10 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. In addition, an action or proceeding may be instituted in the name of the Town in any court of competent jurisdiction, to prevent, restrain, enjoin, correct, enforce, and/or abate any violation of, or non-conformance with, any provision or requirement of this Local Law. Additionally, any action may be so commenced to declare the rights of the Town and of any other persons relative to any justiciable controversy arising from, under, or in relation to this Local Law, whether pertaining to its interpretation, application, legality, or enforceability, or otherwise. No such action or proceeding shall be commenced without the appropriate authorization from the Town Board. If equitable relief is requested in the form of a temporary restraining order, a temporary injunction, or an injunction, or by any other form of prohibition or similar relief, the Town shall not be required to post any bond or undertaking as a condition or requirement for or of such relief, and the Town shall not be required to prove or show a lack of an adequate remedy at law. No right, remedy, or penalty specified in this Section 5 shall be the or an exclusive remedy of the Town, and each remedy or penalty specified in this Section 5 shall be in addition to, and not in substitution for or in limitation of, any other remedies or penalties specified in this Local Law or permitted by any applicable law, rule, order, or regulation. Any remedy or penalty specified in this Local Law may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section 5.

C. In the event the Town desires or is required to take legal action to enforce this Local Law the violator will be responsible for any and all necessary costs and expenses incurred by the Town relative thereto, including attorneys', engineering, consulting, and experts' fees; however, any responsibility or liability therefor, and the amount thereof, shall be determined by a Court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

SECTION 6. EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permit, site plan, building permit, and certificate of occupancy procedure and requirements, this Local Law shall control and supersede such law, ordinance, rule or regulation.

Section 7. INVALIDITY OF ANY CONFLICTING LOCAL APPROVALS OR PERMITS.

Except as contemplated by Section 8 of this Local Law, no permit or approval issued by any local agency, department, commission or board shall be deemed valid when or to the extent that such permit or approval purports to allow or permit any activity that would violate the prohibitions set forth at Section 4 of this Local Law.

Section 8. HARDSHIP USE VARIANCE.

The Board of Appeals of the Town is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a hardship use variance from application of the provisions of this Local Law by persons aggrieved hereby.

No such hardship variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship as that term is used at Sec. 182-49 K. (2) of the Stafford Zoning Code]]

In the event the Board of Appeals grants a hardship use variance from the provisions of this Local Law to the applicant, the applicant shall be required to comply with all provisions of the Town's then applicable zoning laws and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law. Any hardship use variance that is granted shall grant only the minimum variance that the Board of Appeals deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

SECTION 9. SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 10. EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.