

The ***Zoning Board of Appeals*** of the Town of Schaghticoke met at the Town Hall, 290 Northline Drive, Melrose NY 12121 on Thursday, September 7, 2023

REGULAR MEETING

Roll call took place.

Present:

Ed McDonough, Chairman
Rich Geddis
Kristin Griswold
Lettie Saheim
Jason Shover

Absent:

None

Kristin Pratt, Deputy Town Attorney, and Elizabeth Hale, Clerk, were present.

7: 00 P.M. The minutes from the August 3, 2023 meeting were reviewed. Jason Shover made a motion to approve the August minutes as submitted. Kristin Griswold seconded.

Ayes: Shover, Geddis, Griswold

Nays: None

Abstention: McDonough, Saheim

The minutes from the July meeting were reviewed by the Board. Ed McDonough made a motion to approve the July 6, 2023 minutes. Lettie Saheim seconded.

Ayes: McDonough, Geddis, Saheim

Nays: None

Abstention: Griswold, Shover

Chairman McDonough explained the sequence of the public hearing, including the appropriate period of time for questions and comments.

Brian Valade, addressed the ASD Schaghticoke Solar II, LLC solar project to be located at the former landfill site at 863 Old Schaghticoke Road. Mr. Valade questioned whether the Notice of Hearing should have referenced NYSEG as the owner of the easement adjacent to the proposed project. Mr. Valade stated that the 250' center easement that cuts through the Valade property, as well as the landfill property, is owned by NYSEG and that NYSEG maintains regulations with regard to easement usage. In addition, Mr. Valade

stated that since the applicant is seeking a 0' setback along (what he considers to be) a NYSEG easement, he believes that NYSEG would have an interest in the proposed project and that NYSEG should have been notified of the proposal. NYSEG is not an owner of the real property; therefore, the firm was not notified.

The Board discussed the information presented by Mr. Valade concerning the ownership of the easement and agreed to postpone the public hearing to permit notification to NYSEG.

Ed McDonough made a motion to table the public hearing until next month's meeting at 7:30 p.m. in order to allow time to contact and hold discussion with NYSEG. Rich Geddis seconded.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

Ed McDonough made a motion to suspend the regular meeting and to open the public hearing for Application #4-23 of ASD Schaghticoke Solar III, site of the town highway garage, for area variances and a use variance. Lettie Saheim seconded the motion.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

PUBLIC HEARING

7: 15 P.M. Ed McDonough read the Notice of Hearing to entertain the application of ASD Schaghticoke Solar III, LLC for a use variance and area variances necessary to construct a proposed 1.25 megawatt solar facility on property owned by the Town of Schaghticoke, located at 895 Old Schaghticoke Road, Schaghticoke, New York, Tax Map #21.-2-4.2, the site of the Town Highway Garage. The applicant is seeking a use variance pursuant to Section XI of the Town Zoning Law and the Town Solar Law (Local Law No. 1 of 2017) to permit a commercial solar facility in the Highway Commercial zoning district as the Town Solar Law solely permits such facilities in the Residential Agricultural zoning district. The applicant is also seeking the following area variances required pursuant to Town Zoning Law Section IV, Zoning Schedule of Lot Dimension and Bulk Requirements, : (1) a 30' left side setback variance for a proposed setback of 0' from a National Grid right of way on property owned by the Town of Schaghticoke; (2) a 30' right side setback variance for a proposed setback of 0' from adjacent property owned by National Grid; and (3) a 40' rear setback variance for a proposed setback of 0' from a National Grid right of way on property owned by the Town of Schaghticoke.

Jason Dell, engineer, Lansing Engineering, P.C., presented the application for a proposed 1.25 megawatt solar facility to be located at 895 Old Schaghticoke Road, the site of the Town Highway Garage in Schaghticoke, NY. Sean McClenahan, Director of Operations with ActiveSolar, was also present. Mr. Dell stated that both use and area variances were being requested; a use variance is required since the district is Highway

Commercial where solar facilities are not permitted. In addition, area variances are requested for left, right and rear setbacks to allow a 0' setback. A survey of the triangularly-shaped 6 acre project was displayed. George Conover, Hemstreet Park Fire Chief, stated that he is concerned about providing fire protection to other solar facilities within the Town, since access is not sufficient. Mr. Conover added that other solar facility properties are unreachable for fire apparatus and that a complete assessment of this facility should be done and all requirements and certification should "be completed". Mr. Conover stated that a third party engineer should be hired and survey plans, meeting the NFPA requirements, should be stamped. In response, Mr. Dell stated that a 16' open area is planned from the array to the fence and that access to the eastern side of the fence is sufficient. In addition, for sufficient access, there are no structures along the perimeter. Mr. McClenahan stated that Lansing Engineering follows and adheres to NFPA guidelines.

