

Town of Bristol
Planning Board
Zoning Board of Appeals
Minutes February 21, 2017

Present: Patti Giordano, Bob Drayn, Bob Stryker, Bob Raeman, Marty Snyder, Steve Smiley, John Krebbeks, Joann Rogers, Jen Sanford and Secretary Sandra Riker
Excused: Donna Beretta

Others Present: See Attached sign in sheet

Minutes: The joint meeting minutes of February 6th were approved by Bob Raeman and a second by Steve Smiley after revisions were made. All Board members approved.

Abundant Solar Power Special Use Permit and Site Plan Application for proposed Community Solar Project on Buckelew Road:

The applicant is requesting a Special Use Permit for the above project under Local Law 1-2007 of the Zoning Ordinances of the Town of Bristol. They are proposing the construction of a 1.49 Mega-Watt photovoltaic (solar) plant. The solar farm will consist of 243 solar tables, each equipped with 18-340W solar panels. The energy produced will be sold through a community solar program and through Power Purchase Agreements.

The Public Hearing was opened by the Chairman of the Zoning Board of Appeals.

Bob Steehler of LaBella representing Abundant Solar stated *they felt* the benefits to this application are:

1. A 10% reduction of electric supply charge on the portion offered for sale through Abundant Solar Power to power purchase lease holders.
2. The project will provide jobs for local people
3. It will provide a tax benefit to the Town.
4. The number of homes this will be offered to is 200.

Jared Pantella of LaBella stated the land of Debra Collins where the project is proposed is in the A-C district of the town. The setback requirements to place a structure (solar panels) are 75' from the front lot line, 50' from the sides, and 50' from the rear. There are two wet lands designated on the parcel and an access road will be necessary to cross the larger of the two. It will be a 16' wide gravel road with a turnaround at the end. A 6' high fence will be placed for safety and protection to the array.

Bob Raeman of the Planning Board asked if this was to be a residential or commercial offering and the reply was 100% residential.

Diane Butler (resides on south side of the property) inquired if there would be a generator? The reply from LaBella representatives was there is a transformer and switches and they are static equipment meaning little or no noise and according to specifications will not be audible beyond 20'. There will be a small generator and it also will be of little noise.

She went on to inquire as to the drainage of the wetlands? There will be cross pipes installed so the drainage will not be altered from its present course.

Sarah Hamby asked what happens if the power source provided by Abundant Solar is disrupted? Richard Lu, owner of Abundant Solar Power advised the group that all applicants are still connected to the grid and their electric would not be interrupted and as soon as the problem was taken care it would revert back to the energy agreement as their lease provides.

He said that Abundant Solar Power is a Canadian Company with many solar farm installations in Canada and this is one of the first for them in the United States. The philosophy of the company is not to build and sell the projects but to hold them as an investment for the investors. The company holds the asset for the life of the project.

John Krebbeks of ZBA Board asked what happens when a project reaches its life expectancy of 20 years. Lu replied at the 25 year mark a project would be capable of 80% production and it would be up to the investors if they want to replace with new panels and recycle the old ones or continue as is. There are no current guidelines in NYS regarding recycling of panels.

Diane Butler asked about buffering. Mr. Lu replied in Ontario they provide both fencing and trees for a visual screening of the project and they would do the same here. Ms. Butler asked if the project could be moved farther back on the parcel so it would not be so feasible to the neighbors.

Carol Bouchard (owner of lands Butler resides on) inquired about markers on the trees and the answer was they delineate the wetlands. There will be some removal of trees to the front and will be trimming on the south and west side of the parcel, but the goal is to remove as few as possible.

Anthony Tambasco (resident to east side of parcel) expressed concerns about his property values. Mr. Lu said he could not speak to the commercial installations but with regard to where solar panels have been placed on residences in Canada if panels are placed to the front of a parcel it has had a negative impact on values but if panels placed to the back there has been a positive impact.

