

Town of Northumberland Zoning Board of Appeals
Wednesday,
October 3, 2018 7:00 pm
Accepted by the Zoning Board
Page 1 of 3

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

Zoning Members Absent: Aimee Smith, Paul Becker, Sarah Mojzer and Bruce Bemis

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

Mark Boyce, Chairperson, called the monthly meeting to order at 7:05 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 stated he felt the 25-acre requirement in the Agricultural Zone was more for a solar farm and they would need a 23.2 acre variance. Chairman Boyce confirmed Mr. Stevens had authorization to represent the property owner, Mr. Stevens submitted a signed authorization form to the Clerk. He then asked if they had considered merging the lots. Mr. Stevens stated he was not aware of merging however, he believes Mr. Howe discussed that with Mr. Colozza, Code Enforcement Administrator.

Chairman Boyce asked the Board if there were any questions, none were noted.

Chairman Boyce stated the applicant should be aware for the public hearing he should be prepared to prove a unique hardship, residential use, not the current use as presented, the Board understands it is proposed for a separate lot however, the unique hardship is not represented on the application, the property owner will have to answer questions moving forward to a public hearing. He then asked if there were any questions, none were noted. Chairman Boyce asked if there were a motion to move to a public hearing.

Mr. Harrison made a motion to accept application #0008-18 as presented,

Mr. Applegate 2nd the motion,

Chairman Boyce added and schedule a public hearing for the next monthly meeting the 1st Wednesday of November,

All in attendance unanimously agreed.

Mr. Colozza stated this application actually requires three use variances and one area variance for the public hearing. Letter of explanation for clarification submitted to the Board by Mr. Colozza, Code Enforcement Administrator;

Town of Northumberland Zoning Board of Appeals
Wednesday,
October 3, 2018 7:00 pm
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Page 2 of 3

Dear Zoning Board of Appeals Members,

As of today application # 0008-18, Timothy Howe, for ground mount solar array is incomplete, the applicant has not demonstrated the 4 balancing test, see the first 5 pages of the Solar Law which applies to accessory Solar Energy Systems;

- 1. **Reasonable return**; only applies to use, the applicant stated that the residential lot can be used for solar, there is no primary use. Secondly, a residential use is a possibility on the lot.*
- 2. **Alleged hardship is unique** – no not unique, the requirements are the same in the APD District throughout the Town.*
- 3. **Character of the Neighborhood**, it would be the only new ground mount solar array and would be visible without a buffer to hide the front and back of the system.*
- 4. **Self-created** - yes, a roof top unit is possible this array could go on the house it is designed to serve.*

4 Variances are needed;

USE variance – allowing an accessory use without a permitted principal (primary) use.

2nd USE variance – for net metering offsite.

3rd USE variance – for an array height of 5’.

*AREA variance – the applicant’s 2 lots are not combined therefore the AREA variance would be for the vacant lot only which is about 1 acre and 10 acres is needed for ground mounts, a **9-acre variance** is needed, the request is substantial.*

The applicant can not meet any of the 4 required conditions for granting variances, it must be proven they can all be met in the granting of Use and Area Variances. In addition, the request is substantial and would affect the road view and the view from surrounding houses, adversely changing the neighborhood. Benefits can be achieved by other means and the hardship is self-created.

Sincerely,

*Richard Colozza
Building/Zoning Administrator*

Town of Northumberland Zoning Board of Appeals

Wednesday,

October 3, 2018 7:00 pm

Accepted by the Zoning Board

Page 3 of 3

Chairman Boyce stated this application is in the Agricultural Zone therefore requires County Planning Review and SEQRA, State Environmental Quality Review Form at the public hearing not requiring County review.

Mr. Colozza reiterated it is an allowed use in the Agricultural Zone if it meets the requirements and it would go to the Planning Board, which it does not if you review the Solar Law, the first 5 pages refer to residential solar, to meet requirements for residential ground mount in the Agricultural Zone you need 10 acres and it must cover less than one acre, the owners' 2 lots are not combined therefore this application only refers to the vacant lot which is approximately 1 acre so a 9 acre variance is needed.

Chairman Boyce asked if there were any questions or discussion, none was noted.

Chairman Boyce made a motion to accept September Meeting Minutes,
Mr. Amidon 2nd the motion,
All in attendance unanimously agreed.

Chairman Boyce made a motion to adjourn at 7:20 PM.
Mr. Harrison 2nd the motion,
All in attendance unanimously agreed.

FUTURE MEETINGS

Public Hearings November 7, 2018 at 7 pm.

Respectfully submitted,
Tia Kilburn, Zoning Board Clerk