



TOWN OF  
**BEEKMAN**  
*New York*

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**Town of Beekman Zoning Board of Appeals  
Minutes of October 6, 2022**

The Town of Beekman Zoning Board of Appeals met for their regularly scheduled meeting on Thursday, October 6, 2022 at the Beekman Town Hall at 7:00 PM.

The following members were present:

Chairman: Mersin Capollari  
Stella Slattery  
Linda Porter

Also present:

Town Attorney via Phone

M. Capollari – Meeting called to order at 7:00pm  
Led the Pledge of Allegiance  
Indicated emergency exits and restrooms

**M. Capollari - Motion to approve minutes from July 7, 2022. Seconded by L. Porter. All in favor. Motion carried.**

**M. Capollari – Motion to open public hearing. Seconded by S. Slattery. All in favor. Motion carried.**

- 1. Greenhaven Road Community Solar System - Area Variance**  
97 S. Greenhaven Rd  
Grid # 6757-00-082660  
Zone C-3

M. Capollari – Applicant seeking 81 ft. setback variance from §155 Attachment 2 Schedule B of the town code which requires a minimum rear and side yard setback of 150 ft when abutting a residential district. Opens public comment.

Bill Crain, 254 Gardner Hollow – Deeply concerned. Project cutting down nearly 300 trees. In favor of solar panels but also trees. Project contradicts comprehensive plan which urges preservation of rural nature. In accordance with state guidelines, ZBA must consider in granting a variance whether it would have an adverse impact on the physical or environmental conditions of the neighborhood. Yes this would have a very adverse impact. Farm has historic significance. There are two endangered species according to town engineer. Requests board reject.

Susan Glavich, 64 Lime Mill Rd. – Having the public comment at the beginning of the public hearing seems backwards. Without details of the projects, it’s hard to make intelligent comments about concerns. Agenda not informative. Not clear whether 81 ft. setback variance is for rear, side or both. Encourage board to look at town of Wappingers or East Fishkill postings ahead of scheduled meetings. 81 ft. setback seems substantial at almost half of what the town code requires. Regarding test number 3, the variance would be substantial. Been following planning and quite a number of neighbors are concerned about visual impact on their properties, so test number one; yes, creates an undesirable effect and could be potential detriment to nearby properties. Don’t know about feasible alternatives as have not heard presentation. Not sure if alleged difficulty self-created. Whoever owned the property had been using it as a farm. Not sure of regulations for solar farm zoning but property could be used for other things. Reiterates urging board to consider holding public comment to the end of the presentation so as public can make informed comments.

Attorney via phone – Agree with Ms. Glavich based on procedure and order of things. Would be a good time to have the applicant present and answer public questions or comments that arise after the comment period, we can circle back. Now is the time to allow the applicant to present.

Terrance Nolan, Project Developer, New Leaf Energy with Greg Gibbons, Civil Engineer, Alicia Langley, Counsel approach podium to present application.

Terrance – Been working with planning board over seven-month period. Seeking setback area variance.

Greg – Presents aerial of parcel and points out location of proposed solar. Indicates it is adjacent to horse farm. About 11 acres of solar panels. Adding significant vegetation along south and west side from discussion with planning board. Limited use gravel entrance driveway mostly following existing. Solar panels set into old farm fields no longer being used. Clearing 2.1 acres mostly along western boundary. The eastern property line is where we’re asking for the variance. There’s a DEC stream that runs along the outside of the property line. There’s 100 ft setback on both sides of that legally for DEC that can’t be clear of vegetation. There’s an average of 250 ft of existing vegetation that will remain on the side bordering a horse farm. Done everything we can to keep system within previous requirements. Feel very strongly there’s no visual impact to the farm area. The rest of the site has already gone through extensive permitting with the planning board, discussed endangered species, wetland impacts, received negative declaration for SEQRA, now focusing on variance for rear property line. Asking for 69 ft at most, very close to whole length of the solar panels.

Terrance - Approximately three-megawatt AC size site. Most community solar sites are typically around five. Adding to how discussion emerged with planning board and public hearing, doing substantial amount of visual screening along neighboring Ditron property, resolving existing land use issue on drainage easement, eliminating cutting trees along southern border. Variance allows project to proceed to a minimum size from economic perspective.

S. Slattery – Asks applicant for clarification of visual.

Greg – From horse farm property, won’t be able to see. Existing fully vegetated buffer.

L. Porter – Questions presence of owner, profit and how energy will be used.

Terrance – Leasing property from the owner. Solar array to sell electricity to subscribers.

L. Porter – Suggests people affected should get compensated.

Terrance – Here at ZBA for area variance. With respect to site and local zoning, have been following the process. Aware of neighbor concerns as they have been a consistent voice at the meetings and are working to address.

