

Town of North East  
Zoning Board of Appeals  
Minutes of March 21, 2019

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, (ZBA), took place on Thursday, March 21, 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, Karen Pitcher, and Jon Arnason. Member Patti Lynch-VandeBogart was absent. Present in the audience were Ron Orlando, Joseph Cawley, Delora Brooks, and Erin McConnell, of Empire Solar Solutions, LLC, representing Joseph Cawley.

At 7:30 p.m., Chair Schroeder opened the public hearing by having Secretary Wheeler read the Notice of Public Hearing 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. Introductions were then made between the applicant and the ZBA.

Applicant McConnell provided new plans reflecting changes in the layout. She believed the changes were more in-line with the zoning law. The layout was shifted due to the setback requirements. This is a 5.7 kilowatt solar system on an acre of land. It is an 18-panel array and is 350 square feet in size. The original design had nine rows of two panels. The revised plans are six rows of three panels making it shorter instead of longer. It will be placed behind the shed. The original application showed 20 feet from rear and 30 feet from the side. Now, the setback is 30 feet from the rear and 35 feet from the side. New photos were provided showing the array from the road. The highpoint will be facing the shed.

Chair Schroeder inquired about the maximum height for screening before it affects the array. Applicant McConnell mentioned the screening depends on what is used. Vegetation may grow above the array. A privacy fence could be used. The array is at the maximum height of 12 feet and could be lowered to eight feet. Arnason stated it would be preferable to screen with vegetation. Applicant McConnell said she did not know how far from the array a fence would need to be placed and then it would be another issue if it affected the setback. Arnason mentioned an area variance could be applied for if that was the issue. Chair Schroeder suggested contacting a landscape architect. Applicant McConnell said a small privacy fence would be more logical because it isn't going to grow and the array height wouldn't be affected.

Chair Schroeder mentioned the visual impact outlined in the code and asked if there was an anti-glare coating on the panels. Applicant McConnell pointed out the anti-reflection technology outlined in the plans.

Chair Schroeder said special permits have to go before the planning board for its recommendation. The application was referred to the planning board on March 11, 2019 and it has 30 days to make any recommendations. The ZBA can't make take any action until that time.

Arnason, Pitcher, and Chair Schroeder all stated the array should have some screening. This will be the most visible from Mr. Lind's property. Arnason said vegetation is better than a fence for

screening and the setback doesn't pertain to vegetation. Chair Schroeder suggested consulting with a landscape designer or architect to make a recommendation and return it to the ZBA for consideration. Applicant McConnell will contact her bosses to review the criteria because the array will face the vegetation and the vegetation may not completely cover the total height. Greenwood and Chair Schroeder clarified that the board will not want any more than three or four feet. There are 35 feet for the cast of the shadow. Arnason said the object is to permit solar arrays and the board is not there to create impossible conditions.

Delora Brooks said she has mature arborvitaes that are 10 years old and about 20 feet tall. The arborvitaes grow straight up and not outward. The top can be clipped to contain the growth. They don't last forever and may need to be replaced. She believes the neighbor has the right to clip back to the fence line if it projects into the neighbor's yard.

Applicant McConnell asked what the next steps are after submitting the landscape drawings. Chair Schroeder said we need to wait for the planning board. The SEQR review will wait until the board has more information regarding the visual impact. Arnason mentioned the requirement for a soil map. Chair Schroeder said there is a letter in the file from the applicant requesting the requirement be waived. Arnason read the criteria outlined in the solar law. The criteria is a soil map, blue prints, equipment specifications, description of any clearing of trees, all information required by the solar energy system building permit, and any other information which the ZBA deems necessary for adequate review. Arnason suggested we get a copy of the solar energy system building permit. Chair Schroeder will contact the building inspector about the building permit and we will make it a condition when the decision is written.

A motion was made by Arnason, seconded by Greenwood, and passed unanimously to recess the public hearing until April 18, 2019 at 7:30 p.m.

A motion was made by Greenwood, seconded by Arnason, and passed unanimously to open the regular meeting at 8:03 p.m.

The board reviewed the minutes of January 31, 2019.

A motion was made by Arnason, seconded by Pitcher, and passed unanimously to approve the minutes of January 31, 2019.

A motion was made by Greenwood, seconded by Arnason, and passed unanimously to adjourn the meeting at 8:07 p.m.

Gail J. Wheeler, ZBA Secretary

**Approved: April 18, 2019**