Robert Cross, 155 Stillwater Bridge Road, was present and wanted to know how the Town was to benefit from the proposed solar facility. Mr. Cross was informed that revenue from the lease of the property would primarily provide the Town with financial benefit. In addition, the community within an approximate 20 mi. radius would have the option to purchase the energy produced by the proposed solar facility through National Grid.

Brian Valade expressed concern with regard to the possibility of bankruptcy (of the project) and the resulting toxic waste.

Lettie Saheim responded, stating that a bond is posted, by the applicant, with the Town, should decommissioning be required in the case of bankruptcy.

Ms. Bartis, Avenue A, Melrose, stated that she had a B.A. in environmental sustainability, is not concerned about toxic waste and is "happy" about the construction and use of solar facilities. Ms. Bartis stated that fossil fuels, such as coal, is toxic as is electronic waste, such as televisions, cell phones, laptops, etc. which have a far shorter turnover or lifespan than solar panels and that solar panels, after a lifespan of 25 years, can be recycled. Ms. Bartis added that the panels are sealed, will not leak into the ground, or negatively affect the ground water and that the radiation level is equivalent to that found in cell phones. Ms. Bartis noted that concerns expressing the unsightliness of the panels are posted on social media; however, she believes that the community needs to see solar facilities through a scientific lens.

Jay Shover stated that he was concerned not only about the impact of a solar project upon the community, but also about the vision that the community foresees for the development of the Town.

Rich Geddis noted that subscribers to the community solar farm would benefit from the solar farm by saving on their National Grid rates and that the Town would benefit financially by leasing the land to the proposed ASD Schaghticoke solar facility.

Brian Valade asked if the approval or disapproval of the variance would be "setting a precedence".

Chairman McDonough replied that each application is reviewed on an individual basis by the Board. Atty. Pratt added that there may be some comparisons drawn from similar appeals.

Chairman McDonough made a motion to adjourn and continue the public hearing until the October ZBA meeting so that the applicant has the opportunity to meet with Chief Conover. Rich Geddis seconded.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

REGULAR MEETING

7: 15 P.M. Jason Shover asked Jason Dell if locating the fence for the ASD III project further away from the solar panels was considered.

Mr. Dell replied that the solar facility covers a small area of property located adjacent to both the National Grid utility corridor and substation; therefore, the footage between the solar array and National Grid property is appropriate for the site. Mr. Dell added that he is willing to meet with Fire Chief Conover to discuss Mr. Conover's concerns with access to the project for adequate fire protection.

Dennis Kulzer, 317 River Bend Road. Mr. Kulzer was not present. Chairman McDonough presented the information relating to the application of Dennis Kulzer who resides at 97 Bracken Road and owns a 5,776± square foot lot at 317 River Bend Road, Pleasantdale. Mr. Kulzer appeared before the Board in March 2022 to request an area variance in order to construct a dwelling within 100 feet of the Hudson River at the 317 River Bend Road address. At the March meeting Chairman McDonough and Kristin Pratt explained to Mr. Kulzer that they reviewed the FEMA maps along with the Town Code Enforcement Officer and the property appeared to be partially located within the FEMA floodway with another portion of the property possibly located in the flood plain. As a result of the discussion with regard to the FEMA maps and the exorbitant costs for a required hydraulic analysis to permit development of the property, Mr. Kulzer asked Mr. McDonough to put the application "on hold". Since then, Mr. Kulzer hired Mark Danskin, surveyor, who consulted with the Army Corps of Engineers. It was determined that the site at 317 River Bend Road is located outside of the flood zone by 3 feet. Brian Davidson was consulted and agreed with the most current decision determined by the Army Corps of Engineers. Written information is awaited to confirm the findings.

An application for the following area variances is in progress: a 1'11" variance will be requested on the westerly of the proposed residence, 4'9" on the easterly side and a front yard variance of 10' and a 52' variance to construct the proposed residence 48' from the river.

Ed McDonough made a motion to schedule a public hearing to entertain the application of Dennis Kulzer for the above area variances at 7 p.m. on October 5, 2023. Kristin Griswold seconded.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

Ed McDonough made a motion to adjourn the meeting at 8:23 p.m. Kristin Griswold seconded.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

Abbreviations

B.A. – Bachelor of Arts degree

FEMA – Federal Emergency Management Agency

NFPA – National Fire Protection Association

NYSEG – New York State Electric and Gas

Respectfully submitted,

date:

Elizabeth Hale, Clerk