

TOWN OF EAST BLOOMFIELD

Planning Board Minutes

June 6, 2024

Planning Board Members Present: Julie Pellett, Daniel Compton, Dan Morley, Michael Woodruff,

Absent: Kimberly Duvall, Michelle Rhoda, Kimberly Gebo

Others Present: Christel Daggett (Planning Board Secretary), Mark Potter & Andrew VanDoorn (Abundant/Labela) Steve Lester (Town Board Member)

Pellett opened the meeting at 7:30 pm.

I. Delaware River Solar Amendment to Special Use Permit TSP2-23 Owner Edward Strapp Rt 5 & 20 & TSP1-18 John Bennett State Rt 64 proposed amendment to their site plan for their previously approved Special Use Permit.

The Board reviewed the new proposed utility plan for both St Rts 64, Bennett and St Rts 5&20 Strapp. St Rt 64. The Board was not completely happy with the plan. They like the idea of moving poles from the front of the site into the project site but still have concerns regarding aesthetics. There was discussion regarding both sites and the number of poles, wires and the ability to go underground were it makes sense.

The Board is requesting another hybrid plan of both overhead and underground wires to minimize the aesthetics and # of poles. They also want clarification on the number of Poles at the Road from RG& E and dimensional drawings and schematic of what the plan will look like at the road and within the site, also what they will be seeing including the eqpt on the poles.

II. Special Use Permit, TSP2-24 Owner Jacob Arner (Agent Mark Potter)

Labela/Abundant Solar Energy System 135-83.3. Property located on Rice Rd. Review of other involved Agencies letters. Public Hearing to be closed & Reopened at the June 20th Planning Board meeting for SEQR review.

Woodruff motioned Compton seconded to close the Public Hearing. All Board members agreed and voted aye.

There was a brief discussion about the lot coverage issue. Potter asked if they wanted to start with the Engineers comment letter?

Compton asked Potter how many panels there were and how big? Potter stated that there were 11,207 of them at 2 ½ ft. by 6 ft. with 2 Equipment Pads at 50 ft. Compton stated that this information should enable them to calculate the lot coverage footprint that is definite. He feels that the code should be changed if the fence and everything inside it is considered in the lot coverage footprint.

Potter stated that the Engineers report states the following, however Labela and Abundant have their own interpretation of the code and the system.

Comment: *Town Code Section 135.83.3 F (1) (b) state that systems are limited to covering no more than 50% of the entire surface area of the lot. The proposed project area is 20.1 acres of the 33.97 acre parcel, which is 59%.*

The Town Engineer has stated that the fencing is required by the electrical code and is therefore part of the system. Impervious does not enter the definition of System. His concern was that they were making their own interpretation. Woodruff stated The Code Enforcement Officer has made her determination and agrees with the Town Engineer; therefore, their only recourse is to make the project meet the maximum 50 % lot coverage by the Engineer and Code Officers Interpretation or go to the Zoning Board of appeals (ZBA) for their interpretation of the code. The applicant has decided to go back and rework the project to make it fit the lot coverage without seeking an interpretation from the ZBA.

There was a brief discussion about the other comments regarding the Engineers report stating they satisfied the requests that he had asked for. The only thing they were missing from his report was the Operation & Maintenance Plan. Potter stated that they thought it was in the packet and would send it over.

Potter stated that NYSDAM responded to the Lead Agency Request to submit an Ag NOI to NYSERDA and then NYSERDA sends it to NYSDAM and was told to send an Agricultural data statement to the Planning Board which is included in the submission.

Potter stated that the County had a couple of Agencies that had comments. Ontario County Planning Board want the field tiles to be repaired if damaged. Potter stated that is standard practice for the construction guys. They want to make sure that they have vegetative cover, erosion control, and insure the health of the screening plans which is all in the Operation & Maintenance Plan. They want additional landscaping to screen residents. Potter stated that the County only saw Revision 0 not the new Revision where the landscaping wraps around more.

Compton asked if the land where this project was going to go was considered prime farmland? Morley stated that he read it was "*Prime farmland if drained for one's type of soil and Farmland statewide importance.*" Morley didn't realize it was that good, he asked if that was something that the County knows? Woodruff stated that he thinks the County is looking at it from a map standpoint, not how the average person that farms it would know that it is not well drained soil.

There was a brief discussion on the categories of the soil. Classification one is Prime Farmland then, statewide importance, statewide importance if drained, then poor. Potter stated that it has all been submitted to NYSERDA & NYSDAM. Potter stated that they did all the soil testing asked for. There will not be any battery storage on site. The County will be getting a fresh submission.

