

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES September 13, 2016

Members

Jeff Pangburn, Chairman
Lou Polsinello III
Joyce Lapham
John Conway, Jr
Matt Ostiguy
Bob Seward III
Domenico Pirrotta

Also Present:

George Hoffman, Attorney
Kateri Rhatigan, Stenographer
Alison Lovely, ZBA Secretary

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of seven (7) members were present. Introductions were made.

OLD BUSINESS:

PUBLIC HEARINGS:

Reconvene: ZBA Appeal #2016-11-Rapp-2 Hillview Avenue-Use Variance for the storage/whole granite business out of existing garage

Chairman Pangburn apologized for the late scratch. Chairman Pangburn stated that the applicant has retained counsel and they have requested a meeting with the Town which has been set for this Friday, September 16, 2016. An individual spoke and asked what is the Board doing with this application, as the applicant has postponed the appeal for months and how many postponements is the Board going to give the applicant. The applicant has still been doing business. Chairman Pangburn stated that a stop work order was issued by the Building Department and that if there are any complaints that the Police Department should be notified. Chairman Pangburn stated that this application should be on the agenda for September 27, 2016 and it will be posted on the web site as soon as it is confirmed.

NEW BUSINESS:

PUBLIC HEARINGS:

A motion to reopen the public hearing for ZBA Appeal #2016-14- Snopkowski-2 Castleton Avenue-Special Use Permit for a Home Occupation (Sewing Business) was made by Chairman Pangburn- Seconded by Matt Ostiguy. Motion carried by a 7-0 vote.

Chairman Pangburn clarified that the Public Hearing had been kept open to allow for the receipt of the Planning Board's recommendation and the submission of any additional written comments / materials but that there would be no further public comments.

The following was read and/or referenced as being in the file.

- Planning Board Recommendation and two letters received. One from Mr. Preston, the former owner of 8 Castleton Avenue dated September 11th. One letter from Mr. Taratus dated September 9th & the other from September 13th.

Chairman Pangburn stated that he wanted to clarify that the statement made by Mr. Taratus from his letter dated September 9th, referencing a site plan that was allegedly marked up by the Chairman. Chairman Pangburn stated that the site plan that was an Exhibit and made part of the file was marked up by the applicant himself. The only marking's the Board puts on an exhibit is that it's labeled an exhibit.

A motion to close the public hearing was made by Domenico Pirrotta – Seconded by Joyce Lapham. Motion carried by a 7-0 vote.

ZBA Appeal #2016-15– Monolith Solar-Luther Road-Use Variance for the installation of a Solar Farm

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- Planning Board recommendation
- Supplemental report from Planning Board member Jim Giordano
- ZBA Application, Short EAF, Denial, Use Variance Criteria & Authorization Form
- Bldg. Permit Application

Tom & James from Monolith Solar both presented the application to the Board. The project is proposed for a 1.2 acre solar array on Luther Road. Chairman Pangburn asked the applicant to address the Use Variance Criteria.

James stated that

- 1) If the company cannot do this, they will lose a lot of money. Alternative, allowable uses in that zone will not provide a reasonable return for their company. If the property is purchased, it will be useless to them. This is similar to a utility facility.
- 2) Not all property can work for them. They have specific needs for their business and this property meets all of their needs. There is high ample electric use and power close to this site and the size of the property is perfect.
- 3) After construction, there is no additional traffic. The solar garden will be screened from view by a buffer that will be put up.
- 4) Not self-created. This is only an accessory structure. The regulations cause the hardship and need to be updated to allow renewable energy.

Chairman Pangburn asked if there were any questions from the Board.

- John Conway confirmed that Monolith doesn't currently own the property. James stated that is correct.
- Chairman Pangburn asked if the applicant or Monolith is aware of the allowable

uses in that zone? James stated that they have not looked at all of them. Also if the company has looked at constructing any of the allowable uses on that parcel.

Chairman Pangburn read into the record the following letters received.

- Letter from Pamela & Robert Hellwig of 814 Luther Road, dated September 9, 2016
- Letter from Anthony & Anna Dwileski of 86 Morgan Road, dated September 7, 2016 &
- Letter from Mr. Robert Leavitt, dated September 12, 2016

Chairman Pangburn asked if there was anyone present to speak in favor or opposition of the application.

