



**MINUTES OF MEETING
ZONING BOARD OF APPEALS
TOWN OF CHESTER
JULY 24, 2018**

The meeting was called to order by Bill Oliver at 7:00PM.

ATTENDANCE:

Mary Jane Dower, Arnold Jensen, Tom Thorsen and Bill Oliver. Also, in attendance was Taylor Kimbrell and Karen DuRose.

PUBLIC HEARING:

Mary Jane Dower opened public hearing at 7:02PM.

#443-V: Loon Lake Heights Homeowner's Association are requesting variances for the replacement of four (4) docks that will extend 53 ft. offshore where 40 ft. is required , according to section 7.03 (B) (4) of the Town of Chester Zoning Local Law. Property is located at 59 Kingsley Lane Ext., identified by Tax Map Parcel #: 86.14-1-1, in Zone Classification Moderate Intensity.

Mary Jane Dower stated Loon Lake Heights has requested a 30 day delay and will come back to the board next month. The board granted the request.

#445-V: Taylor Kimbrell is requesting a 7ft. frontline setback variance, according to Section 4.03 of the Town of Chester Local Zoning Law, in order to place a ground mount solar PV system. The property is located at 11 Mill St., identified as Tax Map Parcel # 104.10-1-13, in Zone Classification Hamlet. Kathryn Costello from Apex Solar Power will be acting as Agent and representing the property owner.

Taylor Kimbrell is representing himself as he is the property owner and he is also the VP of Apex Solar. Kathryn lives in Wilton so he figured on saving her a trip and representing himself in both regards.

Apex Solar does about 1500 projects per year in the Adirondacks. They hired a new permitting person, Judy, and she was not aware of the setback requirements for the Town of Chester. He apologizes on behalf of Apex Solar. He stated they have done some research to see if any others are not in compliance and so far have not found any. He requested if the Town is aware of any of them, please let the company know. Unfortunately, this one fell through the cracks and coincidentally it happens to be his property.

It sits 188 degrees due south due to some shading in other areas. They are as far from the tree line as they could get for maximum solar production. As per his wife's request it would leave more yard for their 2 young boys to play in.

There is also a leech field there that they wanted to stay off from. It appears they meet all the setback requirements except on the one corner closest to Mill St to the north. They are off by

7 ft. He is requesting a variance for the 7 ft setback. He will gladly answer any questions the board has.

Arnold Jensen does not understand why it just can't be moved the 7ft and no variance would be required. He doesn't feel if they moved it it would affect the leech field or anything else. He also stated the board does not want to grant a variance if it is really not necessary. He stated that the only reason he sees why you would not want to move it is the cost to move it.

Taylor Kimbrell stated that one of the pylons went through the leech field. And they do not want to remove it and then take another chance at doing the same thing and causing more damage. Also, the grass has now all grown in and looks rather nice. It is sort of selfish as he does not want to spend the money to move it and he does not want to lose quality of his solar production. He doesn't feel that the 7ft on the one corner is creating any issues.

Arnold Jensen concurred with that. He explained the board is looking to avoid giving variances for things that have other viable solutions. He considers moving it 7 ft a viable solution. He also stated he does not know cost to move it and if it was an absorbent amount of money he may feel differently or better understand.

Taylor Kimbrell stated that it would cost between \$7 and \$9,000 to move the unit. Trucks, insurances, crew of 6 for all day. It would be expensive. Also, they would have to move inverters, etc... The system was \$30,000 installed.

Mary Jane Dower stated that what upsets her is the fact they did not get the variance ahead of time. If you had come to see Walt Tennyson and showed him the plans he could have told you them to move it the 7 ft. And no variance would be needed.

Taylor Kimbrell concurred with that. Mary Jane Dower stated that you should know that there are zoning requirements in all towns of the Adirondacks.

Taylor Kimbrell stated he has property on Landon Hill Rd and also installed solar panels. That went to the permitting people and he thought they were all set with all setbacks, etc... The new employee, Judy, made a mistake due to bad information in their CRM tool.

Taylor Kimbrell agrees that it should have happened before hand.

Mary Jane Dower stated that it is your responsibility to find out what the zoning requirements are before completing project.

Taylor Kimbrell stated that the issue was addressed internally and Judy has a new position now.

Tom Thorsen stated he is very confused over the drawing that was presented. Arnold Jensen concurred. It does make any sense to them.

Arnold Jensen would like him to educate them on what all the stuff means on the map.

