**TOWN OF MANHEIM**

**ZONING BOARD OF APPEALS**

**RESOLUTION # of 2021**

**Dated: April , 2021**

**RESOLUTION APPROVING THE FINDING OF FACTS AND ISSUANCE OF SPECIAL USE PERMIT TO CLEARPATH ENERGY, LLC**

MOTION made by, , seconded by

**WHEREAS,** ClearPath Energy, LLC (“ClearPath”) has submitted an application to the Zoning Board of Appeals (“ZBA”) for a special use permit for a construction of a 5-megawatt ground mounted solar energy facility (“Lapp Solar Energy Project”) on the 98 acres of the 147-acre parcel of land owned by Amos D. Lapp and Annie S. Lapp (Tax Map Parcel No. 108.1-1-4), situated east of State Route 170a and in the Town of Manheim (“Project Site”); and,

**WHEREAS,** the Planning Board, designated as Lead Agency, conducted a coordinated review of this Type I Project pursuant to the State Environmental Quality Review Act (“SEQRA) in connection with ClearPath’s application for a special use permit and in connection with the Site Plan Review of the Project; and,

**WHEREAS,** the Planning Board, as Lead Agency, has determined that the Project will not have a significant adverse environmental impact and issued a Negative Declaration on March 23, 2021, thereby completing the SEQRA review process; and,

**WHEREAS,** the Planning Board, pursuant to Section 239-l, -m and n- of the New York State Gneral Municipal Law, referred the application to the Herkimer-Oneida Counties Comprehensive Planning Program on December 9, 2020, and on December 22, 2020, the planning agency responded with “no recommendation as to final action”, signifying that no significant Countywide or intermunicipal impacts were identified; and,

**WHEREAS,** the ZBA referred ClearPath’s application for a special use permit to the Planning Board to perform a Site Plan Review and provide a Site Plan Review Report to the Zoning Board of Appeals; and,

**WHEREAS,** the Planning Board, as part of its Site Plan Review of the Project, held public meetings and held a public hearing to receive public comment regarding its Site Plan Review of the Project; and,

**WHEREAS**, the ZBA received the Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion, dated March 23, 2021 of the Project in connection with ClearPath’s Special Use Permit Application; and,

**WHEREAS,** the Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion recommended that the Zoning Board of Appeals approve ClearPath’s application for a special use permit in connection with the proposed use of the Project Site as a ground mounted 5 MW solar energy system; and,

**WHEREAS,** the ZBA has held public meetings to review and discuss the Project and to receive public comment; and,

**WHEREAS**, the ZBA held a public hearing regarding CleathPath’s application for a special use permit for the Project on March 30, 2021 at which time it received no public comments; and,

**WHEREAS,** the ZBA has reviewed and accepted the Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion for the Zoning Board of Appeals in connection with the ClearPath’s Special Use Permit Application; and,

**WHEREAS,** the ZBA has made written findings of fact in connection with its review of ClearPath’s application for a special use permit for the Project and Project Site which incorporated the Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion; and,

**WHEREAS,** the ZBA has identified the location of the Project (Tax Parcel No. #108.1-1-4) as being within the AG – 120 Zoning District; and,

**WHEREAS**, the ZBA has determined that a special use permit for the Project should be conditioned upon certain conditions for the Project; and,

**WHEREAS,** a full statement of the ZBA’s Findings of Fact, together with the Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion, is incorporated into and made a part of this Resolution; and

**Now Therefore Be It RESOLVED,** that the Zoning Board of Appeals does hereby determine that ClearPath’s application for a special use permit should be granted and that a special use permit should be issued for the Project Site; and,

**Be It Further RESOLVED,** that the ZBA does hereby approve the issuance of a special use permit for the use of the Project Site (a portion of Tax Parcel No. #108.1-1-4) consisting of approximately 98 acres within the Town of Manheim as a ground mounted 5 MW solar energy system in accordance with the site plans dated November 9, 2020, as amended, and subject to the condition set forth in the Special Use Permit attached hereto and incorporated into this Resolution; and,

**Be It Further RESOLVED,** that the ZBA Chairman is authorized to and shall execute a special use permit for the Project is substantially the form and substance attached hereto; and,

**Be It Further RESOLVED**, that the Clerk of the Zoning Board of Appeals is directed to file a copy of this Resolution, including the ZBA’s Statement of Findings of Fact and the Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion, and a copy of the Special Use Permit with the Town Clerk within five (5) days and to send a copy of this Resolution, and the attachments thereto, to the Herkimer County Regional Planning Board and to the Applicant.

Roll Call Vote:

Bruce Lyon, Chairman Aye Nay Abstain\_\_\_\_\_\_\_\_\_\_ Absent\_\_\_\_\_\_\_

Andrew Chlus Aye Nay Abstain\_\_\_\_\_\_\_\_\_\_ Absent\_\_\_\_\_\_\_

Susan Koziol Aye Nay Abstain\_\_\_\_\_\_\_\_\_\_ Absent\_\_\_\_\_\_\_

Wilbur Hills Aye Nay Abstain\_\_\_\_\_\_\_\_\_\_ Absent\_\_\_\_\_\_\_

Vacant Position

IN WITNESS WHEREOF, I have affixed my name as Clerk/Secretary on this\_\_\_\_ day of April 2021.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Carrie Rockwell, Clerk/Secretary