

Minutes

Town of Portland

Planning Board Meeting

November 26, 2019 – 6:30 p.m.

Members Present: Smith, Patterson, Foster, Larish

Member Absent: Furman

Others: K. Powell, E. Holton, D. Carlson

Chairman Smith called the meeting at 7:03 p.m. followed by the Pledge of Allegiance. Chairman Smith had mentioned that winter hours are in affect at the end of October's meeting and since public was not aware of the change, committee waited half an hour before starting meeting.

Chairman Smith asked for a motion to approve agenda. Moved by Mr. Patterson, Seconded by Mr. Larish. – *Unanimously Carried*

Approval of October minutes was Moved by Mr. Patterson, Seconded by Mr. Larish - *Unanimously Carried*

Code Enforcement Report: - Chairman Smith mentioned he has no report at this time.

Old Business:

Codification of Town Laws – Chairman Smith received a call from Town Clerk regarding a tentative meeting with the woman from the codification company on the 18th of December. Hoping to get things done and will keep the committee informed.

May 23rd PB meeting with Mr. John Hanmann– Chairman mentioned that he had received an email from the interim Code officer, Ryan Mourer, in regards the property on 2nd Street in Portland. Read as follows:

Good afternoon. I have received your email and the gentleman with the potential home business. He is has. It been forthcoming as he should have with his true intentions. (I guess what he is saying here is, he should have been more truthful in what he was doing here.) He wants to rent the space out for living upstairs and in order to do so he must meet grass requirements for windows. This he was not happy about. Secondly, he built a bathroom for the lower level assuming he could use the garage for his business and while renting the upper level of the dwelling for occupancy. That is not a home business, home business is for folks living and working on site. Also, he has yet been approved to use this space as a home business if or any business based on zoning. It is my position as well as the previous CEO that he must do the following.

Create by a design professional (arch, engen, or window manufacturer) am egress window for each bedroom. (I guess a way of getting out of each bedroom).

He needs to apply for a variance to operate the business. And determine how and who might occupy the dwelling portion.

Planning Board attorney then mentioned that he doesn't believe that he would be able to get a variance should he apply for one.

(Email continued) ADA compliant bathroom will be required if he gets the approval to operate a business in the lower level.

I feel this project should have never been approved or started based on the lack of information, design abilities and intentions. I am working with what he has but that is not enough to get to the goal he has. I explained all this to him and feel he is being misleading on his intentions and design.

Chairman Smith then read parts of the May 23rd Planning Board meeting in regards to this matter.

“Committee went into discussion with a Mr. John Hanmann in regards to the building on 2nd Street for a woodworking shop but Mr. Hanmann stated that it would be way less than that. Mr. Hanmann spoke of the building he is hoping to put a repair shop for hand tools and yard tools which is sold to the Amish community in Conewango Valley. The woodworking involved would be replacing handles on a mall or rake. Would involve an occasional use of a table saw and a sander. The other thing he would like to do is repair of used farm toys. Those they take to flea markets and antique farm markets to sell. He does not expect to have any customers and if did, would be by appointment only. He eventually would like to make the top part of the house a livable apartment.

CEO Rominger mentioned that she had found out that there is not a septic system there and Mr. Hanmann stated that when the Town of Portland puts in a sanitary sewer system then that is when he would ask for occupancy permit. Committee felt that would be a long time coming. She also mentioned that if he was going to use the building that there would have to be some toilet facilities there and there is no way to hook them up. If he puts water there, water under pressure requires a septic system of some sort. He stated that he already talked to the people in Chadwick Bay water district and they stated that he could have a frost proof outside hydrant. He would have to pay for the meter pit and everything that goes with it, apply for a permit and then he could have it according to Drew Smith. To do work on the building, he needs a source of water. He spoke to the water people, talked to National Grid, to code enforcement, and to the assessor's office.

Mr. Larish asked if he had been to the County Health Department and he stated no that he hadn't because he's buying the property as is. Mr. Larish stated that we can't take into consideration how the previous owners purchased the building. Mr. Larish mentioned that if he was putting in a business in a residential area and as the CEO mentioned, you would need to put in bathroom facilities. Mr. Hanmann mentioned that it would be an occasional person coming in and that it would not be a store, per say.

Chairman Smith stated that we would like to hear with the County Health Department would say. If they say that you could put a Johnny on the Spot there then you could do that. Mr. Hanmann said that he could stop anyone from coming there and just use it for storage. He wanted to improve the property and Chairman Smith stated we really appreciate that. Mr. Larish stated that he would be comfortable hearing from the County Health.

CEO Rominger felt that going to the Health Department and finding out what they would do would be better time well spent and to come back and talk to the Planning Board in June.

Mr., Patterson stated that they went through the same type of situation with no water or septic with Mr. Speelberg and the cabins and the County told him to put in composting toilets and they have a 300 gallon totes for the water. That is what they told him he could do.

Chairman Smith asked if he would go to the County and ask them. Mr. Hanmann agreed he would and would like to have a response by the 17th as the meeting could be on the 18th.”

Chairman Smith mentioned that he did not show at the June meeting to discuss his intentions and CEO Rominger mentioned that Mr. Hanmann found a State approved composting toilet as suggested at the May meeting. He also mentioned that he had purchased the property at 63 3rd Street. Just brining the committee up to date.

Mr. Patterson mentioned that he has seen a Johnny on the Spot at that location and Mr. Larish asked how long it can be there. Chairman Smith that he didn't believe there was any regulation as to how long it can be on site.

Chairman Smith also mentioned that Mr. Hanmann would like the minutes of May 23rd and he did send them to him and have not heard from him since then.

