

**Planning Board Minutes
February 1, 2018**

Planning Board Members Present: Fred Fink, Julie Pellett, Daniel Compton, Matt Rogers, Fran Overmoyer

Others Present: Jim Kier (Code Enforcement Officer) Kimberly Rayburn (Secretary) Richard Lu, Melissa Clark (Applicant, Abundant Solar), Jared Pantella, Civil Engineer and Steve Longway, Electrical Engineer (Agent, Labella Associates) Brad Bennett, Ruby Birdsall, Rowena Bennett, Neighbors: Alan Clark, Nathan Nielsen, Martin & Kristie Willix

Fink opened the meeting at 7:30 pm.

I. 7:30 pm Delaware River solar

The Board discussed SEQR, **Compton made a motion and Pellett seconded the motion to classify SEQR as an Type 1 Action with a coordinated review declaring the Town of East Bloomfield Planning Board Lead Agency and to send the application along with the resolution to all involved agencies and to waive the reading of the Resolution. All Board members present voted Aye. Vote carried unanimously.**

Fink read the public hearing notice

II. Preliminary plan review TSP5-17 Special Use Permit Large Scale Solar Project, and 1 Lot subdivision

Lands located at 1940 Bennett Rd, owned by Rory Bennett tax map # 67.00-1-1.100 Agent Labella, Jared Tantella

Fink turned the floor over to Jared Pantella from Labella Associates to explain the proposal. Pantella introduced his colleague Steve Longway from Labella and also Richard Lu and Melissa Clark from Abundant Solar. Pantella explained who Abundant Solar Power is, they are a full service solar developer out of Toronto Canada, they currently have thirty (30) megawatts in production and sixty (60) mega watts in development, and one hundred (100) megawatts in the application process. They also recently won the solarized CNY portfolio which is developing solar arrays across central New York. They have fifty (50) combined years in developing, they start out by searching for potential sites then send a list to Labella for research on potential environmental impacts, and to research the site to see if it makes sense from an electrical standpoint and they can hook into the grid. They will then start the design of the project. Abundant finances the projects themselves, and Labella leads the charge through engineering, procurement and finally construction. Pantella played a presentation on the overhead for the public in attendance. This project is a community solar project which means once the array is built it is hooked into the local utility distribution system, then offered to residents in the load zone as another option to purchase power from abundant on your utility bill at around a ten (10) percent discount. These systems allow for one (1) anchor tenant that can utilize up to forty (40) percent of the power than the other sixty (60) percent can be used for residential, commercial or municipal. Martin Willix asked if they could explain the "buy in" of the electric in more detail. Melissa Clark stated that other developer's may ask you to buy into the project so they have money to develop the project and then you would get some of the power, Abundant uses private funds to develop the site and then the electricity goes into the grid and the residents within the load zone will be able to choose green energy on their utility bill and purchase their power from Abundant to receive a ten (10) percent discount on their bill. So, in this case its more of a sign up and choose option rather than a "buy in". Rowena Bennett asked how large is a load zone, Pantella stated that it is typically the size of the County. Benefits to the Community would be a ten (10) percent reduction in their utility bill, the power produced by the array is green and sustainable, it would reduce transmission pressures as the power is being produced locally other than far away at a plant, and it helps the grid as a whole having the megawatts produced in smaller amounts in more places. Pantella showed a location map of the project and stated they would be tying into substation # 145. He then explained the proposal, they will build one access point into the site it will be a gravel road that will come off of Bennett Rd, then it will end with a double swing gate. They will use unimproved accessways, which are just grass pathways operation and maintenance will not require large equipment once the project is completed. There will be two separate sections of panels leaving the area in between them green, the entire area of twelve (12) acres around the arrays will have a chain link fence. Originally it was proposed to have a six (6) ft fence with barbed wire at the top of it but after discussion with the Planning Board it was decided that an eight (8) foot fence without barbed wire may work better. The site area disturbed by panels will be approximately three (3) acres. Landscaping will be provided along the fence where it will be visible to the neighboring community. There will be two (2) row of trees planted offset to give it some depth. They will be removing just over 1/10th of an acre of trees in order to build the access roads into the site and replacing it with a slow growing grass.

