

**CORTLANDVILLE TOWN BOARD
AGENDA
JULY 3, 2019 - 5:00 P.M.**

Pledge Allegiance to the Flag

A. CALL THE MEETING TO ORDER

B. APPROVE MINUTES

B-1 Receive & file the Zoning Board of Appeals Minutes of June 4, 2019

B-2 Revised Special Town Board Minutes of May 23, 2019

B-3 Town Board Minutes June 5, 2019

B-4 Receive & file the Planning Board Minutes of June 4, 2019

C. PURCHASE ORDERS

D. AUTHORIZATION TO PAY THE BILLS

E. PRIVILEGE OF THE FLOOR

F. REPORTS

F-1 Receive & file the Monthly Report of the Code Enforcement Office for June 2019, submitted by Kevin McMahan, CEO

F-2 Receive & file the Monthly Report of the Water & Sewer Department for June 2019

F-3 Accept the 2018 Town of Cortlandville Disclosure Statement prepared by Fiscal Advisors & Marketing, Inc. (1 original to be filed in the Town Clerk's Office)

F-4 Receive & file the Report & Proposal concerning the future staffing of positions related to the Town of Cortlandville's Financial Organization, Pursuant to Town Board Resolution #7 of 2019

F-5 Accept the Annual Tax Collector's Report for the year 2019

F-6 Receive & file the Monthly Report of the Town Clerk's for June 2019

F-7 Receive & file the Monthly Report of Fire & Safety Inspection for June 2019

G. COMMUNICATIONS

H. OLD BUSINESS

I. NEW BUSINESS

I-1 Town Clerk

I-2 Town Attorney

I-3 Not Used

I-4 Receive & file the correspondence dated June 19, 2019 from Cortland County Attorney to City Mayor regarding Workers Compensation

I-5 Receive, file & discuss the correspondence dated May 23, 2019 & received on June 24, 2019 from Richard Bush, County Fair Manager asking permission to close Carroll Street July 7-14 while the Junior Fair is at the Fair Grounds

I-6 Receive & file the memorandum from Nasrin Parvizi, Chairperson of the Cortlandville Comprehensive Plan Committee, dated June 12, 2019, regarding the proposed Overlay Zoning for the installation of large Solar Systems in R-1 District

a.) Receive & file the review & recommendation from Cortland County Planning Board & Cortland County Planning Department Resolution #19-13 regarding McLean Road Solar, LLC, solar overlay district

I-7 Resolution to consider approval of Pilot Agreements with respect to the five previously approved solar projects as listed:

- a.) Cortland-Virgil Solar, LLC
- b.) East River Road Solar, LLC
- c.) Lime hollow Solar, LLC
- d.) McLean Solar 2, LLC
- e.) Route 13 Solar, LLC

I-8 Authorize the Supervisor to sign the Progress Status Report for January –June 2019 regarding CDBG #287SB902-18 Royal Nissan of Cortland, Inc.

I-9 Discussion regarding the Town Comprehensive Plan Committee’s draft, Chapter Three “Cortlandville’s Vision”

J. ADJOURN



**CORTLAND COUNTY ATTORNEY
KAREN L. HOWE**

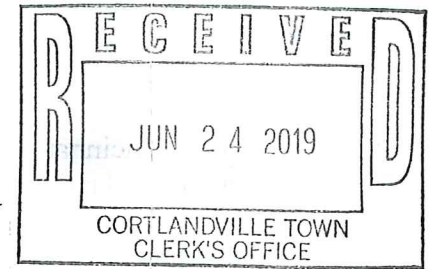
CORTLAND COUNTY OFFICE BUILDING
60 CENTRAL AVENUE, CORTLAND NY 13045

TEL: 607-753-5095

FAX: 607-756-3489

David Hartnett
Chief Assistant County Attorney

Wendy Franklin
Assistant County Attorney



Sherry Davenport
Paralegal

Maria Adsit
Confidential Secretary

Deborah Burton
Keyboard Specialist

June 19, 2019

Hon. Mayor Brian Tobin
City of Cortland – Mayor's Office
25 Court Street
Cortland, New York 13045

Re: City of Cortland
Workers' Compensation

Dear Mayor Tobin:

Cortland County is in receipt of your letter dated June 4, 2019, indicating the City of Cortland is reserving its right to terminate its workers' compensation policy with New York State Mutual. Please be advised that pursuant to Local Law 9 of 2016, Section 4, "Any participant in the plan may withdraw therefrom at the beginning of the next ensuing calendar year by filing with the Clerk of the County Legislature on or before the 31st day of July of any year, a certified copy of a resolution of its governing body electing to withdraw from the plan . . ."

We appreciate your cooperation and assistance in following the requirements of the Local Law, as you determine what is in the best interests of the City of Cortland. This in turn will assist the remaining participants in their endeavors to properly allocate and budget regarding the plan.

