

**MINUTES OF THE TOWN OF FORT EDWARD ZONING BOARD OF APPEALS
MEETING HELD ON THURSDAY, NOVEMBER 7, 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: Richard Ives, Jean Ives, Mike Tripp, Mike Borkowski, Town Engineer Chris Koenig and ZBA Clerk Aimee Ives.

APPROVAL OF MINUTES: MOTION by Jim Maskell, Seconded by Dolores Cogan to approve the minutes of the meeting of January 30, 2024 **ALL AYES**

BUSINESS:

**Community Power Group, LLC
May St. Solar
Area Variance/Lot Coverage**

Mike Borkowski: We are seeking an Area Variance for lot coverage due to how the lot coverage has been interpreted by the Planning Board. A precedent has been set to calculate the ratio using the envelope of the project rather than just the panels themselves making us over the 40% max allowed by the Town Code. When we purchased the property, we calculated just the panels so with just the array itself we were below 40% but calculating the entire envelope puts us around 78% lot coverage.

Chris Koenig: We are not here tonight to interpret the Code, we are here to consider the Area Variance Application that has been submitted for review and I recommend that be the only item addressed at this meeting. The Town Code states 40% maximum lot coverage allowed and it defines Solar Collector as “a solar photovoltaic cell, panel or array, or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air or water.” The word array means it applies to the envelope; solar collectors and spaces between. Somers Solar had the same issue and came before the Zoning Board of Appeals, it has been historically done this way.

30 acres ~24 acres or 78% lot coverage

PUBLIC COMMENT:

Richard Ives: I am worried about the traffic increase and the safety of the kids on the street that play outside.

Dolores Cogan: What would it do to the project if the project was reduced to the 40% threshold?

Mike Borkowski: It would kill the project.

Mike Tripp: There was a solar farm fire last week in Castleton and the Fire Dept. couldn't deactivate it and get in to put the fire out.

Mike Borkowski: We do preemptive fire and safety, we look at when and why fire occurs and hold training with the Fire Dept., we give manuals as well as keys to the lockbox. There are not any flammable items, however shorting could cause a grass fire if something isn't grounded properly. We design access roads wide enough for fire trucks and vehicles can drive between the panels if necessary.

Mike Tripp: Is May St. the only entry point?

Mike Borkowski: Yes

Mike Tripp: Sullivan Parkway is a commercial area; May St. is residential, and I feel you should go in and out through Sullivan Parkway.

Mike Borkowski: Commercial crossing of a railroad is nearly impossible. During construction, which will last 3-6 months, there will only be 3 panel deliveries on tractor trailers and maybe 3-8 cars/day.

Mike Tripp: You will never get a tractor trailer down May St. they can't make the turn and what about the potential damage to the road from this?

Mike Borkowski: We are willing to do some things on May St. regarding public safety; we have already had tractor trailers there cleaning out the property with no issues.

Chris Koenig: The Planning Board reviews all those concerns, this Board does not. What about a temporary crossing with C.P. Rail during construction?

Mike Borkowski: It would be a massive civil job to get a road into the site from Sullivan Parkway.

Chris Koenig: What about staging off site and transporting it on site with box trucks?

Mike Borkowski: I don't believe that is necessary.

Chris Koenig: Would a fixed tilt array be a smaller footprint?

Mike Borkowski: It would be the same with less energy generation.

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, project meets all zoning standards, and would not change the nature given that this size is the only way that the project would be economically feasible.**
- 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: YES, the size of the lot cannot be changed as the property to the south is in the Village of Fort Edward.**
- 3) Whether the requested area variance is substantial: **Board consensus: YES, if the lot coverage is being interpreted as the solar panel envelope, then we would be at ~78% lot coverage. This is the minimum that we could go and still have a viable project.**
- 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 would be a hardship to us to not be able to move forward with this project due to how the Code has been interpreted,**

MOTION by Jim Maskell, Seconded by Philip King to approve the Area Variance application for the Community Power Group, LLC project contingent on County Planning review, Town Planning Board fulfilling SEQQR review and payment of fees:

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

ADJOURNMENT:

MOTION by Dolores Cogan, Seconded by Jim Maskell to adjourn the meeting at 6:52pm **ALL AYES**

Dated: November 18, 2024

Aimee Ives, Clerk