Do to the topography difference in the land between the Strong Rd neighbors and the site they will also replant some of the existing deciduous trees to this area along with the ten (10) ft evergreens proposed to provide more coverage.

Martin Willix stated that the trees being planted as proposed have the potential to kill each other off, a discussion was held on the placement of the trees and the maintenance of them. The maintenance contract has stipulations that if any of the landscaping/trees dies off it will be replaced with new and fill in any gaps. The plan is included and needs to be reviewed.

The panels start at approximately three feet off the ground and are on a twenty-six (26) degree tilt, at the highest point they are at about nine (9) feet off the ground. They are made up of an aluminum frame with a low iron glass that allows the light to pass, a polymer sheet provides waterproofing and solar cells. There are really no environmental concerns. The grass under the panels will continue to grow, the vegetation will soak up the rain water, there will not be a concern for soil to runoff the property. The level of impact will be very low. The panels will be facing the south therefore if the residents can see the arrays they will be looking at the rear or side view of them. Pantella had some visual computerized views from the neighboring properties from the north, he stated that Powers is the closest to the array, they have some natural screening that will be left in place, and there will be additional landscaping as well. Overmoyer stated that these pictures are summer views and asked if they had any winter views, they did not.

Pantella stated that from a desktop review there were no wetlands on the property, as the property is not listed on any State or Federal registry. Labella sent out its own environmental team and they did delineate some wetlands in the area. They sent a letter to the Army Corp of Engineers (ACOE) which will do a site visit in the Spring once all the snow melts and they will have their determination after that. They believe that this will be considered isolated wetlands and since it is not connected to a water body it would be considered non-jurisdictional so they would not need a permit from the ACOE to drill the post holes for the foundations. Martin Willix stated that the property is defiantly hydraulically connected to a brook that runs through the properties and to the culvert at Strong Rd and Bennett Rd. Willix showed them on the map that the stream comes across the neighbor Malloy's property and runs through the back of their lots and the wetland is hydraulically connected to the steam. Pantella stated that they did send in the information to the ACOE so ultimately it will be up to them how they handle that issue.

Pantella reviewed the process, he informed the public that they had a pre-application meeting with the Planning Board before submitting their proposal. Pantella stated that they reached out to the neighbors and left packets for those that were not home with the presentation and a site plan. The next steps will be to review the SEQR and get the Special Use Permit/Site Plan approval, and the Limited Development Overlay Permit before they finalize the 1 lot subdivision. Once the approvals are in place they will give a letter of credit and circulate the plans for Town signatures. The project timeline would be to start the construction and have the power on the grid before the end of this year. Abundant is looking to employ the local trades and maintain the array over the next twenty-five (25) years.

Compton asked Pantella to spend a few minutes on the decommissioning plan, Pantella stated that the plan consist of removing the panels, the foundations, the fencing and revegetate the area to try to get it back to as close to existing conditions as possible. The also have to produce a financial guarantee that this will be done by a bond or some sort of account to make sure that if the array fails to produce it does not just sit there. Plans are provided with a cost estimate that has to be approved by the town engineer and the Town Planning Board.

Ruby Birdsall asked if they were buying the land or leasing the land, Pantella stated it was a purchase after the Special Use Permit is approved the property would also be subdivided at the same time. Birdsall also asked about the depreciation of the properties surrounding the project, Pantella stated that solar is really new in New York so there has not been studies done to prove that properties have a decrease or increase in value. Birdsall asked about harmful energy being given off by the arrays, Pantella stated they do not. Will abundant give homeowners that surround this project any benefits from the project, Compton stated that as it was stated previously you will have the option to get your power from them through the utility and get a ten (10) percent reduction in your power bill. Nathan Nielson asked if there would be any further benefit over and above that to the houses adjacent to the property. Richard Lu stated there would not be any other incentives other than they would have the first option of getting their power from them. Birdsall asked why this choose this particular Town and property, Melissa Clark stated that they research properties that may be available and are located by the power lines that are required for the project and close to substations, and we look for Towns that have regulations in place that allow for solar. Birdsall asked what the minimum size property they would buy into, Clark stated that up until two (2) weeks ago the max size was 2 megawatts which would equal sixteen (16) to twenty (20) acres and now it is 5 megawatts. Compton stated that one concern would be that these projects will pop up all over but the infrastructure won't support that. Steve Longway stated that there is only one distribution circuit in this area and the approximate maximum for that circuit is 5 megawatts. Compton also stated that the utility companies make these applicants pay for the upgrades to the substations and the infrastructure in order to accept their power requirement, those improvements would not be occurring unless these projects were coming in, so the area is getting new equipment and the applicant is footing the bill. Compton also stated that they do not use any pesticides or herbicides and no chemicals are used to clean the panels and maintenance be done on a normal work day schedule so you won't have a bunch of noise for the maintenance. Neilson stated that since they do not have any information about property values now, will Abundant have anything in place five (5) or ten (10) years down the road if they find data that shows they do decrease your property value by 5 or 10 ten percent. Willix stated that he can think of worse things to go in his back yard but he has not yet embraced the idea due to the visual impact. Willix is asking the Planning Board to look at the visual impact as he feels it is not small, it is something they will be looking at every day. Alan Clark stated that the visual impact is being considered by the landscaping plan and the two rows of trees.