Taylor Kimbrell stated it is an engineered schematic. They started referring to the map and Arnold Jensen was asking what certain things meant. Taylor Kimbrell tried explaining the

map. Arnold Jensen wanted to know what the 174 ft from Riverside to Mill St what does that mean or represent? This map shows us things I do not understand. All the numbers on the map don't really mean anything.

Arnold Jensen also asked what the dotted line was? He asked if it was the property line. Taylor Kimbrell stated yes.

Taylor Kimbrell asked if they were familiar with the Swan's property nearby? He spoke to Eric Swan, who he went to school with and are good friends, spoke to him about the solar project. He was happy and cut down 2 cherry trees for us and I gave him the firewood.

Taylor Kimbrell could not explain why the 174 ft line on map was marked or measured. He stated the 20 ft and 18ft lines on map seemed accurate to him when he was walking around the area.

Arnold Jensen stated the 18ft line goes to center of the point of the lawn? What does that mean? It is troubling to him as the way the map was done.

Taylor Kimbrell explained the one line was a conduit line for inverters for the solar. There is a utility pole at the corner and possibly that is why the measurement was noted. They both concurred. Taylor Kimbrell stated that is where the transformer is located.

The map shows it in the center of Mill St and Arnold Jensen stated that is wrong because pole can't be in center of Mill St.

Arnold Jensen also questioned if this a frontline setback or what? That is what it is considered and states that in variance request.

The board and Taylor Kimbrell concur that it can't be seen without looking for it. Taylor Kimbrell stated that is why they kept hedgerow to help in that regard.

Arnold Jensen stated that the only one who might be bothered by it would be the Swan's.

Taylor Kimbrell stated that the Swan's were excited about it and Eric was thinking about possibly installing it in his own yard.

Tom Thorsen stated that the drawing should show project and property lines of neighbors within 500 ft. He stated they can't see any of that on the map.

Taylor Kimbrell stated he would be happy to provide any additional documents. He assured board they always get proper permits, etc... He stated they are doing several projects across Schroon and Brant Lake. They just finished the install at the Hub in Brant Lake. He feels they have always followed protocol.

Tom Thorsen stated he sees no issue with it except the fact it was installed without first getting the proper variance.

Taylor Kimbrell stated his permitting dept told him he would not need any more additional documentation so he only provided the one map.

Bill Oliver asked where the survey maps were? Arnold Jensen stated the map that was presented has to do with plotting the solar project not to scale to address the zoning. Taylor Kimbrell stated he has scoured high and low and can't find a survey map for it and neither can the Swan's.

Bill Oliver concurs with Arnold Jensen and is confused over the map.

Arnold Jensen stated he can't believe the cost to move the unit. He feels it should have never gone there. Bill Oliver concurs.

Bill Oliver stated he can't believe he bought a house without a survey.

Taylor Kimbrell stated he has bought 9 in the last 11 years and not one of them had a survey. He said him and his wife have an infatuation with fixing up old homes. And we always get title insurance that's for sure.

Bill Oliver asked if the dotted line was the property line and Taylor Kimbrell stated yes according to the GIS maps online.

Taylor Kimbrell stated that the leech field is located on the map where the tank is and there are 4 arms extending 30 ft.

Tom Thorsen asked if this map was intended to be to scale? Taylor Kimbrell stated it is meant to be a computer generated schematic, not to scale. Arnold Jensen also noticed the size of the tank was as big as the house on the map.

Arnold Jensen still feels it is viable to move the 7 ft.

Taylor Kimbrell asked if anyone on the board did any measuring when they were out there? Arnold Jensen stated that was not up to the board to do that.

Taylor Kimbrell stated his site tech measured and came up with dimensions on map.

Arnold Jensen referred to Karen DuRose to see if she had any idea about how wide the road might be? Karen DuRose stated probably 16 ft.

Tom Thorsen said a site plan would help them better decide. Arnold Jensen is not convinced that even with a site plan that it would make any difference in the decision. He doesn't want to see him spend money on something that will not help his cause. He feels the site plan would just be more evidence of the problem more than anything else. Mary Jane Dower concurred.

Arnold Jensen stated that he feels just as the other board members probably do that it is not an issue as far as being visible etc... It is the fact that it was installed and now they are asking for the 7ft setback variance needed. If the neighbors had an issue with it then things would be different but they don't. It is such an unnecessary error.

