

**Mexico Zoning Board of Appeals
Minutes of the Special Meeting
Held December 7, 2022 via Zoom
Commencing at 7:00 P.M.**

Present: Ned Waterbury, Chairman
Lori Behling, Counselor
Marty Trey, Counselor
Dan Yawman, Counselor
Ron Marsden, Code Enforcement Officer
Graham Seiter, Town Attorney
Ivo Tomchev, RIC
David Bader, C2 Energy Development
Nicole Wild, Town Clerk

Absent:

And 0 in the audience.

Chairman Waterbury called the meeting to order at 7:03 pm. Chairman Waterbury introduced the purpose of the meeting as discussing the transfer of the variance and special permits from RIC to C2Energy because a transfer cannot occur without ZBA approval. Waterbury said the meeting was scheduled quickly because the closing of the sale to C2Energy is scheduled for December 15.

RIC Transfer to C2Energy

Tomchev said that this is standard procedure and that the applicant remains the same with a project manager assigned to the project throughout the entire project; RIC still has a stake in the project through completion of construction. Yawman asked if the new company was aware of the conditions placed on the permits. Bader said yes. Waterbury said that there is a letter from 12/2/22 from RIC, signed by C2 acknowledging and agreeing to all of the conditions set forth. Trey asked if minutes from the Planning and Zoning boards have been provided to ensure that all conditions discussed are met.

Seiter asked about the decommissioning agreement and bond. Tomchev said Bader will provide a draft bond agreement for the Planning Board and ZBA, which will be finalized within the next few months. Bader said that C2 posts bond. Seiter said that construction won't be able to begin without the building permit anyway, so construction cannot begin without the bond. Seiter said that the DIA will need to see the bond as well.

Waterbury asked about a construction timeline. Bader said they would like to begin within the first quarter of 2023. Waterbury said construction has to begin within 12 months of the original granting of the permits, which would be in March of 2023. Waterbury asked Seiter if the language in the conditions need to be changed to reflect a change in company name. Seiter said no; the new company is agreeing to all of the original terms to which RIC agreed and the language should be left alone.

A motion was made by Waterbury and seconded by Yawman to accept the following resolution. The motion was adopted by a vote of four ayes: Waterbury, Behling, Trey, and Yawman, and 0 nays.

Resolved the Mexico Zoning Board of Appeals approves the following resolution:

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 has been notified by RIC Development, LLC of the membership interest transfer of the LLC, and that the Zoning Board of Appeals hereby approves 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.

NOW, THEREFORE, upon motion made by Watersburg, and seconded by Gawman, **BE IT RESOLVED AS FOLLOWS:**

RESOLVED [✓] that the Zoning Board of Appeals for the Town of Mexico, hereby approves the membership interest transfer of Mexico PV, LLC to C2Energy Development, LLC 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.
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.
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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
LORI BEHLING, Counselor
MARTY TREY, Counselor
DAN YAWMAN, Counselor

AYE
AYE
AYE
AYE

NAY
NAY
NAY
NAY

Dated: December 7, 2022

Entered,



NED WATERBURY, Chairman

Tomchev and Bader thanked the board.

Yawman asked if there was a packet of information regarding the Rosato application. Waterbury said that Marsden will provide information to the board.

A motion was made by Behling and seconded by Yawman to adjourn at 7:32 pm. The motion as adopted by a vote of 4 ayes: Waterbury, Behling, Trey, and Yawman, and 0 nays.

Respectfully submitted,

Nicole Wild
Town Clerk