

Town of Northumberland Zoning Board of Appeals

Wednesday,

November 7, 2018 7:00 pm

Subject to Correction by the Zoning Board

Page 1 of 4

Zoning Board Members Present: Carl Harrison, Vice Chairperson, Gary Applegate, Aimee Smith, Sarah Mojzer, John Amidon, and Mark Boyce, Chairperson

Zoning Members Absent: Paul Becker and Bruce Bemis

Town Employees Present: Richard Colozza, Code Enforcement Officer & Tia Kilburn, Zoning Board Clerk

Mark Boyce, Chairperson, called the Public Hearing to order at 8:05 PM

All in attendance stood and recited the Pledge of Allegiance.

Chairman Boyce introduced application #0008-18, Area and Use Variances for Steven Kasselmann of Kasselmann Solar and Timothy Howe, owner.

Scott Stevens representing Kasselmann Solar introduced himself and explained this application is a request for a variance to install 24 ground mount panels with tilt at 69 Gurn Springs Road. He then stated the amount of acreage for the variance needed in the letter sent out to neighbors was inaccurate, he wanted to clarify for the record, they are seeking a 6.9 area variance not as stated in the letter of 23.2 acre. He added, there is no net metering, the solar will be on site for the homeowner. Mr. Stevens discussed the location and stated Mr. Howe chose to place the panels on a lot next to the dwelling lot, the option of roof mount on the principal building is limited and it would drop the number of panels and the roof would need to be upgraded, 2nd option is on the attached garage, however that roof is going east and west the best is to go north and south. In addition, they would have to cut the neighbors trees to install on the roof. An analysis was performed and ground mount system would produce 110%. If they placed the system on the same lot as the house it would have to meet all the setbacks and the cutting and trimming of the neighbor's trees, if possible, would add more of an expense for the homeowner. He stated he also wanted to correct that they are seeking a 3' variance for the height, the maximum allowed is 5' and the proposed panels are 8'. Chairman Boyce asked if there were any current use of the lot, Mr. Stevens responded no, he then added they had thought of constructing a structure for roof mount and then a variance would not be needed and this ground mount system would be less of an obstruction coming down the road, they would face the south and won't be seen from the road so there will be no glare, he showed the Board pictures to demonstrate the view. Ms. Mojzer asked how is the homeowner displaying a hardship installing structural supports and or maybe changing his metal roof if he is also considering building a garage or something? Mr. Stevens replied the homeowner is not considering a garage, he said he was just stating they wouldn't need a variance as long as they followed the Zoning Setbacks. Mr. Stevens stated they have a Radiance Report that shows the amount of sun on each; for the roof of a structure the Total Solar Resource Factor or TSRF is 70%, for the barn it would be 67% and the ground mount creates 94% which would allow the homeowner to receive tax credits through NYSEDA which benefits the homeowner and reduces his carbon footprint. Ms. Smith asked Mr. Colozza, Code Enforcement Administrator, if the 2 separate lots are included in the acreage, Mr. Colozza responded the vacant lot is 1.84 and 10 acres minimum is needed for the ground mounts for residential use therefore they need 8.16-acre variance. Ms. Smith stated 6.9 is stated on the application, Mr. Stevens responded that was a combination of the two lots. Ms. Smith said they cannot consider both lots for the acreage, Mr. Colozza agreed, and said the Board has to look at the vacant lot where it will be installed. He continued this is a new law and it would be allowed if they had 10 acres, if approved then it would open the door, in the Hamlet there are a lot of ¼ acre lots, and the law eliminated ground mount solar out of all districts except the Agricultural, Industrial and the landfill districts where 10 acres is required.