Willix stated that the screening is worthless to him due to the elevation difference of his property and the property the array is on, the southern most portion of the array is ten (10) feet higher than the back of his property which is the same elevation of his feet on his driveway, so now put a ten foot tree at the back of his property with the elevation the panels are still off the ground nine (feet) so the trees will not totally cover the arrays. When he is looking out his second story windows his sight will be sixteen feet off the ground. He suggested building a berm six-foot-tall then planting on top of it. Compton stated that they will never live on a berm. He would like a serious consideration to a reduction in taxes and put that reduction onto the Solar company so the Town does not lose tax money. Clark told him that a housing complex could be built back there instead. Melissa Clark stated that the reality is there are solar arrays all over the world, and if the array was on your property it may be worth more. The public stated that if the array was on their property they would be gaining more than a ten (10) percent reduction in their electricity bill. Melissa stated that putting the taxes saved by residents onto the solar project actually breaks the model and they would not be able to do it. A discussion with the Assessor may be necessary. Fink stated that the Planning Board's job is to look at renewable energy, which is being promoted by the State via the Special Use Permit and Site Plan Review, taxation is outside the purview of the Planning Board. The Planning Board is here to listen to your concerns and help Labella address those concerns and review the application as it pertains to existing code and regulations. Willix stated that the Planning Board is the lead agency for SEQR, Fink stated the SEQR is dealing with environmental issues, not home values. Compton stated that whatever decision is made the neighbors can still petition the Town Board for some consideration based on this project. Willix is just asking the Board to use real photos instead of simulations to determine the visual impact.

Willix has a concern on the wildlife in that area, he stated that the upper array will disturb what is a very nice bedding area for a very large population of deer in the Bloomfield area, the steep bank that you're not going to disturb in between the two sets of arrays is a travel corridor from Boughton Hill all the way across Rt 64 for not only those deer but for other wildlife as well. If the entire project will be fenced to block that corridor he feels that would impact the wildlife and the neighbors, he suggests fencing in the two sets of arrays separately maintain the corridor. The fence height of six feet will allow deer to jump the fence if they get inside the fenced in area. Fink stated that they have made notes and will review them with Labella and Abundant, as well as Thornton Engineering who is reviewing the project as the Town Engineer. Willix asked about the review, Fink stated the Planning Board needs to review the site plan, the LDO permit, the Ontario County Planning Board comments from their review along with other back and forth questions between the Board and the Applicant. Willix asked when we would be making a determination on the SEQR, Fink stated we would be waiting to do that until we hear from the Town Engineer and his request and concerns are taken care of.

Fink started to review the updated maps and documents from Labella, he explained that this being the first Large Scale Solar Project in the Town, there is a learning curve and we are working our way through all the steps with the patience of Labella we are hoping to keep things moving along but have to make sure things are being done correctly, we are learning as we go. Overmoyer stated as requested the new survey has all the items shown graphically noted so we can tell what they are, Fink noted that the requested distances are shown. Fink asked Pantella to explain an item on the map he did not understand, Pantella stated they were check dams that will go into the swales, they put dams up on either side to slow the water down to keep the water moving slower and keep erosion down. Overmoyer asked how the Town can make sure that the maintenance of the project and landscaping will occur over time. Pantella stated that a O&M (operations and maintenance requirements plan) was included in the packet. Compton stated that there will be signage on the property with contact information in case we need to get ahold of them for any type of concern or issue.