L. Porter – Asks about lighting.

Greg – One motion sensor light.

L. Porter – Asks about rail trail behind property and surveillance.

Greg - Indicates no visual impact from trail. Generally, maintenance will go out to mow a couple times a year and check gates and signs on gates with contact info for concerns.

S. Slattery – Asks about length of lease.

Greg – Initial twenty-five-year lease with (4) Five-year renewal options so it could be 45. Decommissioning is a separate matter.

S. Slattery – What would happen if owner no longer wanted to lease?

Greg – Owner is obligated. Extensions are our option.

S. Slattery – The approval is really forever. Unlimited.

M. Capollari – The root question is are there any contingencies that are made in the event that the current homeowner is no longer? What happens then?

Alicia – If someone purchases the property, they are subject to the lease. Suggests if ZBA is hesitant to grant variance, to impose reasonable conditions such as once the property is no longer used for solar, it reverts back to original zoning requirement and the area variance is no longer applicable.

S. Slattery – Asks for confirmation of ability to grant and subsequently renew based on changes.

Attorney via Phone – You could do that. Recommend waiting to hear remaining input from public.

Alicia – Review of 5 factor balancing test. First factor is whether it is going to create an undesirable change. Since it's an area variance and not a use variance, by definition, won't change the character of the neighborhood because it's an allowable use. Big open space that is a former farm which serves solar very well. Also a mixed-use area. There's residential, commercial, industrial, institutional all in this area. Solar does well in mixed-use environment, especially when it's well screened. In the area where the variance is requested there is a natural 250-foot buffer forest area. Really no other feasible way to site as it is difficult to site in general, finding good property ie: connection line, topography, trees, size. This is 3 megawatts. No odd hours, noise, dust, fumes, etc that you would protect residential properties from. 155 is the requirement. Case law is clear that determining whether or not the area variance being requested is substantial is based on totality of circumstances. Layout is minimally invasive. Points out area on map.

Member of public – Asks for clarification regarding location of lines if granted variance.

Brief discussion regarding lot size versus megawatts in terms of usage, panel size, etc.

L. Porter – Expresses concern that owner has not attended meetings and may not reside in the town.

Terrance – Net effect of the project will stabilize use of property, monitored, secure, quiet and won't change once up and running.

Alicia – Not creating a detriment to any nearby properties but also creating benefit for subscribers and tax benefit without strain on community resources.

S. Slattery – How many subscribers for 3 megawatts?

Terrance – This solar array should power anywhere from 300-400 homes per year.

M. Capollari – Confirms at maximum power at 3 megawatts, you're powering 300-40 homes at full capacity, less than in the town.

Terrance – Energy coming from different sources. This will be a green energy source.

Member of Public – Asks for clarification on grid connection and adjoining property owner subscription.

Alicia – It's an intermittent source. It's supplemented.

Greg – Provides explanation of power transfer.

Terrance – Could potentially have a power purchase agreement.

Alicia – Our position is that this is not necessarily self-created because of the difficulty in siting a solar project. Natural constraints force the applicant to need the extra footage.

Member of Public – Questions time frame construction phasing and noise involved with infrastructure.

Greg – Indicates it could be 2 months of loud construction but within limits of SEQR guide. Fully constructed typically assume 12 months.

Terrance – Indicates they have been working with the planning board for a year in an attempt to address public concerns to make the project work.

S. Slattery – You mention that this was not self-created. On the zoning board, what that means to me is that somebody is already on the property and looking for a variance for something that they need that should be done and they cannot do it any other way. You are choosing this property knowing what the issues are. Why this area for 300-400 homes? Seems a very little return. Cannot imagine there isn't another property that fits your needs better.

Alicia – Difficult to find property that is close enough to infrastructure, must be big enough to host, no wetlands, steep slopes, forests, etc.

L. Porter – Ask if applicant sought out owner or vice versa.

Attorney via Phone – Encourages board to limit discussion regarding decision making until public hearing is closed. Essentially, law does not necessitate an applicant foreseeing that they may need a variance depending on their plans. That's why they're in front of ZBA. Move on to public comment if applicant has completed presentation.

Bill Crain, 254 Gardner Hollow – Have been to the meetings. The applicant has been working with the planning board for a year. Part of the problem is there was a lot of misrepresentation. Errors in terms of trees being cut. This was not open space. There is wetlands on the property. Someone wanted to make some money. Should be suspicious of any plan that has to be disguised. The site is a poorly chosen space where they have to tear up a good part of our natural environment.

