**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 SUNEAST DEVELOPMENT LLC**

MOTION made by, , seconded by

**WHEREAS,** SunEast Development LLC (“SunEast”)submitted an application to the Zoning Board of Appeals (“ZBA”) for a special use permit to install a ground mounted 19.9 megawatt (MW) solar photo voltaic electric generating facility on approximately 165 acres of land owned by David Grasse located near the intersection of Sabin Road and Burrell Road, Little Falls, New York, (Tax Parcel Nos. 115.1-1-10.1, 115.1-1-26, 115.1-1-21.1 and 115.1-1-21.3) in the Town of Manheim (“Project”); and,

**WHEREAS,** the Planning Board, acting as Lead Agency, conducted a coordinated review of the Project pursuant to the State Environmental Quality Review Act (“SEQRA) in connection with SunEast’s application for a special use permit, application for area variances, 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; and,

**WHEREAS,** the ZBA referred SunEast’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 SunEast’s Special Use Permit Application; and,

**WHEREAS,** the Planning Board’s Site Plan Review Report and Advisory Opinion recommended that the Zoning Board of Appeals approves SunEast application for a special use permit in connection with the proposed use of the Project Site as a ground mounted 19.9 MW solar energy system; and,

**WHEREAS,** The Planning Board’s Site Plan Review Report, Recommendation and Advisory Opinion also recommended that the Zoning Board of Appeals grants SunEast’s application for area variances for certain setbacks between Project Participant Parcels; 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 SunEast’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 SunEast’s Special Use Permit Application and Area Variance Applications; and,

**WHEREAS,** the ZBA has made written findings of fact in connection with its review of SunEast’s application for a special use permit and for certain area variances 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 Nos. 115.1-10.1, 115.1-1-26, 115.1-1-21.1, 115.1-1-21.3) 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 SunEast’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 Zoning Board of Appeals grants SunEast’s application for area variances for certain setbacks between Project Participant Parcels; and,

**Be It Further RESOLVED,** that the ZBA does hereby approves the issuance of a special use permit for the use of the Project Site (being all or portions of Tax Parcel Nos. 115.1-10.1, 115.1-1-26, 115.1-1-21.1, 115.1-1-21.3 consisting of approximately 165 acres of the 477-acre parcel) as a ground mounted 19.9 MW solar energy system in accordance with the site plans dated January 18, 2021, and subject to the conditions 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 in 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; and

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