

**Minutes for the Ticonderoga Zoning Board of Appeals held Monday, December 29, 2020 in
the Community Building commencing at 6:00 p.m. regarding an Area Variance.**

Present: Chairman Erik Leerkes, Dr. Doug McTyier, Joyce Barry, Amy Schryer

Others: Supervisor Joe Giordano, and on virtual call is Jamie Fordyce.

Meeting called to order by Chairman Leerkes at 6:02 p.m.

Pledge of Allegiance was sighted 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 December 28, 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 an Area Variance submitted by ELP Ticonderoga Solar LLC, c/o East Light Partners PBC, concerning a property located at NYS RT9N, Ticonderoga, NY., tax map number 139.4-1-47.000. All parties interested may be heard at such time.

Amy L. Schryer, Deputy Town Clerk

Correspondence

Mailings went out to adjoining landowners, with no response.

Opened the Public Hearing at 6:06p.m.

Resolution#20-2020 made by Ms. Barry seconded by Dr. McTyier to accept the application for ELP Ticonderoga Solar LLC (Doering/Rafferty) tax map # 139.4-1-47.000, as complete. **All in Favor: 3- Aye, 0-Nay Carried.**

Explanation of Application

Jamie Fordyce is here virtually representing ELP Ticonderoga Solar LLC here in Ticonderoga. We are seeking an Area Variance for tax map number 139.4-1-47. This property is 1 of 3 parcels to be utilized for this solar project. The other parcels, 139.4-1-1 owned by Kathleen Doering is 253 acres and 139.4-1-2 owned by Eric Rafferty at 36 acres and the subject parcel for tonight which is just a little under an acre, .18 acres and we are the deed owners of that property currently. The property and the context of the project are intended to be utilized for the interconnection facilities, to National Grid. It is located right next door to the transmission corridor right there. The reason we are before you for the Area Variance is that it is consistent with the solar law that we had submitted an application to the Planning Board that was refused by Dave Burrows, the building inspector. He issued a letter stating that table 1 of the solar law requires parcel which are service business light industry, require 5 acres or more for a tier 3 solar energy system, which is what it will be.

The parcel 139.4-1-47, this parcel is less than an acre, but as I noted earlier this parcel does include 2 other parcels, which included all together equals over 290 acres. The text of the ordinance and the table specifically doesn't address projects spanning multiple parcels. So I think Mr. Burrows interpretation was simply the plainest reading he could mustard up, that would imply that every parcel involved in the project must be greater than 5 acres. That was not clear to us, but nevertheless, we have the interpretation and that is why we are before you this evening.

The project had originally planned to locate its substation facility on the Rafferty parcel, which is 36 acres west of the transmission corridor, tax map 139.4-1-2. We have been in front of the APA for this project pre-application consultation. We submitted our application to the APA at the end of the summer. We have surveyed the sites, and properties in all of respect for the wetlands, and the scientists have all agreed that the whole 36 acres was deemed wetlands. So then they requested that we seek an alternative for the projects interconnection. That is what brought us to the subject parcel for the variance. We have a wetlands constriction on one side, and on the other side we have National Grid constraint and their standards for connecting to the transmission system. We do need to locate adjacent to our point of interconnection, using our interconnect facilities. I have spoken to Dave Burrows about our alternatives, he said why couldn't you locate your sub-station on the Doering parcel and run over headlines over the Rafferty parcel and minimize the wetland impact. This would not be acceptable for National Grid. This is why we have sought this final solution here for the 1 acre parcel and applying the variance for. We filled out the application, a strict application, and the Zoning Law presents a practical challenge. No location exists to avoid the wetlands and would be compliant with the utility requirements. The irony, if you would consider the project as a whole, certainly we would meet the minimum lot size requirements with the 250 acres. If you were to consider this substation individually as a public utility use, then it would be permitted use under the Ti Zoning Ordinance, we wouldn't have to be before you all for the variance. I will be happy to take any questions that you may have on the application.

Dr. McTyier asked how much structure was going to be on this lot.

Mr. Fordyce said he can pull up the acreage but not sure if he is able to show this to you from the computer.

Dr. McTyier said he remembers reading it was .18 or .2 of the lot.

Mr. Fordyce said yes when you are thinking of the actual structure on the lot, there are no panels; there is a transformer, and a riser structure and a pretty minimal concrete pad. Most of it is the access road coming in off Route 9N for the utility to service the equipment.

Dr. McTyier asks if the structures are in the back corner of it or the right.

Mr. Fordyce said that they would be in the back corner. It is a triangular lot. There will be a fenced in portion to the southern end of the lot, the access road to the eastern side, and the most visible structures are at the back portion of the lot basically because of low lying transformers. Eventually we

will have a high riser structure that will get up to the height of the transmission lines themselves. So that will be what is on the back end of the lot.

Chairman Leerkes asked if the original plan was to be on the other side of the power lines.

Mr. Fordyce said exactly, directly on the other side. We have a lay out we can show you. That would be our preference but unfortunately that was all claimed as wetlands. As it stands we will trench or underground drill through that parcel and go under that transmission corridor and then come up to the equipment that we have sited on 139.4-1-47.

Chairman Leerkes said he read that they met all the setbacks, is this true?

Mr. Fordyce said yes, we have met all the setbacks. We have met all of the requirements for that parcel, the only requirement is that we are seeking a variance for is Table A and the solar law.

Chairman Leerkes said OK, thank you.

Chairman Leerkes asked if anyone else had anything to say.

Chairman Leerkes asks for a motion to close the Public Hearing.

Resolution#21-2020 made by Dr. McTyier, seconded by Ms. Barry to close the Public Hearing at 6:16 p.m. **All in Favor: 3-Aye, 0-Nay Carried.**

Discussion

Ms. Barry states that they meet the criteria; there is no other way to do it.

Dr. McTyier states when the town decided to zone this, however it was zoned, and a tier 3, that lot already existed. In my way of thinking is that this is a pre-existing nonconforming lot. So I don't see how, it wasn't something that was created, knowing that it was going to be a minimum lot size later in time. So I am inclined to think because of that that it is a continuous area, I feel it is feasible.

Chairman Leerkes asks if the board has any more questions.

Resolution#22-2020 made by Dr. McTyier seconded by Ms. Barry for the Area Variance to be granted for ELP Ticonderoga Solar LLC. (Doering/Rafferty) tax map #139.4-1-47.000. **All in Favor: 3-Aye, 0-Nay Carried**

Resolution#23-2020 was made by Dr. McTyier seconded by Ms. Barry to approve the minutes from the last meeting. **All in Favor: 3-Aye, 0-Nay Carried**

Resolution#24-2020 made by Ms. Barry seconded by Dr. McTyier to adjourn the meeting at 6:21 p.m. **All in Favor: 3-Aye, 0-Nay Carried**

Respectfully submitted by: Amy L. Schryer, Deputy Town Clerk

