



TOWN OF
BEEKMAN
New York

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**Town of Beekman Zoning Board of Appeals
Minutes of November 3, 2022**

The Town of Beekman Zoning Board of Appeals met for their regularly scheduled meeting on Thursday, November 3, 2022 at the Beekman Town Hall at 7:00 PM.

The following members were present:

Acting Chair: Maria Rodrigues

Stella Slattery

Linda Porter

Alternate: Ed Powers

Mersin Capollari and Phil Capalbo were absent.

Also present:

Town Attorney – Craig Wallace

M. Rodrigues – Meeting called to order at 7:00pm

Led the Pledge of Allegiance

M. Rodrigues - Chairman not present. Will act as chair. One public hearing still open for Greenhaven Solar. Will try to finalize.

1. Greenhaven Road Community Solar System - Area Variance

97 S. Greenhaven Rd

Grid # 6757-00-082660

Zone C-3

Terrance Nolan, New Leaf Energy, Project Sponsor/Developer for Site - Last month's map did not clearly show so we are clearly showing where the panels are in relationship to the area of variance request that we're seeking which is along the back line of the property, part of an effort to pull the system away from the front area, hiding it from view, and locating it towards the back. This system size, which is smaller than the 5 megawatt we would typically pursue, approximately 3 megawatts. Been in front of the Planning Board for over a year, having most recently gotten negative declaration for SEQR and closed the public hearing after a lot of testimony. Now at ZBA seeking relief for variance on the setback requirement which would allow us to accommodate some of the other aspects of the visual concerns for the project overall and maintain system size instead of trying to locate the panels closer to the road. This is an allowable use in the zone. Here with counsel and land owner's son and property resident Jay Dickson. There was discussion at the last meeting and we're prepared to answer any questions.

M. Rodrigues – Asks applicant to reiterate where setbacks are on property lines and quantities.

Terrance – Believe you have the specific setback variance requests identified on the agenda. Don't have the civil engineer. Indicates areas on map.

L. Porter – Indicates 69-foot variance. Asks about location. Confirms not near rail trail.

Terrance – Adds there has been quite a bit of conversation with the neighbors regarding visual screening concerns. Met with Ditron. Have vigorous planting proposal. Working with Planning Board on landscape plan for additional trees and plantings.

E. Powers – Asks about connectivity and appearance.

Terrance – Established connection agreement with NYSEG. Have capacity on feeder and substation, paid full interconnection costs and will have underground wires that will come to a set of poles at the point of interconnection which is going to be on the street feeding into distribution system. Wires will be underground conduits until they come to the poles and then poles located near Greenhaven are part of the NYSEG requirement. Believe 5 poles. Public hearing at the planning board was open for 7 months.

C. Wallace – The Planning Board left open the issue of the variance within your purview. In order for them to proceed, they need a decision from ZBA and they can craft the rest of their conditions on the site plan and special use permit.

L. Porter – Did you talk to residents other than the companies?

Terrance – As mentioned, the public hearing at the planning board was noticed and went on for months. Neighbors came and there was a lot of dialogue that took place publicly and a lot of changes to the plan as a result of that, including a lot of discussion about tree cutting and tree planting and where we were doing all that. Indicates certified mailing was completed. Adds that, to summarize, all aspects of the project are still active with planning board. ZBA is for limited and narrow consideration of this particular setback and we will have to go back to the planning board pending ZBA decision. A lot of overall site issues have been discussed.

M. Rodrigues – What was the deciding factor for this town and parcel?

Terrance - This town has an existing solar bylaw that allows it in this zone. There is available capacity on the feeder and substation, and in reaching out to potential land owners, this land owner connected with us and was interested. This variance is vital to our ability to proceed with the location of these panels away from the road and at this size.

M. Rodrigues – Opens up meeting to public for comment.

Robert Lusardi, Attorney for Ditron – Ditron is not taking a position with respect to the application and will accept what determination the board makes. Want to bring to the board's attention. There is a condition that's still open with respect to the site plan application before the planning board that has to do with a drainage easement. There's a drainage pipe running from the Ditron property into a stream on the subject property and this electric line in question has to run underneath the drainage easement. It is a

requirement of the Planning Board that issue be resolved. Fair to say it's been resolved with applicant but not with the property owner Ms. Dickson.

M. Rodrigues – They resolved with the applicant but not the current owner?

C. Wallace - The applicant is proceeding on the current owner's consent. That aspect is a Planning Board decision and a condition which is for background only and not for your consideration on the factors for the ZBA variance. Other public comments?

John Cline, Representing Mother for family farm at 159 S. Greenhaven Rd. – At the last meeting, the explanation of clearing was that there was going to be no trees cut on the south end of the property line with the exception of seven that are on the west end of that south border. Would like clarification of final plan on pink and orange markers.

C. Wallace – Indicates that question is for a Planning Board topic and can encourage attendance at next Planning meeting public hearing.

M. Rodrigues – Suggests visiting Planning Board.

Terrance – Met with Principals of Ditron today about same issue of clearing. Markings were to indicate which were being cut. Will get clarity on exactly what is getting cut.

M. Rodrigues – Could be a problem. Should definitely be addressed by Planning Board.

Terrance – No issue with addressing. There has been a change that will be represented at the next Planning meeting. Can confirm less trees are being cut.

M. Rodrigues – Asks if there are other comments. None.

M. Rodrigues – Motion to close public hearing. Seconded by L. Porter. All in favor. Motion carried.

C. Wallace – Prepared a resolution as far as a decision if you would like to read it into the record.

Board members review prepared resolution (enclosed).

M. Rodrigues – Review of 5 balancing questions for area variance test. Undesirable change will not be produced in the character of the neighborhood as properties with commercial, industrial and institutional uses are also located within this zone. The project appears to be mitigated with landscaping buffers, berms and 150-foot setback on portions of the property. Whether the benefits sought by the applicant can be achieved by other means feasible for the applicant to pursue other than area variance, the applicant has reconfigured the layouts of the solar panels in such a way that the minimum 20 ft for separations between the solar panels and the fences. The layout remains. The setback requirements for all exterior properties line and seeks to limit the clearing of vegetation and brush within the interior limits. There is no feasible way for the applicant to move forward without variance. Regarding whether the variance is substantial, the request of 69 feet deviation from 150 ft setback requirements may be considered substantial given the reduction of the setback of 81 feet. However, the applicant is limiting clearing and environmental distress by moving for this variance. Whether the proposed variance will have an adverse effect or impact on

physical or environmental conditions in the neighborhood or district; the applicant appears to be taking a number of measures to avoid impact to wetlands, floodplains, etc. Applicant has provided EAF to Planning Board detailing environmental impact. Applicant will also provide security fencing and additional landscaping as buffer between surrounding areas and have spoken to all property owners around. Whether alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but not necessarily precluding the granting of this variance. The alleged hardship is not self-created as the applicant requested, as other solar panel layouts would require additional variances that may affect setbacks on additional portions of the property as well as clearing additional vegetation. Applicant has noted that they are using the minimum size solar panels to get the numbers for feasibility to the grid.

M. Rodrigues – Motion to adopt resolution as written and grant 69-foot variance. Roll call vote:

E. Powers – Aye

L. Porter – Nay

S. Slattery – Aye

M. Rodrigues – Aye

3-1 Motion passes

M. Rodrigues – Motion to adjourn meeting. Seconded by E. Powers. All in favor. Motion carried.

Meeting adjourned 7:36.

Respectfully Submitted

Aletha Bourke
Secretary