Kohler's property on Lakeside Blvd. Ext – Mr. Larish stated that he went by this property which used to be a boat launch and used to be called Ed's boat launch. He's done a lot of work to the property and came to the Planning board last month and got our o.k. to build another house on the property. They have poured their foundation, looks like they are doing some drainage but no framing has been started at this time.

Resolution Abundant Solar Power – Chairman Smith mentioned that the Town of Portland passed Local Law 2 which includes overlay districts and then read the resolution into the minutes.

RESOLUTION OF TOWN OF PORTLAND PLANNING BOARD REGARDING APPLICATION OF ABUNDANT SOLAR POWER (PORTLAND), LLC AND HORIZON PERSONAL COMMUNICATIONS, INC., FOR A TELECOMMUNICATIONS TOWER

WHEREAS, an application dated August 14, 2019 was filed with the Town of Portland (the “Town”) by Abundant Solar Power (Portland), LLC (the “Applicant”) for a 3.25 megawatts solar energy conversion system on approximately 22.8 acres of land owned at 5771 Route 20, in the Town of Portland, currently owned by Shinteer, LLC, and designated on the Chautauqua County tax maps as Section 145.00, Block 3, Lot 37.2 (the “Project”), and

WHEREAS, the Planning Board is charged to conduct site plan review for the Project and to make a recommendation to the Town Board regarding the application, pursuant to Section 821(E)(2) of the Town Zoning Code, and

WHEREAS, Planning Board member Bob Patterson has a financial interest in Shinteer, LLC and has recused himself from all discussion and decision-making regarding the Project and application, and

WHEREAS, sent in response to a referral made pursuant to Section 239-m of the General Municipal Law, the Chautauqua County Planning Department advised by letter dated September 23, 2019 that the Project is a matter of local concern, and

WHEREAS, the Planning Board opened a public hearing on September 24, 2019, to consider the application, and

WHEREAS, the Town Board thereafter adopted Local Law No. 2 of 2019, which requires solar projects like the Project to obtain a zoning change and prohibited them from being placed on certain farmland but otherwise did not change the Planning Board’s role as site plan reviewer, and

WHEREAS, the Planning Board closed the public hearing on September 24, 2019 and now is in a position to make its final determination on the Project and to refer it back to the Town Board for further action,

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Town of Portland in a special meeting duly convened as follows:

1. The Board makes the following findings of fact:
 - a. The proposed site plan comports with the Town’s Solar Energy Systems law and zoning requirements for the Agricultural District;
 - b. The proposed location is well-suited for the Project in that:
 - (a) The vast majority of the solar arrays are not on Chenango gravelly loam soil and there is sufficient space on the remainder of the property to relocate those that are before final approval by the Town Board;
 - (b) It is well-shielded from Route 20, the closest main thoroughfare, and there are no immediate neighbors who could be negatively affected;
 - (c) There is no effect on the viewshed from parks or places of historic significance; and
 - (d) The Project will have minimal aesthetic impact on land that has no special agricultural value.
2. The Board makes the following recommendations to the Town Board:
 - a. The final site plan approved by the Town Board should re-configure the “Preliminary Plan” submitted by the Applicant so that no solar arrays are located on the Chenango gravelly loam soil in the northeast corner of the parcel.
 - b. The Project should be surrounded by fencing at least 8 feet high topped by at least three (3) strands of barbed wire at a 45 degree angle from the fence.
3. The site plan is hereby approved.
4. This resolution shall take effect immediately and shall be forwarded to the Town Board forthwith.

Attorney stated that the law does not change the Planning Boards roll and Mr. Larish stated that there wasn’t anything new in the law that would impede the resolution and attorney agreed.

Committee spoke about the fencing and it was mentioned that the Town had discussed putting in an “agriculture” fence into the law and attorney stated that the word “agriculture” could be added to the resolution under Section 2B. Attorney then stated that (a) and (b), should be (1.) and (2.) which committee agreed.

MOVED by Mr. Larish to recommend to the Town Board the amendments made to the resolution, SECONDED by Ms. Foster

Carried w/ Mr. Smith, Mr. Larish, Ms. Foster voting yes – Mr. Patterson abstaining and one absent. (Mr. Furman).

New Business:

Cell Tower Route 5 – Chairman Smith was contacted by Mike Munson and the individual that was interested in putting in a cell tower on the Munson property off of Rt. 5. Thought they might be here to present a site plan. They were talking of a subdivision but haven’t heard anything more. He believes that they did talk with Signe before she had her accident but I don’t think that there has been any conversation with the interim code officer. Could be placed on the agenda for the next meeting.

Town Clerk – Vouchers – Chairman Smith handed out the vouchers for Board members to sign.

Committee discussed the December meeting which lands on Christmas. MOVED by Mr. Larish, SECONDED by Mr. Patterson to forego December’s meeting due to the holiday. – *Unanimously Carried*

Chairman Smith again announced that the Planning Board will be meeting now at 6:30 p.m. until further notice. He also mentioned that Ms. Foster was resigning her position on the Planning Board effective December 31st. Thanked Ms. Foster for serving on the board.

Chairman Smith spoke about an article in the Observer regarding applications for a shared full time Code Enforcement Officer with the Village of Brocton. Mr. Larish asked about Signe coming back and Chairman Smith mentioned that she would like to come back part time.

MOVED by Ms. Foster, SECONDED by Mr. Patterson to adjourn. *Unanimously Carried (7:44 p.m.)*

Respectfully submitted and transcribed,
Lori J. Foster