

Town of North East  
Zoning Board of Appeals  
Minutes of April 18, 2019

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, (ZBA), took place on Thursday, April 18, 2019 at 7:30 p.m. at the Town of North East Town Hall, 19 N. Maple Ave, Millerton, NY. ZBA members present were Chair Julie Schroeder, Edith Greenwood, Patti Lynch-VandeBogart, Karen Pitcher, and Jon Arnason. Present in the audience were Michael Segelken, Joseph Cawley, and Erin McConnell, of Empire Solar Solutions, LLC, representing Joseph Cawley.

At 7:30 p.m., Chair Schroeder continued the public hearing, originally opened on March 21, 2019, on the application of Empire Solar Solutions, LLC acting on behalf of Joseph Cawley, owner of tax parcel # 7271-00-418555, for a special permit for a ground-mounted solar array. The parcel is located at 162 Beilke Road in the R-20,000 zoning district of the Town of North East.

Applicant McConnell reviewed the landscaping plan. The engineer added some plant screening called Northern Privet. It is a rapid growing shrub and can grow up to three feet per year. The hedges will need to be trimmed or they will grow very tall. It will be planted along the southeastern portion of the yard. The shrub is deciduous and will lose its leaves in the winter months.

Chair Schroeder asked for a minimum height to be determined for initial planting. The board suggested three to four feet in height. Arnason asked a definition question about how the board is going to describe how many shrubs will need to be planted. Applicant McConnell said the twenty-two circles on the diagram represent the number of shrubs. She will get back to the board about the full length of each hedge line. Applicant McConnell will e-mail the details.

A motion was made by Lynch-VandeBogart, seconded by Greenwood, and passed unanimously to close the public hearing at 7:45 p.m. and open the regular meeting.

Chair Schroeder began the SEQRA review. Arnason mentioned two questions were marked as yeses. The first question was whether any portion of the proposed action or lands adjoining the proposed action contains wetlands or other water bodies regulated by a federal, state, or local agency. The board reviewed the wetland map from the Dutchess County parcel access website. The board determined the proposed action does not contain wetlands. The other question about whether the site of the proposed action contains any species of animals, or associated habitats, listed by the State or Federal Government as threatened or endangered. The bog turtle, northern long-eared bat, and the sedge wren are listed on the last page of the Environmental Assessment Form. According to the wetland map, this property is far from the wetlands and the bog turtle is not an issue.

A motion was made by Lynch-VandeBogart, seconded by Greenwood, and passed unanimously to classify this as a Type II action and to conduct the ZBA's own separate non-coordinated SEQRA review.

Chair Schroeder explained all special permits need to go to the planning board for their own site plan and SEQRA reviews. If we do a coordinated review, the ZBA sends a letter to the planning board stating the ZBA wants to be lead agency. This will result in a 30-day waiting period.

The board reviewed Part 2 of the Environmental Assessment Form. Chair Schroeder asked the first question of whether the proposed action would create a material conflict with an adopted land use plan or zoning regulations. The board responded no. The second question was whether the proposed action would result in a change in the use or intensity of use of land. The board responded no. The third question was whether the proposed action would impair the character or quality of the existing community. The board responded no. The fourth question was whether the proposed action would have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA). The board responded no. The fifth question was whether the proposed action would result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking, or walkway. The board responded no. The sixth question was whether the proposed action would cause an increase in the use of energy and would it fail to incorporate reasonably available energy conservation or renewable energy opportunities. The board responded no. The seventh question was whether the proposed action would impact existing public/private water supplies or public/private wastewater treatment utilities. The board responded no. The eighth question was whether the proposed action would impair the character or quality of important historic, archaeological, architectural, or aesthetic resources. The board responded no. The ninth question was whether the proposed action would result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora, and fauna). The board responded no. The tenth question was whether the proposed action would result in an increase in the potential for erosion, flooding, or drainage problems. The board responded no. The eleventh and last question was whether the proposed action would create a hazard to environmental resources or human health. The board responded no.

A motion was made by Greenwood, seconded by Pitcher, and passed unanimously that the proposed action will not result in any significant adverse environmental impacts.

Arnason mentioned the two other species mentioned earlier. After review of the northern long-eared bat on the Internet, it was determined a habitat might be created by planting the shrubs. The Internet also provided information on the sedge wren. It nests in wet grasslands and meadows in tall grasses and sedges. The board determined the proposed action not have any impact on the three species.

Arnason confirmed there was a letter in the file asking for a waiver on the requirement of a soil map.

A motion was made by Arnason, seconded by Lynch-VandeBogart, and passed unanimously to grant a special permit for the ground-mounted solar array as presented in the modified drawings dated March 25, 2019 and conditioned on the installation of the Northern Privet hedge shown in the diagram, with further information to follow on the hedge lengths, and the whips to be a minimum height of three feet.

A motion was made by Arnason, seconded by Greenwood, and passed unanimously to waive the requirement for a soil map.

The board reviewed the minutes of March 21, 2019.

A motion was made by Arnason seconded by Pitcher, and passed unanimously to approve the minutes of March 21, 2019 as presented.

A motion was made by Lynch-VandeBogart, seconded by Arnason, and passed unanimously to adjourn the meeting at 8:11 p.m.

Gail J. Wheeler, ZBA Secretary

**Approved: June 20<sup>th</sup>, 2019**