

Town of New Paltz  
Zoning Board of Appeals  
Final Meeting Minutes  
October 9, 2018

Chair Loza called the meeting to order at 7:00pm for October 9, 2018.

Roll Call: Steve Esposito – present, Leonard Loza – present, Kelly O'Donnell – present, Caroline Paulson – present, Joe Douso – present

Others Present: Attorney Joe Moriello, Building Inspector Stacy Delarede

**Review and Approval of Minutes**

The minutes from the September 11, 2018 are presented.

**Motion 1 by Steve Esposito to accept the minutes from September 11, 2018. Motion 2 by Caroline Paulson. All present in favor. Motion Carried.**

Chair Loza asked if anyone was there for public comments. No public comments.

Quorum check for November 13 meeting – all members yes to being present.

**Public Hearing – Apex Solar Power Area Variance**

Chair Loza asked for a motion to open the public hearing for Apex Solar.

**Motion 1 by Kelly O'Donnell. Motion 2 by Caroline Paulson/Joe Douso. All present in favor. Approved.**

Chair Loza called Ron Nelson, representative from Apex Solar Power, before the Board. Chair Loza asked Mr. Nelson to give them an overview of his application. Mr. Nelson stated that the property owner, Mr. Margariti, wanted to install a ground mount array for electricity because the owner's electricity bill is high. Mr. Nelson stated that the roof had no area space, and was fragile, as well as the south facing area was too small. Therefore, Mr. Nelson was before the Board to get a variance for the side yard ground mount. When asked by Chair Loza, Mr. Nelson gave the measurements of the solar array as having 90 solar panels, 3.5 by 5.5 feet each, a length of 82 feet and 17.25 feet in width with a height of 12.17 feet at the highest and 4 feet on the lowest to meet the pitch.

Caroline Paulson asked if trees and bushes were added to the plan. Mr. Nelson responded by stating that pictures were provided of existing landscaping near the proposed location of the array as well as proposed bushes.

Chair Loza gave a visual display of gauged measurement of paces approximately 3 feet long, for the benefit of the audience, of how large this ground mount is: 82 feet long, and 17.25 feet in width. Attorney Moriello asked, for the record, is he gauging 3 feet (for each of his paces), and Chair Loza stated yes, and he ran out of room (within the community center).

Angelo Routolo, from 137 State Route 208, LLC. Stated he is right next door, understands the size of the structure but it covers less than 1/3 of the total lot size. He supports solar, since it produces electricity, and that is what New Paltz is about looking for alternative sources of energy. He added that Rt. 208 has a lot of water, and the property is wet.

Joe Douso stated that water has nothing to do with the solar panel. His own property is sloped and wet. Joe Douso added that the owner wanted to reroof in two years, so if the owner wants it (the solar array), reroof the house now and put it on the house, adding it's a monster, and doesn't want to see it.

Angelo Routolo stated that the owner needed two years to redo his roof, and putting the solar in the side yard, it will be down low and not seen, and it will help reduce carbon.

Joe Douso stated to not talk about carbon, stating for zoning do it right, and he has no problem putting in solar. If it's a rental house for students, charge for the electric. Joe Douso stated he does not want to set precedence that will have people putting them on the ground instead of roofs.

Angelo Routolo added he supports the solar panels and urged the Board to vote in favor.

Thomas Pallus of 130 State Route 208 spoke, stating he is not opposed to solar, but this structure is large, and totally viewable on Rt. 208. He lives directly across the street and his property when looking at the mountain looks down at the property. Mr. Pallus also added that it is an illegal rooming house, zoned R1 with an accessory apartment. Chair Loza stated as an accessory apartment 5 people are allowed as tenants.

Stacy Delarede stated the former owner was in court for violations, and chose to sell. The new owner assured them it is his second residence, and there has been no talk to them it was going to be a rental.

Mr. Pallus also added he has a complaint is the trash blowing across the street with the container on Rt 208 for the garbage cans should be back behind the house. Stacy Delarede stated the container on 208 is for the trash cans.

Mr. Pallus continued, that he loves solar but does not want to see it when he looks at Mohonk, adding that it (the solar array) will affect the value of his home and he cares about his property value and area he lives in and wants to keep it that way.

Caroline Paulson stated she **would view the application more favorably if the owner had lived there** for at least a year and come with his own personal experience but has not done so.

Joe Douso commented that he's not sure of the square feet of the house, but his house uses a lot of electricity but not thousands a month like being said here. Joe added that this is a beast, its gigantic (referring to the solar structure).

Ron Nelson stated it looks small when compared to the property itself. Caroline Paulson commented it doesn't look small to her. Joe Douso added house is 56 feet, and this is 30 feet longer than the house and half as wide as the house. It has to go someplace else that is allowed or redo the roof and put it there.

Ron Nelson stated that structurally the house can't hold it.

Joe Douso commented that he's sorry he (the owner) bought a house that needs work.