Should you have any questions please let us know. Thank you in advance for your assistance in this matter.

Sincerely,

David Hartnett
Chief Assistant County Attorney

cc: Kevin Whitney, Chair of the Legislature
Eric Mulvihill, Clerk of the Legislature

RECEIVED JUN 24 2019

1-5

May 23, 2019

Dear Mr. Tupper,

I would like to again ask permission to close off Carroll Street beside the Cortland Sports Complex from July 7th thru ~~11~~14th for the Junior Fair.

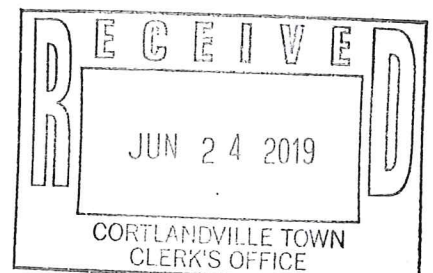
It has been a much safer event with people and cars not trying to use the same space on Carroll Street.

The midway will be setting up on Monday and tearing down on Sunday.

I would like to thank the Board for all the support that it has given the fair over the years.

Thank You

Richard Bush Fair Manager



Memorandum

RECEIVED JUN 24 2019†

NP/AD

1-6

From: Nasrin Parvizi, Chair of the Comprehensive Plan Committee, Town of Cortlandville, NY
To: Town Board, Cortlandville, NY
Date: June 12, 2019
RE: Proposed Overlay Zoning for Installation of Large Solar System in R-1 District

At the request of the Town Board, the Comprehensive Plan Committee discussed the use of overlay districts in general and the potential to use an overlay district as a way to allow Large Solar Energy Systems in areas not currently zoned for that use specifically at its 6/5/19 meeting.

Cortlandville currently uses the overlay zoning technique in its zoning ordinance to protect its aquifer (Article X. Aquifer Protection District).

The overlay zoning applies a common set of additional standards to a designated area that may include all or part of several zoning districts or one zoning district. Development within the overlay district must meet the requirements of both the underlying zoning and the additional standards. Other examples of overlay zones include historic district overlay zones, areas of very severe slopes, waterfront zones, natural resource protection or environmentally sensitive areas.

In the case of the specific request to create on an overlay district that would allow solar in the R-1 district, the committee noted the following concerns:

- Large Solar Energy Systems are not currently an allowable use in the R-1 zone; the addition of the overlay criteria in this instance would create a direct contradiction with the underlay zoning.
- The intent of overlay zoning is to introduce added protections, not reduce or eliminate protections or requirements of the underlay zoning.

While the Comprehensive Plan Committee believes Overlay Zoning as an effective zoning and land management tool, it believes using this technique to allow a land use that is not allowed in the underlying district is ill-advised. As the committee is not made up of land use lawyers it recommends that the Town Board refer this to a land use/zoning attorney.

1-6 a

June 14, 2019

Town of Cortlandville
Zoning Text Amendment
McLean Solar, LLC

TO: Cortland County Planning Board

FROM: Cortland County Planning Department

This application for a zoning text amendment is being referred to the Cortland County Planning Board pursuant to General Municipal Law 239-M because it affects lands throughout the Town of Cortlandville.

GENERAL INFORMATION

Date Received: June 6, 2019

Applicant: McLean Solar, LLC
Attn: Elie Schecter
55 5th Avenue
Floor 13
New York, New York 10003

Requested Action: zoning text amendment

Purpose: to amend the Town's zoning law by adding language for the establishment of solar overlay districts

Existing Regulations: Code of the Town of Cortlandville
Chapter 178 – Zoning

ANALYSIS:

The applicant is requesting a zoning text amendment to add language for the establishment of solar overlay districts into the Town's zoning law. The proposed amendment would permit a solar overlay district to be established on lots of 10 or more acres within a Residential (R-1) District which are substantially adjacent to an Agricultural District. The Town's existing zoning law permits ground-mounted large-scale solar energy systems in the Agricultural and Industrial Districts subject to delineated standards and requirements including the requirement to apply for and obtain a conditional permit.

There are 10 properties in the Town of at least 10 acres which are zoned Residential (R-1) with a total area of approximately 327 acres. The proposed amendment therefore would potentially include an additional 10 properties and an additional 327 acres of land as areas eligible for ground-mounted large-scale solar energy development. The proposed zoning map amendment has been requested as the applicant is proposing to develop a ground-mounted large-scale solar energy system on one of these 10 properties in the Town that is at least 10 acres in size and is a Residential (R-1) zoned property adjacent to an Agricultural District. The Town's existing law does not permit ground-mounted large-scale solar energy systems on R-1 zoned properties. The applicant would therefore be required to apply for and obtain a use variance to develop this property for a use not permitted by the Town's zoning law. The applicant however, would not be able to prove the unnecessary hardship required for obtaining a use variance since they are not the owner of the property. The applicant is therefore requesting that the Town's zoning be amended to accommodate the proposed use on this property.

