

Minutes

Town of Portland

Planning Board Meeting

September 24, 2019 – 7:30 p.m.

Members Present: Smith, Patterson, Larish, Foster, CEO Signe Rominger, Attorney Seachrist

Member Absent: Furman

Others: K. Powell, E. Holton, D. Schrantz, D. Carlson, D. Brocht(Labella Assoc), J. Troutman, D. Walters, R. Clair (?) (Solar Abundance)

Chairman Smith called the meeting at 7:30 p.m., followed by the Pledge of Allegiance.

**Public Hearing:**

Chairman Smith read the legal notice for the public hearing as follows:

NOTICE IS HEREBY GIVEN, that a public hearing will be held before the Planning Board of the Town of Portland to consider a site plan review application of property at 5771 US Rte. 20, Portland, NY (SBL 145.00-3-27.2) for the construction of a Large Scale Solar Energy System under Town of Portland Zoning Ordinance – Article 400, Section 413, Agriculture Zoning District and Local Law No. 1 of 2017 – Enacting Regulations for Solar Energy Systems.

The public hearing will be held on Tuesday, September 24, 2019 at 7:30 p.m. in the Town of Portland Court Room, 87 W. Main Street, Brocton, N.Y.

ANY INTERESTED PARTIES MAY APPEAR IN PERSON OR BY REPRESENTATION. ALL INTERESTED PERSONS SHALL BE HEARD.  
Signe Rominger, Code Enforcement/Zoning Officer

Chairman Smith stated that the Planning Board has had in their possession the site plan review application. Then asked if there was anyone that would like to make a comment regarding the public hearing.

Kevin Powell read Section 821 of the Solar Law, which basically stated the purpose of this regulation is to balance potential impact on neighbors while preserving the rights of property owners.

He also stated that he believes the Town of Portland does recognizes the importance of solar development and that they can coexist with residents. Agriculture and solar can come together.

Chairman Smith then read a letter from the Chautauqua County Division of Planning & Community Development regarding this project and within the letter it states; with regards to the General Municipal Law 239-m, this proposal is subject to a referral to the county since it is located within 500 feet of US Route 20, the municipal boundary with the Village of Brocton, as well as operating farms in a state certified agricultural district. They also reviewed the pertinence inter-community and countywide considerations with respect to this proposal and its effect on

the relevant concerns that are listed under General Municipal Law 239-1. Based on this review, they found that the proposed action would have no significant countywide or inter-community impact and that the proposal would be a matter of local concern. Letter then offered some informal comments.

- 1) The project property is currently used for growing grapes and is considered by the US Department of Agriculture to be prime farmland. While the Division of Planning and Community Development understands the need for renewable energy and the financial incentives for property owners, the Town is encouraged to consider the impact of this and future solar projects on the local agricultural economy.
- 2) Local Law No. 1-2017, in Section 2.E.2, lists special use permit application requirements for large scale solar systems. (Four bullet points are then listed)

Solar Abundance then explained the project and stated that it's about 3.25 megawatts and covers approximately 22 acres. The site would almost be invisible to the public due to the topography. Panels are oriented in a north/south direction and rows are going east/west. Will use an existing access road and to be surrounded by fencing.

Mr. Brocht, project engineer, from LaBella Associates spoke of the access roads, should be no excavating, maintain drainage, preserve the soil, will have security gates.

Attorney asked from start to finish, how long the process takes with National Grid. Answer was about 9 to 12 months and then was asked if National Grid needed proof of final decision making from the Town before they proceed regardless of what the Town does and the response was that they will proceed but they will ask for a commitment.

Chairman Smith talked about what type of road was going to be installed and it was mentioned that it would be gravel. Also mentioned that the security fence would be 6 to 8 feet. Mr. Larish mentioned that they it could be 7 feet. Asked about who would clear the vineyards that already exist and it was stated that Abundance has their own construction division that would come in and remove it.

Mr. Larish then asked about a soil review and if site approved, then opens the door for others to come in that has prime soil to want a solar farm. He is suggesting that soil should be tested to make sure it's not prime soil.

Chairman Smith then spoke his conversation with the Town in regards to soil types and what could possibly be done.

Mr. Larish mentioned that Village of Brocton is no longer involved with this so the 9.7 acres will not be included in this project. Abundance stated that they are also purchasing those acres and that it would not be. Mr. Larish asked if this company was going to be here 20-25 years or are you looking to resell it once developed it. Abundance stated they will be the long-term manager. Talked about the setbacks and asked about the width of the road. Answer was about 16'to 20'. Asked about utility poles and was told they were standard poles and that the utility company dictates what they can use. You are looking for 8 foot fencing and asked what a motor post is? Mr. Brocht then mentioned the tracker will sit on post that doesn't move. Talked about

decommissioning and stated that they have a decommissioning plan. Mr. Larish then stated he feels that this would be a good site for the solar project.

Attorney then asked about the EAS application and snow cover and it was explained that it is monitored for things such as this. Discussed the variance application and was questioning if an area variance or use variance would be feasible but also mentioned that a use variance is very hard to get in New York State. Suggest that the Town revise their solar law and do it in a way that protects the soils especially the ones that are identified but still allows the Town Board and Planning Board by extension some flexibility as far as location. Generally speaking, he feels that the Planning Board feels this is a good place for the project and continued on with some changes that can be made to the solar law and, as they are in the early stages of the application that the new law could probably be done by the end of the year. Also stated with all the issues that have come up, the Planning Board just makes a recommendation to the Town Board in regards to all the concerns about soil types, and fencing and hopefully the Town Board will opt in and the company will have to agree on it.

Chairman Smith asked Abundance in the projects that they have completed, how often does their personnel go out and inspect and their response is that they spot check and have an operating and maintenance schedule with each project.

Chairman Smith asked if there were any other comments? Mr. Larish moved and Ms. Foster second to close the public hearing. (9:03 p.m.)

Approval of Minutes - Mr. Larish stated that he will go in a fix the minutes to include the sign in attendees. So MOVED by Ms. Foster, SECONDED by Mr. Patterson – *Unanimously Carried*

Code Enforcement Report – Received at the beginning of the month for August. No questions or comments. MOVED by Mr. Patterson, SECONDED by Mr. Larish to accept the report–  
*Unanimously Carried*

#### Old Business

1. Codification of Town Laws - Chairman stated it's been two or three months now.
2. Court – Seavey – No report

#### New Business

1. Hearing – Solar Abundance Patterson Property – Attorney spoke that if the Board authorizes it he's willing to work with these folks and Mr. Smith to draft something. A motion would have to be made to authorize the Chairman and the Attorney to work on a letter.

MOVED by Mr. Larish, SECONDED by Ms. Foster – *Unanimously Carried*

2. Camp Cottage w/ Single Family Home – Kohler's property on Lakeside Blvd Ext. Board looked at the plans and Mr. Kohler told the Board of what he is planning to do. Meets all requirements and setbacks. Mr. Larish MOVED the recommendation to approve the site plan.

Mr. Patterson SECONDED the motion. *Unanimously Carried*

3. Gave out paperwork for next hearing – Large Scale Solar Energy System – Thayer Hill and Wolben Road

Mr. Larish mentioned that he may not be present at the next meeting as he's coming back from vacation that day.

Chairman Smith asked if there was any other comments or questions.

MOVED by Ms. Foster, SECONDED by Mr. Patterson and duly carried – *Unanimously Carried (9:15 p.m.)*

Respectfully submitted,  
Lori J. Foster, Planning Board Member