Potter stated that the DEC responded to the Lead Agency Request. They listed off important things to take into consideration when developing a site. Potter stated they are fine with all of that. The DEC made a comment about Endangered & Threatened Species. Potter stated that there is no online website their wildlife guy looked and said there was no hint of anything having to do with Endangered or Threatened Species. He sent an email to the DEC asking them to clarify. Pellett stated there is an Endangered Owl that is in the area that the Rogers had an issue with when they were trying to take trees down. Potter stated that there was nothing that there wildlife person could find.

VanDoorn stated that they met with the neighbor, Sean Fitzgerald. Originally, they would put the utility poles by the road to minimize any additional poles along the road which are RG & E's so, that's why they are close to the last pole. At that point it crosses the road towards Sean's parents but isn't necessary. VanDoorn stated they will be revising the map for the electric poles that will benefit Sean Fitzgerald.

Woodruff stated that at the next meeting we will reopen the Public Hearing and do SEQR. If everything is okay, then we will vote.

Morley stated that years ago when the Board talked about bringing in solar, they took a look at their map and took a look at theoretical (What's going to happen?) they did their best to come up with a comprehensive protection for everybody. There may have been things that may have not been available or missed at the time. Morley stated that when he reads the states solar guidebook and look at setback requirements, they broke it down to a few things that concerned him. Agricultural Residential that is how Rice Rd is zoned but, he doesn't think that is what it is. He believes that it is Residential Low density, They are not just farms out there it is Low Density Residential, and those setbacks are 100 ft. according to the state. If it were zoned Residential Low Density there would be a different requirement. He stated that he feels that the residents along the edge are 30 ft. from it being right next to there house. He feels as a Board and Town, they missed protecting everybody however, over on 5 & 20 there's a 100 ft of setback from the neighbor's driveway. There is a lot more room over there in buffering and setbacks.

Compton stated that maybe that's what Abundant can consider when doing their 9% reduction. They can concentrate that 9% reduction around the neighboring properties giving it a bigger buffer.

Morley stated that this takes a lot of time to absorb and think about what is going on and consider the comments that were brought in, they are important. He feels that they gave the impression that there is no other path but approval but still believes it is a challenge. When you get into the comprehensive plan they talk about vista impact. There was a big discussion about the hill by the Big M about what that vista means to the Town. Now we are on the other side, and it is the first thing you see when coming into our town. Morley stated he doesn't think it is the right place for the vista impact. The property has been farmed within the last 5 years. The soil values appear to be good.

Woodruff stated that as a Board, make it the best they can for the residents. Compton asked if there was way to add to the application process an increased buffer regardless of the zoning district? Woodruff stated it takes a change in the zoning law. Morley stated that they are allowed to use the underlying zoning setbacks. Compton stated that for the future if they decide to raise the MW limit to something else, regardless of the zoning district you have to have "x" number of buffers? Pellett stated that a solar overlay would give you that ability to say "yes, it is agriculture but, we want this buffering instead." The overlay district is the way to do that. Compton stated that we should put that on our Agenda for additional projects.

The next meeting will be on June 20th.

III. Rezone TZ1-24 Owner Paul Singer 6654 Rt 5&20 Tax Map # 81.00-1-25.210. Singer is requesting the mixed zone parcel to become all 1 zone. Currently front is (CC) Community Commercial and rear is (RR1) Rural Residential. Request to have parcel all zoned CC.

Woodruff stated that years ago when he worked for the Town and were doing zoning, they made that property commercial zone 1,000 ft. off of 5 & 20 because of the water district. Pellett stated it was a compromise with the water district.

Woodruff stated that down the road they have changed, to the point where now they have been trying in the past to rezone around lot lines which makes more sense.

Morley agreed from the legal perspective that it shouldn't be a problem.

Woodruff stated that in the district they should have made the whole lot commercial rather than half of it.

Woodruff stated that in theory, the point is that it was easily obtainable for water in the future. That was back in the late 80's and things have changed since then.

Woodruff motioned Morley seconded to a forward to the Town Board for recommendation of approval with comments mentioned in the minutes of 6/6/2024.

Record of Vote:

**Pellett Aye Compton Aye Morley Aye Woodruff Aye
All Board members present voted Aye, Vote was carried.**

Topics for future review - The Board will begin review of existing code for a SUP (for each event) on 50 acres or more and bring suggestions for any possible changes or new SUP for event centers that could exist with less acreage

1. Continued review of the Comprehensive Plan's suggested updates for zoning districts changes
2. 5 G placement of antenna's
3. Battery Storage
4. More research and code considerations for cannabis in the future
5. Look into code for event centers vs current code that allows for a SUP for each event on 50 acres or more
6. Look at the schedules for any items that need to be updated or clarified.

IV. Meeting Adjourned

**Woodruff motioned and Morley seconded to adjourn @ 9:15 pm.
All Board members present voted Aye, Vote was carried.**

Respectfully submitted,

Christel Daggett
Planning & Zoning Board Secretary