Kelly O'Donnell commented that they were not there for the viability of solar, electricity costs but for a variance. Commented on the pictures provided and after visiting the site, Kelly O'Donnell stated she doesn't see how it will fit. The size of the unit, the view of it. The pine tree (in the pictures) hides nothing.

Caroline Paulson stated that we (the Town) has codes for a reason.

Chair Loza commented that the picture provided with the pine tree, he feels that it will continue to grow and will obstruct the structure. With the arch of the sun, they may have to remove the tree.

Ron Nelson stated the owner has no plan to remove the pine tree.

Chair Loza asked how are you going to maximize the efficiency of the collector with an obstruction (the pine tree)? Stacy Delarede stated that a permit can be obtained to cut the tree down since it is far enough in it can be cut. Chair Loza stated that the slope of the land on the west side. Ron Nelson stated that the slope of the structure is with the land.

Chair Loza stated that one of the five questions to be answered is how it will affect the character of the neighborhood, and Chair Loza stated one neighbor is extremely concerned about the structure and how it affects his property and neighborhood.

Kelly O'Donnell asked if there is reflection to oncoming traffic. Ron Nelson stated there is no reflection, as they (the panels) are matte, not mirrors.

Mr. Pallus stated that this lot is large and he could put it to the west and remove some of the trees, but there is room there. Chair Loza commented that would require labor and expense but it's not what is being presented to the Board.

Ron Nelson stated that the cost, and the owner may not want to take down trees.

Attorney Moriello stated he was concerned about the things the Board has to address in regard to the variance. If the anticipated cost to power is an exaggeration, then what formed the basis, and wanted to see how it was determined to meet his (the owner) needs.

Ron Nelson stated that the last 13 months of usage was used to determine that 9300 watt panels would meet his needs. Attorney Moriello asked if the owner has owned it that long. Ron Nelson replied that it is electric heat and now the A/C is on. Chair Loza commented that there is no greenery or existing trees on the site plan, adding that there is no screening.

Caroline Paulson stated that the tenant's usage could be totally variable, and the owner has not been there and figured it out, even on weekends. Ron Nelson stated that the owner has been there working on the house during the spring and summer. Caroline Paulson commented that winter is the biggest usage.

Attorney Moriello stated that one of the items that has to be proven is if whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.

Attorney Moriello asked Ron Nelson if he has anything to indicate assuming work done on the roof, the panels installed on the roof, if that could be an alternative.

Ron Nelson replied the owner does not want to replace the roof at this time.

Attorney Moriello stated that if were put on the roof or space cleared in the rear lot, applicant runs the risk that proof to answer falls short. The concern here is a high degree of profitability without other alternatives being pursued. Attorney Moriello added that another question to answer is whether the requested area variance is substantial, adding that this is a very serious Board and this needs to be addressed, if substantial for using the front and the side yard, and what the applicant wants is it considered to be self-created.

Ron Nelson commented it could be put in the back, 2 tree heights away from solar array with 60 foot trees, 120 feet away, they will lose 90% of the forest on the backside of the property.

Stacy Delarede stated it depends in how you place the solar, there'd be more room if you turn the panels. Chair Loza commented that west is better. Caroline Paulson offered a suggestion that the each tenant have a separate electric meter to pay their own bill.

After further discussion Chair Loza indicated that this application needs to go to Ulster County. Ron Nelson indicated he doesn't know if the owner will go forward. Chair Loza stated that if applicant thought to leave the public hearing open, wait until the owner is here. Attorney Moriello stated that if the applicant has any additional evidence for the record, then the Board would entertain to keep the public hearing open, but if not, the Board can

close the public hearing. Joe Douso confirmed with Ron Nelson that the owner doesn't want to be here. Kelly O'Donnell stated the final submission has to also go to County.

Attorney Moriello stated to close the public hearing. Send the application to county but if the applicant wants to withdraw, written notice to the Board must be done as soon as possible.

Ron Nelson commented that everything was done on his behalf, and doesn't think he (the owner) will go forward.

Chair Loza stated that Ron Nelson, speaking on behalf of the property owner, wants to close the public hearing.

**Motion 1 by Leonard Loza to close the public hearing for Apex Solar.**

**Motion 2 by Kelly O'Donnell. All present in favor. Approved.**

**Motion 1 by to Kelly O'Donnell to send to Ulster County Planning Board.**

**Motion 2 by Leonard Loza. 4 in favor, 1 abstain. After discussion, Caroline Paulson changed her vote to yes, All present in favor. Approved.**

#### **Timely Signs of Kingston – Area Variance**

Tyson McCasland from Timely Signs of Kingston approached the Board. Mr. McCasland explained that the sign at Copeland Funeral Home on 162 S. Putt Corners Road was dilapidated and they were upgrading it. He added they are reusing the posts, and the sign is the same size as there is now. Steve Esposito asked if the sign was the same size. Mr. McCasland stated it was. Steve Esposito asked if it would be lighted. Chair Loza commented that one of the concerns County has is lighting and glare on the road, and how it is to be shown. Kelly O'Donnell stated to note that on the plans before it goes to County. Mr. McCasland agreed to update the plans. After discussion, Mr. McCasland requested to set the public hearing.