Amy Force asked how the panels would be attached. A LaBella representative said because of the clay soil on the parcel they would be using ground screws. The supports will go 6' into the ground below the frost line to prevent heaving of the panels. All work will be done by local crews to install, do the electrical work and then mowers to maintain the parcel.

Mary Ann Maynard asked if this type of installation is really effective in this area and what about the winters when we have a lot of snow won't there be a buildup on the panels? Lu replied it is effect in this area and the panels are slanted so they are 3' high at the front and 6' high at the back preventing snow build up.

Chairman Snyder said he did not see in Local Law 1-2007 specifically where solar would be considered under a special use permit, the law pertains more to wind installation with a vague reference to energy creating devices and questions whether the ZBA actually has any authority to issue a special use permit for this application.

Mr. Lu said Abundant Solar Power is willing to work with the town in an effort to find a viable path for this solar farm installation.

Russ Kenyon (representing the town Attorney Bill Kenyon) said a solar array could be construed as an energy creating device and would place it under the Local Law. He said he would like to know more about the relationship between RG&E and Abundant and if it will be granted a private franchise to operate the solar farm. In order to determine if Abundant Solar Power will be regulated by the P.S.C. they need to meet the criteria as a regulated private enterprise with a franchise to provide a public service. A LaBella representative said they had made the initial application to RG&E for a Standard Interconnect Request and they have received a positive response and it will take up to 60 days for final approval.

Kenyon advised the ZBA to adjourn the public hearing until their March 14th meeting so it can be determined if Abundant Solar can possibly be granted a special use permit as a public utility or if they will need to apply for a Use Variance.

Jared Pantella reminded all that they have a target date of April 1 for the sale of the lands involved.

Shaun Logue of MRB (town engineers) has provided an aggressive timeline for this application as follows:

- March 14th meeting of ZBA would determine if a Special Use Permit or Use Variance will be necessary to proceed with this application. This will require a SEQRA action.
- April 3rd the Planning Board could review the Site Plan. This will require a Type 1 SEQRA action.

This becomes a coordinated action and:

- a. requires the Army Corp of Engineers input due to the Federal Wetlands on the property
- b. the comments of MRB have been answered by the applicant and LaBella so a final design site plan can be provided
- c. The OCPB has reviewed the application and returned it with recommendation of approval with the following comments:
 - i. Per discussion with Jessica Bacher from Pace Law, it is her opinion that the absence of a more detailed definition of utility within the town Code means that Abundant Solar is held to the Town's definition of "Public Utility", not the State's.
 - ii. Due to the presence of wetlands on the site and receipt of a delineation report submitted within the referral documentation, the referring board should ensure that the applicant has submitted a request for a jurisdictional determination to the Army Corps of Engineers. A Jurisdictional Determination will ensure that the Army Corps agrees with the wetland boundary as outlined by the applicant's representative. Due to the fact that construction.
 - iii. Comments from OCSWCD refer to sediment control notes, a lack of SWPPP, etc.
 - iv. Joann Rogers of the Planning Board asked that when the final site plan is presented LaBella use a smaller format than what was presented this evening.

Russ Kenyon suggested ***they could meet their deadline*** if the determination is made that Abundant Solar can be considered a public utility. However if it is determined a Use Variance is necessary this will require a longer time frame.

Amy Force asked if any other location has been considered. Mr. Lu said they review possible site placements on a daily basis and would be open to look at other parcels if this one did not work out. They are very interested in establishing a relationship with the Town.

Mary Ann Maynard said she felt the neighborhood had been put up on enough with the Verizon Tower directly across the street from this site and the neighborhood should be protected against any further intrusion.

A motion was made by Marty Snyder to adjourn the public hearing until the March 14th meeting of the ZBA in order to provide the Attorney and Board time to revisit the direction of the application. A second was made by Steve Smiley. All ZBA members present agreed.