- Anthony Dwileski stated he is worried about wetlands, when there is heavy rains Morgan Road floods. He submitted a photo. Other concerns is that it will depreciate house values, wildlife, health and safety concerns, and potential high voltage electromagnetic fields close to his residence, eyesore to neighbors, and removal of trees and shrubs, sun reflection and glare, what if it's abandoned.
- Resident on Morgan Road- Property abuts the proposed property which has been for sale for approximately 15 years with no interest. There is no traffic, noise or pollution, it a renewable energy. He supports it.
- Another resident on Morgan Road-Doesn't feel it's the right place and would be able to see it in the fall.
- Mark Taratus stated that over the years, the signs left by the business become an eyesore. Can they condition the clean-up of signs if the application is approved.
- Resident-lives in a house with solar panels on it and provide the family with a lot of energy.
- Resident-Shouldn't let businesses in that zone and doesn't want to see it.
- Kathryn Faas a resident across from the proposal doesn't want it at all. Rain causes issues in that area. The land is too wet. Buses come up that road several times a day. If she has to sell her house, how much would she get for it. What is the lightning strikes and effects on pacemakers.
- Erica on Morgan Road-The solar panels would be in her back yard. She is in favor of it. No more noise or traffic, could build many houses there. She would rather have renewable energy in Town. She feels that the Town should support renewable energy.
- Anna Dwileski-Her land is in front of the proposal. She has paid over \$10,000 for a new leech field, as that land is too wet. The people around it won't benefit from it. She doesn't want it.
- Resident of 87 New Road-this would be in their back yard and they don't want it.

Chairman Pangburn asked if the Board had any questions. Tom from Monolith asked what only uses are allowed if this doesn't go through. The solar farm has a 50' setback from the road, so there is a significant buffer. There isn't a buffer that would cause storm water issues. James from Monolith Solar stated that this isn't an eyesore. It's only 10' high and the buffer would shield it. They have a good relationship with the Best Luther Fire Dept. and they are trained to handle any issues. Wetland issues would be addressed. There are only poles in the ground which support the system.

- Ann Dwileski-she asked when the rain hits the solar panels, then where does it go.

There were no other questions from the Board.

A motion to close the public hearing was made by Lou Polsinello – Seconded by Bob Seward. Motion carried by a 7-0 vote.

**ZBA Appeal #2016-17– Rensselaer County Bureau of Public Safety-Ridge Road-
Special Use Permit for the installation of a cell tower**

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Special Use Permit Criteria & Authorization Form
- Bldg. Permit Application

A representative from the County spoke and stated that Rensselaer County is revamping the county emergency communication system and this tower will serve the area and is crucial for coverage. The tower is the key piece for connectivity of the entire system. The cost of the tower is approximately \$23 million. The purchase of all minitors, radios will be provided free of charge to all of the first response agencies. Chairman Pangburn introduced Dick Comi and stated that he is the Town's consultant for cell towers; he conducts the technical review on behalf of the Zoning Board. Dick Comi stated that he first reviewed the application back in June and that there were approximately 20 some technical items that the County had to address, the need and safety were the top items. In case of a catastrophic event, what would happen. All issues have been met. Dick Comi stated that he will have a report on the structural foundation as they just received the info on the foundation this afternoon.

Chairman Pangburn stated that since there is another tower up in that vicinity could Dick Comi address why the County isn't co-locating with that existing tower in the area. Dick Comi stated that the existing tower isn't tall enough structurally and has carriers right up at the top of it. It doesn't meet the requirements necessary for the County Tower. Chairman Pangburn asked if the Board had any questions.

•John Conway asked what the size of the other tower is. Dick Comi stated that the existing tower is 180' and the existing tower has carriers all the way at the top, there is no room. Dick stated there was an issue regarding the breakpoint of the tower. That information was received just this afternoon. Dick stated he didn't have the information on the piece under the piece of the breaking point. Everything below is overdesigned by at least 15%. The tower is designed to break and fall on the same property.

Chairman Pangburn asked if there were any questions from the public.

•An individual asked where the location for the tower is. Chairman Pangburn

stated that it's on the Town's transfer station property.

- Another resident in the area asked if there will be a propane tank on site and if it will be visible and if a wall can be built around it.
- Mark, a consultant for the County stated that the tank is 1,000 gallons, is white and above ground and will be fenced in.

Dick Comi stated that it could be conditioned that something specific be placed around the tank.

- Bob Lehmann, the chief of the East Greenbush Fire Department is in support of the tower. He appreciates the support of the Town by the County.
- Joyce MacIntyre inquired if the two towers will interfere with one another. Mark, consultant for the County stated that no, they will not. Dick Comi agreed too.

- Tom Grant lives on Celeste Drive and supports the tower.
- David Cook spoke in support and stated that the emergency personnel need tools to do their jobs and that the Board is standing in the way of their tools.

Chairman Pangburn stated that the Board typically waits for a Planning Board recommendation, but the application was referred to the Planning Department over a month ago and the Board can vote tonight if they chose.

A motion to close the public hearing was made by Matt Ostiguy – Seconded by Domenico Pirrotta. Motion carried by a 7-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency

In regards to **ZBA Appeal #2016-15– Snopkowski–2 Castleton Avenue-Special Use Permit for a Home Occupation (Sewing Business)**, the Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Jeff Pangburn;

Second by: Bob Seward (*Discussion*)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

MOTION: In regards to **Appeal #2016-14**, the Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2

– Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts.