Arnold Jensen stated he hates to have you move it but hates to grant an unnecessary variance. It is a basic requirement of the board to minimize any and all variances and identify reasonable alternatives. Taylor Kimbrell stated trying to bring up 2 boys is costly so moving the units would cost money he rather not have to spend.

Arnold Jensen stated he is torn and doesn't know what to say. He would like to find a way to do it but have not found it yet.

Tom Thorsen stated it is not bothering neighbors, has no impact on the environment so causes no issues there. Taylor Kimbrell stated that if the Swan's ever wanted to sell theirs he would buy it.

Bill Oliver stated he received an email from Jeremy with a letter of support. No one could recall the name and did not bring a copy.

Tom Thorsen stated that we should consider his an innocent mistake but he doesn't want to see him back again for same issue.

Karen DuRose stated when she comes down road from Silver Star she doesn't see the array of the units but the big bright sign out front.

Taylor Kimbrell stated he could take that down.

Arnold Jensen stated coming from one direction you would never see it but the other way possibly. Tom Thorsen stated you really have to look for it to see it.

Board agrees they will be seeing more and more of this in the upcoming years.

Arnold Jensen stated he feels that if they make a decision tonight it could be all wrong and cause issues down the road as this type of thing becomes more popular. Also, if we grant a 7ft variance and once map is done to scale and they realize a 10 ft variance is needed then they have to come back to the board again.

The board agrees with the fact that the Zoning Office (Walt) should make sure all required documents have been submitted before scheduling on agenda.

Karen DuRose stated that during the meetings they had for the Zoning Ordinance Review Committee Solar arrays was one of the major topics brought up as there are no zoning laws pertaining to that.

Taylor Kimbrell stated that the governor wants to see 30 % of the population by 2030 generating their own power.

Arnold Jensen stated once again the visibility of it was not an issue. Mary Jane Dower stated that Jeremy should be going out and verifying/measuring. Would that satisfy you? (Arnold Jensen) He stated that would be a good idea. It is just not smart on their part to grant this without further review. He feels they should get the site plan to scale to make a better informed decision. Bill Oliver concurs.

Arnold Jensen stated that holding it over for a month will not affect him as it is already installed.

Bill Oliver wants to see a plot plan/site plan to scale. Tom Thorsen stated we could say 7 or less ft and if it is more then they have to come back to the board.

Mary Jane Dower asked if he could supply a map showing measurements between house, barn, leech field, solar array, etc....?

Arnold Jensen stated if we had all that info it would help them better make a decision. But, does not guarantee an approval. It may not change anything. It may still be the best solution to move the array the 7ft.

Bill Oliver stated they need more information to make an informed decision.

Tom Thorsen stated that if the drawing was correct he would lean towards granting the approval. He doesn't see any harm in it.

Arnold Jensen stated there will be other Solar Companies coming along wanting to do the same things.

Bill Oliver stated it is similar to the Loon lake case and they don't want to set precedence.

Arnold Jensen makes motion to keep hearing open and hold over until next month (Aug 28) and they need to provide a site plan. Bill Oliver stated dimensions of leech field should be on file in zoning office. Seconded by Tom Thorsen. All in favor. 4/0.

Taylor Kimbrell stated he has located 2 of the 3 property markers.

CORRESPONDENCE: Zoning Administrator and Sanitary Code Enforcement Officer's Activity Report for May 2018.

NEW BUSINESS: See above.

OLD BUSINESS: See above.

MINUTES: Tom Thorsen made motion to amend minutes from June 26, 2018. The motion to hold open hearing and table until next month should be done before adjournment. Seconded by Mary Jane Dower. All in favor. 4/0.

PUBLIC PRIVILEGE: None.

BOARD PRIVILEGE: Mary Jane Dower was asking Karen DuRose what the qualifications/requirements were for the Zoning Enforcement Officer? She is unsure if she had a seen a job description for that. Mary Jane Dower also asked is there one for Jeremy's office? She has a very old copy but the scope of job has changed since then. She feels they seem to jump when a job comes up and someone says they will do it you say ok. You don't find out if they are qualified and you don't know anything about them. Karen DuRose is doing research on the Warren County website to help with that. Mary Jane Dower is

concerned with how they go about giving someone a job. Karen DuRose stated she likes to see a nice large advertisement presenting name of job and a brief description. Also, where to send your application or resume. Then Parks & Rec make their top choices. Then herself and Craig do the interviews. Then they decide the top picks. Karen DuRose stated that she doesn't like that in certain instances the Supervisor can choose whomever they please for a position.