Town of Northumberland Zoning Board of Appeals

Wednesday,

November 7, 2018 7:00 pm

Subject to Correction by the Zoning Board

Page 2 of 4

Chairman Boyce reiterated they eliminated it except for the 3 zones it is allowed. Mr. Colozza responded yes, it is allowed in the Agricultural district, but they are seeking ground mounts on a substandard lot, they have one acre and need a variance for 8 acres. Mr. Harrison asked Mr. Stevens about net metering, you indicated there is no net metering, Mr. Stevens responded it is directly connected to the house, there is no offsite use. Mr. Colozza interjected it would be considered net metering because the fact is it is on a separate lot and the solar panels need to be on the same lot that is using it, this will be on an adjoining lot. Ms. Mojzer stated she wanted to point out that they encourage the use of solar and maintain to pro-rate the amount used on each lot. Mr. Colozza stated that the problem was, when writing the law, considering substandard lots and clustering the solar especially in the Hamlet where most of the lots are substandard that was the biggest concern. They did not want to discourage solar but were worried about a cluster affect of ground panels. There are 4 parcels with ground mounts in the Town, not the Hamlet, 1 rotates and follows the sun the intent was to limit the districts it would be allowed with substandard lots. Mr. Amidon asked what would be the result if the 2 lots became 1, Mr. Colozza stated he discussed that with the homeowner, they would have a couple of options, one would be to put up a building and mount them on the roof, basically without any variances, he added they could build it with the roof facing the best direction but the panels could not exceed 4' in height. Mr. Colozza then said it would not be an expensive adventure to join the lots and the homeowner was considering building a machinery shed. Mr. Amidon stated the homeowner is causing his own hardship, Mr. Colozza agreed and added because it could go on the house or garage.

Chairman Boyce asked if there were any additional questions or comments, none were noted. He then stated the application was sent to Saratoga County Planning and he read it out loud (see attachment A), he added the County has the amount of the variance reversed, it should read relief of 9 acres is sought for the area variance. He asked for comments from the Board and asked if any other correspondence was received and if the public hearing was advertised, the Clerk responded no other correspondence and yes it was published.

Ms. Smith made a motion to close the public hearing,
Vice Chair Harrison 2nd the motion,
All in attendance unanimously agreed.

Mr. Stevens asked what was the next step, Chairman Boyce stated they will open the regular monthly meeting and basically the public hearing is closed so action can be taken but the Board has 60 days to take action if they need more time. Ms. Smith asked if we provided the County with the misinformation or if they misinterpreted it, Chairman Boyce stated they were mailed the application, the Clerk and Mr. Colozza confirmed copies of whatever information received by this Board is sent to Saratoga County as well.

Chairman Boyce reiterated the variances needed;
Area Variance for acreage needed,
Use Variance because there is no primary use on the lot,
Area Variance for the height – 3',
Use Variance for net metering because the solar collected will not be used on the same site it is generated and
Use Variance for over 10% of required use because the lot does not have a use.

Mr. Colozza stated they should be considering 2 Use Variances and 4 Area Variances, he added the application has a lot of wrong information, they cannot generate more than 10 % over the use for what is needed on that lot since there is no current use on that lot it is used for the house on the adjacent lot so a Use Variance is needed for net metering and 10 % over the required use. Chairman Boyce confirmed the net metering was for the offsite use and asked Mr. Colozza to clarify all the variances needed so nothing is overlooked.

Town of Northumberland Zoning Board of Appeals
Wednesday,
November 7, 2018 7:00 pm
Subject to Correction by the Zoning Board
Page 3 of 4

Mr. Colozza stated;

Area Variance for the acreage

Area Variance also for 100' setback, because there is no structure there and they are applying the law for a solar farm and adapting it to a residential area so 100' setback is needed all the way around not the 30', the 30' setback applies is if there is a structure.

Use Variance is a different deal, it is over 10% use without a structure, they are not using any of it on that parcel.

Use Variance for the use of the land without a structure (primary use)

Use Variance for the net metering, because the use is for an adjacent piece of property.

