

**Minutes for the Ticonderoga Zoning Board of Appeals held on October 19, 2020 in the Community Building commencing at 6:00 p.m. regarding a Use Variance.**

**Present:** Erik Leerkes, Doug McTyier, Joyce Barry, Amy Schryer

**Others:** Bill Ball-Zoning Officer, Dean Cook

Meeting called to Order by Mr. Leerkes at 6:00 p.m.

Pledge of Allegiance was recited by all

**Public Hearing Announcement**

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Ticonderoga will hold a Public Hearing and meeting on October 19, 2020, commencing at 6:00 p.m. at the Ticonderoga Community Building's Conference Room, located in the Basement at 132 Montcalm Street, Ticonderoga, NY, regarding an Application for a Use Variance submitted by Dean Cook concerning a property located at 572 Baldwin Rd, Ticonderoga, NY., tax map number 160.1-3-3.000. All parties interested may be heard at such time.

**Correspondence**

Mailings went out to all adjoining landowners, with no response.

**Explanation of Application**

Use Variance – Dean Cook, 152 Baldwin Rd. (160.1-3-3.000)

Mr. Leerkes opened the meeting with asking the board to accept the minutes from the Meeting on September 23, 2020.

**Resolution#09-2020** motion was made by Joyce Barry and seconded by Doug McTyier to accept the meeting minutes from September 23, 2020. **All in Favor: 3-Aye, 0-Nay Carried.**

Mr. Leerkes asked if there were any question from the board.

Mr. McTyier asked if there was any other supporting information that Dr. Cook had for the board.

Dr. Cook stated you asked for documentation and I gave a tax return that showed we made only \$1,000.00. There also is a sheet that tells you how much it costs us for electricity. That is the only reason you have those documents, for your records.

Mr. McTyier states that after given this a lot of thought and looking over the statements that Dr. Cook submitted, he is in favor of granting this variance. He feels the documents presented showed a financial hardship. In cases like this, it asks to be shown dollar and cents support and that is what we have here. The dollars and cents is to support the inability to earn what they say is a reasonable return of an

investment. It doesn't say that you can't make any, so I would say that \$1,000.00 on this balance sheet is not a reasonable return on an investment.

Mr. McTyier states that he is going to vote to approve this variance but with conditions. The condition is if this property ever changes hands or ownership this would have to be brought in to address the variance again. That is the condition I am going to link to.

Ms. Barry said she agreed with approving this variance but not with conditions. Once it is done, it is done. We have approved it for that property and that way.

Mr. McTyier says that you can approve it with conditions, he looked it up.

Ms. Barry states she knows you can apply conditions, but the one time they didn't and it was a mistake. She feels once it is built, those conditions should not be instated. I am all for approving this, but feel we as a board or the Town should address these laws.

Mr. McTyier agrees that the laws should be addressed, but feels the laws should be addressed one by one. He would like to make a recommendation to change the law, not sure if it is to that point yet, but that is how he feels.

Mr. Leerkes says his comment is that he fully supports this plan solar, but he is really torn whether or not to support this because he feels that their role as an appointed board is to read the letter on the law and not to adapt it. We do have 4 conditions to meet, and I think you meet 3 of them very easily. I don't think this will affect the land, you did a good job with the siting, he really hemmed and hawed about whether the financial hardship is adequate, considering we are a 3 member board and so you need all 3 votes because we are technically a 5 member board, I will go along with the other 2 members to give you the fair thing.

Mr. Leerkes said the problem they have is that one board member wants conditions and one does not. Mr. Leerkes asks Mr. McTyier to explain his conditions and then Ms. Barry can tell what her problems are with his conditions.

Mr. McTyier states that you want to make sure it is here for the community, so basically we are approving this to keep it the way it is.

Mr. Leerkes states that is why he didn't force this because your best way to make money is to subdivide and sell.

