

**MINUTES OF THE TOWN OF FORT EDWARD ZONING BOARD OF APPEALS
MEETING HELD ON TUESDAY, JANUARY 30, 2024 AT TOWN HALL
COMMENCING AT 6:00 P.M.**

Chairman LaFay called the meeting to order at 6:02pm

Pledge of Allegiance

PRESENT: Chairman Ken LaFay
Dolores Cogan
Phillip King
Jim Maskell
Richard Fisher

OTHERS PRESENT: Janet Oswald, Evan Callahan, Robin Cohen, Town Attorney Bill Nikas and Zoning Board Clerk Aimee Mahoney

APPROVAL OF MINUTES: MOTION by Jim Maskell, Seconded by Phillip King to approve the minutes of the meeting of November 29, 2023 **ALL AYES**

BUSINESS:

**CS Energy
Dolan Solar
Area Variance**

Evan Callahan: Dolan was originally permitted and went through the SEQR process and Site Plan Review process in 2021 along with an Area Variance process. In 2021 we requested similar variances to what we are requesting tonight which is relief from the internal side and rear setback requirements for internal property line. The project involves the leasing of 4 parcels and the purchase of 1 parcel and in order to design an efficient solar system it requires us to cross property boundaries and reduce our overall footprint. We are here tonight to request that variance which overall does significantly reduce the overall impacts of the project, allows the system to operate more efficiently and take up less land which makes it easier to conceal with screening as well.

Chairman LaFay: According to the Town Engineer's memo the Area Variances do not involve parcels that are not included in the project. The Planning Board is reviewing the project concurrently.

Attorney Nikas: The applicant is getting rid of setbacks within the perimeter of the project, no impacts. You are free to approve the requested Area Variance tonight and send it back to the Planning Board.

Evan Callahan: We do need to get referred to the County Planning Dept. for this.

Phillip King: Are any of these parcels over 40% lot coverage?

Evan Callahan: No, our highest lot coverage is 37 ½%.

MOTION by Jim Maskell, Seconded by Phillip King to refer the Dolan Solar Area Variance application to the Washington County Planning Board **ALL AYES**

Jim Maskell: A section of this is right on State Route 4?

Evan Callahan: Yes

Dolores Cogan: Will you be having sheep at the site?

Evan Callahan: Yes, right now we are proposing a local grazing mix because we are hoping to do sheep grazing on the parcel and we have something that will work with pollinators and sheep.

Phillip King: You will have sheep in the fenced areas keeping it maintained?

Evan Callahan: Yes, we will have a sheep grazer come in and he will set up an electric fence within the panel fences and then let them graze and then move to another area. Whatever they do not eat, someone will come in with a mower and take care of.

Phillip King: Are you proposing that on your Somers Site as well?

Evan Callahan: Yes

Janet Oswald: Do you have it defined as to who the people are that are going to bring in sheep?

Evan Callahan: No, that is not a certainty yet.

Janet Oswald: Goats?

Evan Callahan: We could do goats; typically sheep work the best around solar panels.

Janet Oswald: With the clearing of weeds and the like, will that be done seasonally to protect ground nesting birds?

Evan Callahan: Yes, that is incorporated into the Site Plan as we are required to maintain the vegetation that we plant, not just the screening but the undergrowth. If that doesn't happen then the Town has the opportunity to call the decommissioning bond.

Janet Oswald: That didn't answer my question. Will it be done seasonally to protect ground nesting birds?

Evan Callahan: We are committing to a tree clearing restriction for Bats; we are not required to commit to any tree clearing condition for the birds. The project does have an Incidental TAKE

Permit with DEC for foraging habitat for Northern Harriers. We have an option to lease for a mitigation easement on another parcel which is about ½ mile south of the project and throughout the operation of the project we need to maintain that parcel for adequate nesting conditions for birds.

Janet Oswald: As far as what birds are defined it's still with DEC?

Evan Callahan: Yes, we go to the DEC, show them our project and they send us a letter back saying these are the species of concern. We then do field studies to confirm the presence or not of those species; we did those field studies and found the presence of the Northern Harrier and then we had to go through the Incidental TAKE Permit process with DEC.

Attorney Nikas: You are looking for approval tonight contingent on the County review?

Evan Callahan: Yes, contingent on County and the Town Planning Board.

Chairman LaFay went through the Area Variance criteria with the Board:

Area Variance Criteria:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: **Board consensus: NO, ground mounted solar is a permitted use and granting the variance would allow the project footprint to be minimized.**
- 2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: **Board consensus: NO, due to multiple properties being leased there is no other way to achieve the same result.**
- 3) Whether the requested area variance is substantial: **Board consensus: YES, because it is a greater than 50% variance request which is the threshold for substantial.**
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: **Board Consensus: NO, ground mounted solar projects are permitted in all zoning districts in the Town.**
- 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance: **Board consensus: NO, it takes 120-150 acres to produce 20 MW of A/C Solar electricity and in order to meet our contracts we need that much land.**

MOTION by Richard Fisher, Seconded by Jim Maskell to approve the Area Variance application for the Dolan Solar project contingent on County Planning review and Town Planning Board review:

Vote: Chairman LaFay – AYE
Phillip King – AYE
Jim Maskell – AYE
Dolores Cogan – ABSTAINED
Richard Fisher – AYE

Robin Cohen
276 Broadway
Use Variance – Taxi Business

Chairman LaFay: The applicant is asking to go back to a Commercial use, we approved the Use Variance in 2021 to convert the building to Residential and now they would like to convert back to Commercial. The application says there will be 10 vehicles in and out plus 1 dispatcher.

Robin Cohen: They will be vacuuming the cars, filling windshield washer fluid and replacing headlights on the premises. He has a separate place that he will take the cars if mechanical work needs to be done.

Attorney Nikas: Make a list of what maintenance they will be performing on site for the Planning Board.

MOTION by Dolores Cogan, Seconded by Jim Maskell to terminate the residential Use Variance that was approved in 2021 and find that a taxi business is allowed in the Commercial zone and send it back to the Planning Board for Site Plan Review **ALL AYES**

ADJOURNMENT:

MOTION by Dolores Cogan, Seconded by Richard Fisher to adjourn the meeting at 6:28pm
ALL AYES

Dated: February 6, 2024

Aimee Mahoney, Clerk