Susan Glavich – Important to have the condition, if granted, that the variance be conditioned to a solar farm. If they decide to leave and property is sold, the community should be able to reevaluate the project. Also, the project is 11 acres and they have to take down 2.5 acres of trees. That is about one quarter of the property that they're clearing, which I believe is substantial.

John Cline, 159 S. Greenhaven – It doesn't fit withing the existing footprint. Doesn't fit in residential property. Better surrounded by commercial. Degradation of property values due to unappealing aesthetic.

Papers have been written on health concerns regarding living near solar farms. Ironically trying to do something good with green technology but at the same time destroying trees in the environment.

L. Porter – Clarifies that area is an industrial zone.

John Golding, Ditron President – Property against west side. Read legislation. Well thought out, well written and very specific about setbacks on all sides in residential or industrial. Don't understand why this would go to variance if there were statutes specifically written for a solar farm that abut residential and industrial property.

Caroline Alexis, Next door – Believe misrepresentations have been made in regard to the property. It is not a dilapidated farm. There's a big old farm house there where the property owner's son rents as well as other apartments in that house that are rented out to people and she is making money. Owner lives in Florida and visits a couple weeks a year at most. No screening for my view. This is a long-term lease and does affect property value. Will be adversely affected by noise and dirt. Was and still against it. Resident of home for 32 years.

Charmia Franklin, 22 Regent Dr. – Questions the benefit to the neighbors. Seems to only benefit the property owner.

Terrance – This is an allowable use on the zone that we're asking for a variance on as to the back property line. Cannot make an argument that there is a direct benefit to the neighbors. Haven't discussed how that could happen. Are trying to minimize the impact. It's not unlike any other private property issue where someone is seeking to put a development adjacent and whether or not that does or doesn't benefit the neighbor. The effort has been to try to mitigate impact for the neighbors. It will contribute tax.

Alicia – This town did not do PILOT agreement so instead they pay for property taxes so you're getting the tax revenue in the town without the impact on that infrastructure.

M. Capollari – With 3.2 megawatt output that you're proposing, is there any way you can reconfigure these solar panels onto the property and maintain that 150 ft of space that the town requires.

Greg – Not with land that is as good as this land. It is farmland pushed up against the natural vegetative buffer and is the farthest point from any neighbors. Have already reduced size.

M. Capollari – Asks applicant to clarify less quality land.

Greg – Clearing more trees will impact habitat. Clarifies the layout is the least impactful. Already maximized efficiency.

Town Attorney via Phone – A lot of public comment. Opportunity for board to review application. Given some of the questions, board may be seeking legal advice. Recommend adjourning to November.

**M. Capollari – Motion to adjourn public hearing to November 3, 2022. Seconded by S. Slatter. All in favor. Motion carried.**

2. **22 Regent Drive - Area Variance**  
22 Regent Drive  
Grid # 6658-00-528923  
Zone R-90

M. Capollari – Applicant is seeking 10 ft. setback variance from section 155 Attachment 2 Schedule B of the Town Code which requires a 30 ft setback.

Charmia Franklin, Applicant – On paper for 10ft but really something like 7 feet 6 inches for storage only shed on property. Notified neighbors and provided receipts. Obtained letters from adjacent neighbors ok with twenty. Thirty makes it too difficult with slopes for delivery although leveling was attempted. It looks good. Trees are covering it. It's not disturbing the visual of the neighborhood.

L. Porter - Asks if it is on cinder blocks.

Charmia – Yes. Couldn't bring it further back due to wetland. Reiterates letter from neighbor ok with distance.

M. Capollari – Unclear based on application whether request is for 10 or 20ft.

Attorney via phone – Also unclear.

Brief discussion regarding property line and positioning of shed.

Attorney via phone – Clarifies applicant is seeking 10 ft variance. They are within 20-25 feet of that property line. Offers recommendation to open public comment.

No public comment.

**M. Capollari – Asks for motion to close public hearing.**

**L. Porter – So moved. Seconded by M. Rodrigues. All in favor. Motion carried.**

M. Capollari – Review of 5 factors: 1. Undesirable change? No. 2. Can this be achieved by other means. No, need the variance. 3. Is the variance substantial? If I was a neighbor, I would have no issue. 4. Will the variance have an adverse impact on the physical and environmental conditions in the neighborhood? No, don't think so. 5. Is hardship self-created? No.

Attorney via phone – The board is in a good position to consider a resolution which can then be read into the record and the board can take a vote.

Reads resolution aloud into record (enclosed).

**M. Capollari – Motion to accept resolution to grant variance. Seconded by L. Porter. All in favor. Motion carried.**

**M. Capollari – Motion to adjourn meeting. Seconded by L. Porter. All in favor. Motion carried.**

Meeting Adjourned 8:20 pm.

Respectfully Submitted

Aletha Bourke  
Secretary