Home Occupation- Artisan business on Route 64

Todd Betz and Sarah Hamey recently purchased 4976 Route 64. They are looking to start a business where they will build and sell hand-made goods such as flowers, vegetables, pumpkins, etc. along with vintage and antique items. Together they are reaching out to the Boards to make sure they meet all the town requirement's to proceed with their venture.

The Boards reviewed the definitions:

Home Occupation-Any activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall be conducted entirely within the principal unit and/or in a properly permitted, approved, and fully enclosed accessory building. The accessory structure may not exceed 750 square feet and must be of similar construction, architecture, and materials to the main dwelling unit.

Artisan-A person manually skilled in making a particular product, such as, but not limited to, glassblowing, art studios, pottery/ceramics, ornamental works, etc.

Artisan Use: An accessory use unique to the A-C district, permitting an artisan to manufacture and or sell products of his/her creation. Such use shall be in conjunction with the artisan's residential use and may employ one person who is not a member of the artisan's immediate family. Only goods manufactured on premises shall be sold. An artisan use existing in the C-B district shall be deemed a commercial use and not subject to these provisions.

Article Six-Provisions applicable to all use districts, Section VIII: No business establishment shall place or display goods for purposes of sale or permit any coin-operated vending machines of any type to be placed in any location which would infringe upon the required yard areas specified in this Local Law. However, the display of farm products offered for sale at a roadside stand on the lands on which such products are raised, produced or grown is not prohibited.

Sarah advised the Boards they would like to take advantage of the land with limited farming and gardening, have a vintage market specialized in crafts and collectibles featuring farm décor. Eventually they would like to be a curator for local artisans and crafters and the hours of operation would be limited. At some point their vision is to be able to host seasonal markets and make it a community event.

The comments from the Code Officer regarding this venture were read by the Secretary as follows: Monday December 5, 2016 he wrote-“My thoughts on Mr. Betz’s idea on a business are as follows.

Definition of artisan seems to me that repairing/refurbishing antiques would fit in this case. As far as growing seasonal farm products to sell also fit for that district.

I believe if the structure is 750’ and a site plan submitted showing parking, hours of operation, lighting and signage and if the plan is approved I believe Mr. Betz could proceed with his idea.”

On January 26, 2017 he wrote: “Having read all the comments pertaining to the Betz home occupation within the accessory building I have a few thoughts. Business will not be a walkup; it will need ample parking for customers and owners. If building will be opened to public they will need handicap accessibility. Opened to public it will be under Mercantile (Group M occupancy) and requires annual fire inspection.

Mercantile Group M Occupancy: Includes among others, the use of a building or structure or portion thereof for the display and sale of merchandise, and involves stock of goods, wares or merchandise incidental to such purpose and accessible to public.

These are my thoughts please respond with any thoughts or comments you have.”

It is important to note that the Artisan Use definition does not limit the size of the building involved to 750’ feet. Chairman Snyder he could see the fit as an artisan use for the refurbishing of furniture and antiques but felt the concept of a gift shop and sales strays away from that use.

The question was raised what did the business Antique Shop in the Hills needed to do to open their business. They had to get a Use Variance and they have since gone out of business and now there is a single family residence at that location.

The Board agreed that under Artisan and farming their beginning business should be okay and the only regulations they would need to follow at this time would require a sign permit. When they wanted to expand the use it would require coming back to the ZBA and applying for a Use Variance. Chairman Giordano of the Planning Board said Todd and Sarah would need a sign permit at this time, as this is a permitted use in the A-C district under Artisan and the size of the building being used would not be limited to the 750’ requirement of a home occupation.

A motion was made by Patti Giordano to adjourn the meeting with a second by Marty Snyder.

Respectfully submitted,

Sandra Riker

Town of Bristol
Secretary to the Planning Board and ZBA

Changes highlighted in bold italics were made by the Planning Board and then approved on March 6, 2017 with a motion by Bob Drayn with a second by Bob Stryker. All Board members present agreed. ZBA approved these minutes at their March 21st meeting with a motion by Steve Smiley and a second by John Krebbeks. All Board members present agreed.