Motion by: Jeff Pangburn;
Second by: Matt Ostiguy (*Discussion*)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency
In regards to **ZBA Appeal #2016-15– Monolith Solar-Luther Road-Use Variance for the installation of a Solar Farm**, the Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Jeff Pangburn;
Second by: Lou Polsinello (*Discussion*)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

MOTION: In regards to **Appeal #2016-15**, the Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will result in significant adverse environmental impacts.

Motion by: Jeff Pangburn;
Second by: John Conway (*Discussion*)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>

Matt Ostiguy Yes
Jeff Pangburn Yes
Domenico Pirrotta Yes
Lou Polsinello III Yes
Bob Seward III Yes

Motion carried 7-0

MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency
In regards to **ZBA Appeal #2016-17– Rensselaer County Bureau of Public Safety- Ridge Road-Special Use Permit for the installation of a Cell Tower** the Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Jeff Pangburn;
Second by: Matt Ostiguy (*Discussion*)

A vote was taken as follows:

John Conway Jr. Yes
Joyce Lapham Yes
Matt Ostiguy Yes
Jeff Pangburn Yes
Domenico Pirrotta Yes
Lou Polsinello III Yes
Bob Seward III Yes

Motion carried 7-0

MOTION: In regards to **Appeal #2016-17,** the Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts. (Chairman Pangburn read through each item on Part 2)

Motion by: Jeff Pangburn;
Second by: John Conway (*Discussion*)

A vote was taken as follows:

John Conway Jr. Yes
Joyce Lapham Yes
Matt Ostiguy Yes
Jeff Pangburn Yes
Domenico Pirrotta Yes

Lou Polsinello III Yes
Bob Seward III Yes

Motion carried 7-0

WORKSHOPS:

ZBA Appeal #2016-14– Snopkowski-2 Castleton Avenue-Special Use Permit for a Home Occupation (Sewing Business)

Resolved, That the Board of Appeals makes the following findings of fact:

1. The application has been reviewed and determined to be compliant with the 7 criteria as defined in Section 3.11 of the Town’s Comprehensive Zoning Law; therefore, be it

Resolved, that the application for a Special Use Permit for the operation of a home occupation (sewing business) be GRANTED with one condition to be fulfilled by the owner before he applies for a Building Permit:

1. Owner agrees to notify all clients and/or customers to utilize the parking area in front of the home occupation only and not use neighboring properties for turning around.

This resolution was moved by Jeff Pangburn and seconded by Bob Seward III at a meeting duly held on September 13, 2016.

(Discussion)

A vote was taken as follows:

John Conway Jr. Yes
Joyce Lapham Yes
Matt Ostiguy Yes
Jeff Pangburn Yes
Domenico Pirrotta Yes
Lou Polsinello III Yes
Bob Seward III Yes

Motion carried 7-0

ZBA Appeal #2016-15– Monolith Solar-Luther Road-Use Variance for the installation of a Solar Farm

Resolved, That the Board of Appeals makes the following findings of fact:

1. The applicant failed to provide any financial evidence to substantiate that they cannot realize a reasonable rate of return.
2. The property does not suffer a unique hardship.
3. The Use Variance will alter the essential character of the neighborhood.
4. The alleged hardship has been self-created.

Resolved, that the application for a Use Variance for the installation of a solar farm be DENIED.

This resolution was moved by Lou Polsinello III and seconded by Bob Seward III at a meeting duly held on September 13, 2016.

(Discussion)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

**ZBA Appeal #2016-17– Rensselaer County Bureau of Public Safety-Ridge Road
Special Use Permit for the installation of a Cell Tower**

Resolved, That the Board of Appeals makes the following findings of fact:

1. The application has been reviewed and determined to be compliant with the 7 criteria as defined in Section 3.11 of the Town's Comprehensive Zoning Law; therefore, be it

Resolved, that the application for a Special Use Permit for the installation of a 12' x 32' prefabricated concrete communications shelter, a 180' self-supporting three legged communications tower and a propane fueled generator be GRANTED subject to the following conditions to be completed prior to the issuance of a building permit and start of construction:

1. The Applicant shall provide stamped and signed construction drawings, which include the date in the seal to ensure the Engineer has reviewed the most recent revision and a breakpoint analysis that clearly demonstrate both the foundation and the tower are oversized by a minimum of 15% below 145' height relative to the remainder of the tower over 145' to ensure that if the tower breaks it will break at the 145' level and fall within the parcel boundaries.
2. Applicant shall have sufficient funds in the escrow account with the Town to pay all expenses related to the application review, the issuance of permits, and inspections.

This resolution was moved by Jeff Pangburn and seconded by Lou Polsinello III at a meeting duly held on September 13, 2016.

(Discussion)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

NEXT MEETING: The next meeting will be held on September 27, 2016

APPROVAL OF MINUTES:

Motion by Matt Ostiguy to approve the meeting minutes from the August 9, 2016 meeting. Second by John Conway Jr. Motion carried by a 6-0-1 vote. Domenico Pirrotta abstains.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward III. Seconded by Matt Ostiguy. Motion Carried by a 7-0 vote.

Respectfully Submitted

Alison Lovely, ZBA Secretary