Mr. McTyier states that if they subdivide and sell, the variance should go with the ownership. Mr. McTyier did check into this, and the board can apply conditions to the variance. So as long as the Corporation has the property it is good, otherwise, whoever owns it needs to apply for another variance.

Mr. McTyier said he agrees with the variance with the stipulation attached to it.

Mr. Leerkes asked Ms. Barry if she had any issues with Mr. McTyier's explanation, and she said no.

Dr. Cook states wouldn't that happen anyway if the property was subdivided and sold, we would have to go back to the same dance with the Planning Board and the ZBA. When people come in here with

something new that is where it ends up. How do you know what future things will come up? He thinks by putting conditions on something is like playing a guessing game. You will still have a planning Board and a ZBA and will still have a way of reviewing things.

Mr. Ball states that with any subdivision down there would have to come to the ZBA or Planning Board.

Mr. Leerkes asks if this would affect the solar

Mr. Ball states that could be addressed then.

Mr. McTyier states that solar is working great, supplying electricity to all the businesses and houses and someone comes in and buys it and a developer comes in and clear cuts 30 acres.

Dr. Cook interrupts and says that you can't clear cut that many acres. There are many organizations that could be involved, like the APA will be if it is over 20 acres. It's not like someone can walk in there and go nuts. There will be organizations over looking you. Lake George Park could be involved, the APA, the DEC could be involved. There is a lot of organizations that could be looking at that property if it ever came up on the market, I don't think it will, our family has only been in a couple hundred years, so I don't think anything is gonna happen this week.

Mr. McTyier said we are doing this to keep things going and to help you. If the variance goes with the owner, there shouldn't be anything wrong from your stand point.

Dr. Cook states that he does understand what they are asking for the variance. He thinks the variance goes anyways no matter what. Conditions, who knows.

Mr. McTyier states it wasn't a condition of expanding or anything like that, it was a condition that if you still own it, you are the applicant. If you sell the whole thing to someone else, then it would have to come back to here.

Dr. Cook states that they would have to come in, if they changed anything they would have to come back to you. They wouldn't be immune to the way the laws are.

More discussion was held on subdividing of property.

Mr. Leerkes asks if there is any more questions or comments.

Dr. Cook states that all of his adjacent landowners are in favor of the project.

Mr. Leerkes asks for a motion to make the application complete.

**Resolution#10-2020** Ms. Barry made a motion to declare the application complete for Dean Cook at 572 Baldwin Rd. tax map #160.1-3-3.000, seconded by Mr. McTyier. **All in Favor 3-Aye 0-Nay Carried**

Mr. Leerkes asked for a motion to close the Public Hearing.

**Resolution#11-2020** Ms. Barry made a motion to close the Public Hearing at 6:14 p.m., seconded by Mr. McTyier. **All in Favor 3-Aye 0-Nay Carried.**

## **Board Discussion**

**Resolution#12-2020** Ms. Barry made a motion seconded by Mr. McTyier to approve the complete application for Dean Cook at 572 Baldwin Rd. tax map #160.1-3-3.000, seconded by Mr. McTyier. **All in Favor 3-Aye 0-Nay Carried.**

Mr. Leerkes asked that a motion be made to The Town Board from the Zoning Board of Appeals request that they look further into Ground Mounted Solar in residential areas, and look at setbacks and acreage minimums.

**Resolution#13-2020** Ms. Barry made a motion, seconded by Mr. McTyier to request that the Town Board look further into Ground Mounted Solar in residential areas, and look at setbacks and acreage minimums. **All in Favor 3-Aye 0-Nay Carried.**

Mr. Leerkes asked that a motion be made to adjourn the meeting at 6:27 p.m.

**Resolution#14-2020** Mr. McTyier made a motion to adjourn the meeting at 6:27 p.m. seconded by Ms. Barry. **All in Favor 3-Aye 0-Nay Carried.**

Respectfully submitted by Amy L. Schryer, Deputy Town Clerk