Mary Jane Dower stated she feels this is not an easy job and you have to enforce. You have to be firm and have a good backbone. There is a lot involved. You have to be strong and do what is in the book. The last good one they had was Harry Bartlett. There should be nothing coming in after the fact.

Arnold Jensen stated that this solar thing is new to everyone and there will be some mistakes made. He didn't realize until many years into his zoning career that there was a 40ft dock ordinance permit requirement. Mistakes get made.

Mary Jane Dower stated that with the Loon Lake dock situation the president of the association has not been president for very long and has no idea what went on before him. And much of the paperwork doesn't exist anymore.

Arnold Jensen explained to Karen DuRose how to find the Loon Lake location and how it is set up.

They refer to old map of dock system back in 2006.

Arnold Jensen stated he heard the Loon Lake people would be presenting a new proposal.

Mary Jane Dower is upset they postponed it as now the summer is over and they have been allowed to keep it the way it is.

Tom Thorsen stated if we require them to take off the 10 ft extensions they will have more boats than dock spaces. This would be a nightmare for them to try to manage.

Bill Oliver asked how do they manage now? Brandi Bessette stated because right now they have less boats than dock spaces and not an issue until someone else comes along and has a boat.

The board debated which way they could add more docks, to the north or to the south.

Mary Jane Dower stated they have to decide if they more dock space or beach area.

Tom Thorsen stated they may not be able to add another dock.

Mary Jane Dower stated that years ago when they subdivided only 50 ft lots were sold. They believed that would be sufficient.

Tom Thorsen asked why the previous 2006 proposal was denied. She stated the dock was way too big at 79 ft out and across 64 ft. In 2007 they had 3 40 ft docks with approval. Now a 4th dock exists.

They discussed how low the water is everywhere right now.

Arnold Jensen feels that even with requesting addl info from Kimbrell may not change his decision.

Karen DuRose questioned how they know where the property lines are without an actual survey?

They reviewed map that was provided by Kimbrell.

Arnold Jensen stated there will be more rules to go by but right now we have nothing.

Tom Thorsen stated there would not be more rules as they are going with what the state mandates now.

Karen DuRose pointed out that the neighboring property may go up for sale and someone else buys it. So, that is a mute point.

Bill Oliver is concerned with the solar companies just coming in and installed the unit. Arnold Jensen seems slighted by the fact that it was right in all other locations but his is the one that fell through the cracks.

Mary Jane Dower reiterated that is why we need someone strong to go out and do the measurements and keep them within code.

Karen DuRose stated there are not many applications that came in for the enforcement job. Bill Oliver stated he thought there was a civil service test for that job through Warren County. Karen DuRose asked Craig that and they did not think so. Bill Oliver thinks there is. Karen DuRose asked if Walt ever took a civil service test and no one believed that he had done so. She stated Jeremy did not want to have to approach people out in the field. He is good at administrator.

Arnold Jensen stated no one likes confrontation. Mary Jane Dower stated you know that when you accept job and you need to know the rules.

Mary Jane Dower mentioned a case at the Slattery residence where there was trailer on the one side and had to be moved as it was positioned incorrectly. They had tape measures and several people at the site taking measurements, etc... They decided where it has to go.

Arnold Jensen stated we will always be seeing new things come up.

Mary Jane Dower stated she went to Glens Falls recently and had made a list of things that may be up and coming to the zoning board. Solar was one, certain kind of farming and a couple of other things we have no law on.

They all discussed the ridiculous nature of the Thurman Town Board meetings and how out of hand it is.

Tom Thorsen asked Karen if she had any idea if the cost Taylor Kimbrell threw out at them was close to what it might cost to move it?

She was unsure but it sounds high to her and to Bill Oliver.

Mary Jane Dower stated she feels when the e board has questions someone from the zoning office (Jeremy) should be present. Walt does come approx half the time. They would have access to paperwork on file in zoning office. A meeting should not be scheduled without proper paperwork being on file.

Arnold Jensen also asked Karen DuRose if there was an issue going onto private roads to review layout. She did not think there was. He feels he needs to see it before making a decision.

There should be a list of requirements posted outside zoning office.

ADJOURNMENT: Bill Oliver made motion to close meeting at 8:28PM. Seconded by Tom Thorsen. All in favor. 4-0.

Respectfully submitted,

Brandi Bessette
Secretary
Zoning Board of Appeals