Fink reviewed the comments from the Ontario County Planning Board, and the answers and corrections to the plan from Labella. The Board is requesting that Labella provide:

- A list of names and locations of facilities that accept pv cells and related materials for decommissioning.
- Written clarification should be made on the differences between panel coverage and ground disturbance,

Fink started the review of the Limited Development Overlay Permit that is required as the property is in the Aquifer Protection area. The Board has two (2) questions regarding this permit.

- Provide any kind of information on any kind of storm water run-off that may occur from this project

Willix asked what the storm water strategy is in regards to the State pollutant discharge elimination system (SPDES) permit, Pantella stated that the DEC has regulations in place that they follow for a solar array, since there is grass under the solar arrays they don't have to account for the solar panels themselves to be called impervious, Pantella contacted the DEC and asked them how they wanted to address this and that is what they told him and he has an email from region 8 to follow that up. Willix asked what the disturbance is, Pantella stated 74,000 sq ft so they are almost 2 acres. Willix stated they need the general permit.

- Labella requested a determination from the Army Corps of Engineers on the wetland that they found on the property to determine if they need a permit to set the poles in the ground. Pantella stated the ACOE got back to them and requested a site visit which will happen in the Spring. The Board would like a statement about solar panels in the emergent wetland from the ACOE, Labella stated they would provide that.
- The Board requested documentation regarding Storm drain runoff and proof that post development runoff will not exceed pre-development.

Rayburn stated that the Army Corp Of Engineers along with four (4) other agencies were sent the entire packet and the Board waited the required thirty (30) days for a response, but did not receive any.

Special Use Permit application : does not reference the 343 panels, it talks about tables and the Board would like more consistency in the documents.

Decommissioning Plan: The Board would like to know to what extent will the property be returned to its pre-site condition. Pantella stated that everything will be removed, including the gravel roadway. The only thing that will stay is the screening trees and any other landscaping. Then grass would be replanted wherever needed. Overmoyer stated that the maintenance of the screening needs to be beefed up and in writing, Fink stated it also needs to state that any and all trees that need replacing are done with the same size and type of tree of the existing screening to make sure coverage is maintained.

Fink asked for any other comments from the Board, and stated that there are still a number of items that are outstanding including the decommissioning plan, the revised maintenance plan, the construction bond, the Town Engineer review and the SEQR review.

Fink commented that the Board can table the discussion and keep the public hearing open due to the outstanding items that need to be completed. **Overmoyer made a motion and Rogers seconded the motion to table the discussion and keep the public hearing open giving the Board more time to review some newer documents, group comments and to receive requested documents and reviews from requested outside sources. All Board members present voted Aye. Vote was carried unanimously.**

Fink discussed the new subdivision survey map, **Rogers made a motion and Pellett seconded the motion to accept the survey map for preliminary for the 1 lot subdivision. All Board members present voted Aye. Vote was carried unanimously.**

Fink stated that the information and packet provided has been a good guide for the Board and is appreciated. Lu stated that Abundant tries to make sure all the information is provided and in purchasing the land they will make sure it is maintained. The panels have a warranty of twenty-five (25) years and the next generation will be warranted for thirty (30) years. The first solar farm was in the seventies (70's) and is still operating today. Compton asked how the technology forecast is for these panels, will they be changing and increasing and being replaced by something much more efficient. Lu stated that in 2002 the solar panel efficiency was twelve (12) percent, and today it is twenty (20) percent. The scientific limitations in the lab of these panels is about twenty-eight (28) percent and in ten years we should be at twenty-five (25) percent, so if you have working panels you should keep them working for as long as they can. Unless a new technology comes to light this is the forecast.

IV. Minutes of December 7,2017

Compton made a motion and Pellett seconded the motion to approve the minutes of December 7, 2017

Minutes of December 21,2017

Pellett made a motion and Rogers seconded the motion to approve the minutes of December 21, 2017

III. Meeting Adjourned

**Compton made a motion and Pellett seconded the motion to close the meeting @ 9:30pm.
All Board members present voted Aye, Vote was carried unanimously.**

Respectfully submitted,

Kimberly Rayburn
Planning & Zoning Board Secretary