The purpose of an overlay zoning district is to provide additional protections of special features in a municipality in addition to the existing requirements of the underlying zoning district. An overlay zoning district is not intended to permit uses not allowed in the underlying zoning district. An example of an overlay zoning district in the Town of Cortlandville zoning law is the aquifer protection district regulations. The aquifer protection district does not permit uses which are not allowed in the underlying zoning district rather, provides stricter requirements for certain uses which may have a detrimental impact on the aquifer. Another example in the Town's zoning law is the Flood Damage Prevention which applies to all areas designated as special flood hazards by the Federal Emergency Management Agency (FEMA).

The proposed request would also not be considered a floating zone. Floating zones are designed to account for possible future uses that are considered desirable by the Town but are not currently permitted uses in any of the Town's zoning districts. Floating zones are site specific and provide more flexibility in the development of a property than conventional Zoning districts. Examples of uses which may be delineated in a floating zone are affordable housing, cluster development and planned unit developments.

Additionally, an applicant proposing an overlay zoning district as a means to develop a property for a use not permitted in the underlying zoning district may be considered "spot zoning". The NYS Court of Appeals has defined "spot zoning" as the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners. The creation of an overlay zone, particularly through the request of an applicant proposing to develop a ground-mounted large-scale solar energy system on one of the 10 affected properties may be considered spot zoning as it would permit the use of the property in a manner totally different from that of the surrounding area for the benefit of the owner of such property. It should also be noted that Agricultural and Industrial Districts encompass approximately 25,834 of the 31,280 acres of land in the Town or approximately 83% of all land in the Town. It seems that the Town has already provided more than sufficient area for development of ground-mounted large-scale solar energy systems without infringing on existing residential areas.

Finally, the proposed zoning text amendment is considered a Type I Action under SEQR as it has the potential to change the allowable uses of more than 25 acres of land in the Town. The Town should therefore complete the SEQR process including completion of a Full Environmental Assessment Form upon receiving comments from involved and interested agencies to determine if the proposed zoning text amendment may result in any significant adverse environmental impacts.

RECOMMENDATION:

The staff recommends denial of this application for a zoning text amendment as the creation of an overlay district is not intended to permit uses not allowed in the underlying zoning district. The proposed zoning text amendment is also not considered a floating zone as floating zones are designed to account for possible future uses that are considered desirable by the Town but are not currently permitted uses in any of the Town's zoning districts. Finally, the proposed zoning text amendment may be considered "spot zoning" as the creation of an overlay zone, particularly through the request of an applicant proposing to develop a ground-mounted large-scale solar energy system on one of the 10 affected properties may be considered spot zoning as it would permit the use of the property in a manner totally different from that of the surrounding area for the benefit of the owner of such property.

Prepared by:

Daniel S. Dineen
Director of Planning

ON THE MOTION OF Craig Umbehauer
Danny Ross

RESOLUTION NO. 19-13

Town of Cortlandville
Zoning Text Amendment
McLean Solar, LLC

WHEREAS, on June 6, 2019 the Zoning Officer, Town of Cortlandville, pursuant to General Municipal Law 239 M submitted an application for a Zoning Text Amendment because it affects lands throughout the Town of Cortlandville, which has been received by the Cortland County Planning Department, AND

WHEREAS, the Cortland County Planning Department has reviewed this request and submitted a written report dated June 14, 2019, which is on file, AND

WHEREAS, the Cortland County Planning Board on June 19, 2019 held a regular meeting with a quorum and did consider this request, AND

WHEREAS, the Cortland County Planning Board did thoroughly consider the material submitted by the petitioner, Department comments and all other relevant reports on file, NOW THEREFORE BE IT

RESOLVED, that the Board recommends denial of this application for a zoning text amendment as the creation of an overlay district is not intended to permit uses not allowed in the underlying zoning district. The proposed zoning text amendment is also not considered a floating zone as floating zones are designed to account for possible future uses that are considered desirable by the Town but are not currently permitted uses in any of the Town's zoning districts. Finally, the proposed zoning text amendment may be considered "spot zoning" as the creation of an overlay zone, particularly through the request of an applicant proposing to develop a ground-mounted large-scale solar energy system on one of the 10 affected properties may be considered spot zoning as it would permit the use of the property in a manner totally different from that of the surrounding area for the benefit of the owner of such property, AND

BE IT FURTHER RESOLVED, that the Board reminds the Town of the requirements of General Municipal Law Section 239 M that a supermajority vote is to be attained by the Town in order to approve this application, AND

BE IT FURTHER RESOLVED, that the Planning Department is hereby authorized to convey this action to the Zoning Officer, Town of Cortlandville.

Wendy Miller, Secretary
Cortland County Planning Board
June 19, 2019
Ayes: 8
Nays: 0