Kelly O'Donnell motioned to set the public hearing for November 13. Chair Loza referenced Stacy's memo to the Board. Stacy Delarede noted that the reason for the variance is that the existing sign is too big according to new updated code; it can only be in excess of 12 square feet, with an additional problem noted by Stacy is that it is a ladder sign. Stacy stated they need to modify the sign on the plan to a monument sign, and lower the sign down to no more than 6 feet (from the ground) mounted on a base. The maximum height is 6 feet, and if it's less than 6 feet in height, it's okay per Stacy. Stacy noted that the 30.5 square feet is not permitted in R1 District, and also stated he needed to add the street number to the sign. Mr. McCasland agreed to the changes.

Attorney Moriello stated that before the public hearing, the application changed significantly so the applicant will need to amend the language, also recommending a letter to the Board of what changes are being made.

Stacy Delarede commented the variance is only for the size of the sign if the applicant makes the required changes to the sign structure of 12 sq. feet from the signage of 30 sq. feet, this will be the only variance requested.

Joe Douso commented since it is a funeral home, we all know that, why is a sign needed, the whole world knows where the funeral home is.

Stacy Delarede commented that the sign when it was originally erected it was a legal sign; with the change to the sign law, with bigger signs, businesses were given two years to change all the signs to meet the new requirements, but there's still a number of signed to still be changed. Most didn't want to incur the expense so through the enforcement process the changes are done by an enforcement compliance.

Chair Loza commented that the size law was written for continuity throughout the community as a standard but that it almost contradicts the law with regard to size based on what's presented by the Town Board.

Attorney Moriello stated that is why we have a variance process and those reasons need to be part of the record.

Attorney Moriello informed the applicant he would need to be ready to answer the (5) questions on the area variance application.

Caroline Paulson commented that there is purpose for the sign not for just the community but for people from out of town for a service would clearly know where they're going.

Joe Douso asked if traveling north would there be a problem seeing cars? Stacy Delarede stated there is no line of sight issue with the sign. Caroline Paulson asked if that was appropriate to answer that question on the application to show people that they've reached their destination.

Chair Loza asked if the applicant wished to proceed. Kelly O'Donnell noted that they would need the updated application and letter with changes. Mr. McCasland agreed and requested to set the public hearing.

**Motion 1 by Kelly O'Donnell to amend her previous motion to set the public hearing for November 13 pending the revised submittal from the applicant by close of business on October 16<sup>th</sup>.**

**Motion 2 by Caroline Paulson. All in favor. Approved.**

Chair Loza stated he will now turn the meeting over to the Deputy Chair Kelly O'Donnell and he then recuses himself and leaves the meeting at 8:20pm.

**ZBA 18-172 New Paltz Canine Education Center – Area Variance**

Deputy Chair O'Donnell states that Ulster County Planning Board has no comments on the application referral. Valerie Erwin noted had the public hearing was held, and left it open. The Planning Board is waiting for the ZBA's response. Joe Douso asked what the zoning (for the application location) was. Stacy Delarede replied it was Residential 1. Joe Douso asked if they were changing the zoning. Stacy Delarede commented that the original applicant of this structure was Ulster BOCES, then over the years different applicants were in there, predominantly BOCES, elder care, nursery schools. Valerie Erwin commented that the previous use was BOCES, elder care, and now a nursery school. Stacy Delarede stated that based on Valerie's application, Stacy made the determination of benevolent use – a Benefit Corporation, and went to the Assessor, who noted she would be eligible for the tax abatement. Attorney Moriello asked that your determination was accepted by the Planning Board. Stacy noted that the Planning Board Attorney was okay with it, but some members may not be. Stacy added that the issue the Planning Board brought up was the Benefit Corporation could change so a condition of the approval was if there is a change of status, the Building Department be notified.

After a brief discussion on noise and plantings, Deputy Chair O'Donnell asked the applicant to address the five questions in the area variance application:

- a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. Response=No.
- b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. Response=No.
- c) Whether the requested area variance is substantial. Response=No.
- d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Valerie Erwin added the need for the fence height (6 foot) is for the dogs, keeping the dogs secured.

Deputy Chair O'Donnell asked if the Board if there were any last questions or any further comments from the Board.

**Motion 1 by Caroline Paulson that we vote on this application as it stands as per the plans as amended on 8/4/2018. Motion 2 by Joe Douso. All in favor. Variance granted.**

**Motion 1 by Steve Esposito to adjourn the meeting. Motion 2 by Joe Douso. Meeting adjourned at 8:45 pm.**

These minutes respectfully submitted by Pat Atkins, Secretary