Chairman Boyce asked the Board if they needed more time to process the information or do they have enough to proceed with action. Chairman Boyce completed the Long Form SEQRA, State Environmental Quality Review Form reading it out loud, he asked for input from the Board for #17 C, asking if they felt it was a small, moderate or large impact, the question reads "Consistency with Community Plan", "The proposed action is inconsistent with local land use plans or zoning regulations." Chairman Boyce stated, two area variances and four use variances are required as identified in the supporting documentation, the importance of the impact is small, because the same size solar system could be installed without needing variances either by constructing on the adjacent property or by combining the properties and making the installation an accessory use. Ms. Mojzer stated it should be moderate to large because of the request is for a large variance, Mr. Applegate agreed the applicant has options to avoid variances, Chairman Boyce stated this is for the environmental impact, Ms. Smith agreed with the consensus of moderate to large impact.

Chairman Boyce made a motion to declare a negative declaration of the long for SEQRA, State Environmental Quality Review Form for application # 0009-18,

Ms. Smith 2nd the motion,

All in attendance unanimously agreed.

Chairman Boyce stated he marked # 17C as moderate to large due to the supporting documentation, he discussed the environmental impact as non-significant because the panels could be placed on the adjacent parcel, however the answer to #17C is moderate to large due to the variances needed. He added if any of the variances fail, we will not cannot proceed. He stated the Board will address one variance at a time starting with the Area Variance for 8.16 acres, he asked if there were any discussion before a roll call vote, none was noted.

Vice Chair Harrison made a motion to approve the 1st area variance for 8.16 acres for application # 0009-18, as proposed by Kasselmann Solar, for a parcel located at 69 Gurn Springs Road, SBL# 103.-3-59,

Chairman Boyce called for a roll call vote:

| | | | |
|---------------------|-----|----------------|-----|
| Aimee Smith | Nay | Sarah Mojzer | Nay |
| Gary Applegate | Nay | John Amidon | Nay |
| Vice Chair Harrison | Aye | Chairman Boyce | Nay |

Absent: Bruce Bemis, Paul Becker

Town of Northumberland Zoning Board of Appeals

Wednesday,

November 7, 2018 7:00 pm

Subject to Correction by the Zoning Board

Page 4 of 4

Chairman Boyce stated the motion is declined and to close it out, regarding the declined motion and with respect to the remaining variances, due to the 1st area variance required being declined, he made a motion to decline the remaining required variances and decline the application,

Vice Chair Harrison 2nd the motion,

Roll Call Vote;

| | | | |
|---------------------|-----|----------------|-----|
| Aimee Smith | Aye | Sarah Mojzer | Aye |
| Gary Applegate | Aye | John Amidon | Aye |
| Vice Chair Harrison | Aye | Chairman Boyce | Aye |

Absent: Bruce Bemis, Paul Becker

Chairman Boyce noted the application was declined based on the magnitude of the number of use and area variances required and considering the “tests” for the variances.

Mr. Stevens stated the variances are what are causing the issue with the combination of variances needed, if he put the panels on the property with the house the variances wouldn't be needed, they would only need a 30' setback, so if they could meet the setbacks it would be permitted. Mr. Colozza responded yes, if they put it on the roof, he added an area variance for 8 acres is significant. Mr. Amidon added they could combine the lots, Mr. Colozza agreed they could combine the lots and put up a structure. Mr. Stevens said the roof is facing the wrong direction. Ms. Mojzer replied there is no mandate for 100% effectiveness. Chairman Boyce stated the applicant has options, Vice Chair Harrison agreed combining the lots and putting up a structure, Mr. Colozza added it would solve the primary use issue and then add a garage or shed and design it with consideration of the roof mounts. Mr. Stevens asked if he could get something in writing to bring back to his office and to make his report, the Clerk explained a decision will be issued and Chairman Boyce stated the minutes will contain the information as well.

Chairman Boyce stated the 2nd application on the agenda has no representation and they will table until the next meeting.

Chairman Boyce asked if there were minutes to approve,
Mr. Amidon made a motion to accept the October meeting minutes,
Ms. Smith 2nd the motion
All in attendance unanimously agreed.

Mr. Amidon made a motion to adjourn at 8:30 PM.

Chairman Boyce 2nd the motion,
All in attendance unanimously agreed.

FUTURE MEETINGS

December 5, 2018 at 7 pm.

Respectfully submitted,
Tia Kilburn, Zoning Board Clerk