

**MINUTES OF THE TOWN OF FORT EDWARD ZONING BOARD OF APPEALS
MEETING HELD ON WEDNESDAY, NOVEMBER 29, 2023 AT TOWN HALL
COMMENCING AT 6:00 P.M.**

Chairman LaFay called the meeting to order at 6:07pm

Pledge of Allegiance

PRESENT: Chairman LaFay
Dolores Cogan
James Maskell
Philip King
Richard Fisher

OTHERS PRESENT: Evan Callahan, Mitch Quine, Donald Sanders, Jr. and Zoning Board Clerk Aimee Mahoney

APPROVAL OF MINUTES: MOTION by Jim Maskell, Seconded by Philip King to approve the minutes of the meeting of June 8, 2023 **ALL AYES**

BUSINESS:

**Somers Solar
CS Energy
Area Variance
20MW Solar Project**

Evan Callahan: We are back at this Board seeking the Area Variances needed for the project. We came in the first time back in February when we brought in our Area Variance application. The request for the internal property line setback relief is needed in order to achieve a more efficient design and minimize land impacts. We also received a suggestion to remove a portion of panels that were close to one of the adjacent landowners and we moved those panels to other areas of the project which put us over the 40% maximum lot coverage permissible in the Town. On one lot we have 46.8% lot coverage and on the other lot it is 42.5% lot coverage. The last piece of advice is that we needed to proceed through the SEQRA process and the Site Plan approval process with the Town Planning Board before coming back to present to this Board. We kicked off the Site Plan and SEQRA process in April and we got our site plan approval and SEQRA Negative Declaration earlier this month which brings us here to present this revised application which still has the internal boundary line relief request for side and rear property boundaries and it also includes the request for the lot coverage relief.

James Maskell: It's out on Route 4 right?

Mitch Quine: No, you can't see it from Route 4.

Chairman LaFay: What is the timeframe for your project?

Evan Callahan: We commence construction between November 1, 2024 and March 31, 2025 which would start with site prep, access road preparation clearing and we expect construction to take until the summer of 2026.

Philip King: Is there going to be one fence that goes around the whole project or is it broken up into separate blocks? The reason I am asking is because of the huge deer population in that area and if there is a fence going around the whole thing without openings for them to travel through then all of the deer will be pushed onto Hunter Rd. and Duer Rd. and could result in a lot more deer accidents.

Evan Callahan: We did break up the fencing so that it is just around the individual arrays and it is 8' Ag. Mesh Fencing and we are hopeful that deer will be able to clear it.

Dolores Cogan: Was it the neighbor that requested the panels be moved?

Evan Callahan: No, we spoke with him and he was fine with it. The suggestion was from the Planning and Zoning Boards.

Chairman LaFay: Are all the surrounding neighbors in agreement with the project?

Evan Callahan: Yes, we knocked on everybody's door and there were no major concerns.

Chris Koenig: We went through months of reviews with this applicant and they received conditional approval at the last Planning Board meeting; one of the conditions was that the Zoning Board grants the requested area variances for the internal lot line setbacks and the lot coverage. I have looked at the site plan quite a bit, they have provided screening trees wherever we suggested. The site plan is good to proceed onto the next phase of their construction planning but we need to go through the criteria for the area variances that they are asking for. When they calculate the area variance for the coverage they take the outline of the panel arrays which is inclusive of the spacing between each row so there is some greenspace included in that 40%. Are there any setbacks that affect non-participating landowners?

Evan Callahan: No

Chris Koenig: The applicant does not have any outstanding documents that need to be submitted. On page G001 of the plan set is a metrics table which allows us to easily decide what the variances are for each lot involved in the project. If anything changes on this table they would have to come back to the Zoning Board for approval. The area variances are specific to this project only and do not run with the land.

Philip King: What is the life expectancy of the project?

Mitch Quine: The baseline expectation is 25 years which is the warranty on the modules; industry expectations right now are at 35 years.

Chris Koenig: It is also based on lease agreements, they are leasing the property they do not own it. If the lease expires then the landowner at that time may not wish to re-lease the property and at that point they would have to do something different or they might wish to extend the lease and upgrade the panels. They have lease rights which expire.

Mitch Quine: The leases are for 25 years with 2 five year extensions.

Chris Koenig: The Planning Board issued a Negative Declaration under SEQRA for a Type 1 Action and that does apply to this Board's action as well. This will have to be referred to the County.

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**

MOTION by Jim Maskell, Seconded by Richard Fisher to approve the requested area variances only for the length of the proposed solar project as proposed in the zoning analysis table on page G001 on the site plans dated 10/20/2023 contingent on County Planning Department comments and payment of fees.

VOTE:
Chairman LaFay – AYE
James Maskell – AYE
Philip King – AYE
Richard Fisher – AYE
Dolores Cogan – ABSTAINED

ADJOURNMENT: MOTION by Jim Maskell, Seconded by Dolores Cogan to adjourn the meeting at 6:32pm **ALL AYES**

Dated: December 4, 2023

Aimee Mahoney, Clerk