

TOWN OF GREENFIELD
Zoning Board of Appeals

November 1, 2022

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by D. Eskoff, Chair, at 7:00 p.m. On roll call the following members are present: D. Eskoff, A. Wine, C. Kolakowski, K. Taub and T. Flynn, Alternate. S. MacDonald is absent. M. Waldron is absent.

Minutes

October 4, 2022

MOTION: A. Wine
SECOND: K. Taub

RESOLVED, The Zoning Board of Appeals waives the reading of, and accepts the October 4, 2022 minute with minor corrections.

VOTE: Ayes: D. Eskoff, A. Wine, K. Taub and T. Flynn
Noes: None
Abstain: C. Kolakowski
Absent: S. MacDonald

Chandler, T. Case #1052
TM# 125.-1-17.1

Area Variance
142 North Greenfield Road

Thomas Chandler is present. D. Eskoff states that the ZBA received an updated determination from the Code Enforcement Officer based on updated submissions from the Applicant. D. Eskoff opens the Public Hearing at 7:02 p.m. There being no correspondence and no one present for the Public Hearing, D. Eskoff closes the Public Hearing at 7:03 p.m. She states that the most important thing is that the Board has the exact and precise amount of relief. A. Wine states that the Applicant has moved the front door to face the road instead to the east. K. Taub agrees and states that there is a multifamily home next door. A. Wine states this is a single family residence. D. Eskoff states this is a residential on a rural road. A. Wine asks if this needs to be referred to Saratoga County Planning Department. D. Eskoff states no the Board has an agreement with Saratoga County Planning Board and the Board did have one in front of them last month. K. Taub states that he does not have any issues with this project. C. Kolakowski agrees and has no issues with this project. T. Flynn asks if the house could be rotated. A. Wine states that that it could be, but he feels it would be a deterrent to the neighbor. T. Flynn states that he understands that he is just asking for the variance issue. K. Taub asks what are the lot size and the road frontage. T. Chandler states it is 75' and if they move it they would lose the septic. C. Kolakowski states that it fits with the character of the neighborhood and feels it fits better facing the road.

MOTION: K. Taub
SECOND: A. Wine

RESOLVED, the Zoning Board of Appeals hereby approves the Application for Area Variance for a single-family residence for property located at 142 North Greenfield Road (MDR-2), TM# 125.-1-1-5, Case #1053 as follows:

- Frontage – 88.89'
- Acreage – 2.49 Acres
- Right Yard Setback – 26'
- Left Side Yard Setback – 2'

This approval is based on the following criteria:

- The benefit cannot be achieved by other means feasible to the Applicant in order to site the home and require less relief, there appears to be no other way for them to build a single-family home here.
- There is no undesirable change in the neighborhood character or detriment to nearby properties given the similarities. The building to the East is a multi-family home and to the West the homes are set back in with long driveways.
- The request is not substantial in that it is an appropriate use of the property within the space allowed for lot size.
- There are no adverse or environmental effects involved with the siting of this home.
- The alleged difficulty is self-created (which is relevant but not determinative) in choosing to build on a small lot but there is no alternative for the single-family housing manufactured home as was purchased to fit the lot.

VOTE:

Ayes: D. Eskoff, A. Wine, C. Kolakowski, K. Taub and T. Flynn

Noes: None

Abstain: None

Absent: S. MacDonald

Kasselman Solar Case #1048
TM# 151.-2-69.1

Area Variance
2 Maddy Groves Road

Alex Martin (Kasselman Solar representative) and Bradley Howe (home owner) are present. D. Eskoff states this project is also a Public Hearing. She states that last month the Board tabled the Public Hearing and requested a buffering plan. She re-opens the Public Hearing at 7:13 p.m. A. Martin states that they amended the plot plan to show five different points along the road to indicate the height and consolidate the setbacks. They are proposing four new conifer trees to obscure the array. They also provided an explanation of the 10kw. A. Martin states that the electricity will not produce more than the inverter can hold. K. Taub asks if they used a different inverter could it increase the electricity. A. Martin states that they are sized for the overall production of the system. B. Howe states if we were in Arizona it would produce more electricity. He states that is not the case here in the northeast. C. Kolakowski asks if it would be possible to get a bigger inverter. B. Howe states no and he will show the Board pictures on his computer. He states that he wants 11-14 hour panels and use 10 kW. He states that he is trying to use the maximum inverter. He explains the different sizes of the

inverters and solar panels. K. Taub asks the daylight hours over a year how much percentage will his electric bill be reduced. B. Howe states that it won't cover the entire house. B. Howe states he feels this is an upgrade and it will probably cover 85% of his electricity bill. D. Eskoff states that is a viable reason. C. Kolakowski states that the Board has requested a buffering plan and it has not been provided and the tree species whether it be pine or spruce. He states that he is speaking for himself. B. Howe states that he has not picked a species yet he has been talking with the neighbors regarding this. He provides pictures on his computer to the Board for their review. D. Eskoff asks if this subdivision was one big lot made into 7 lots. D. Eskoff states that is what the Board would like to see. She states that the Board is more concerned about the character of the neighborhood. B. Howe states that whatever they do it will be screened. B. Howe states that he understands that the Board does not want to set a precedent. He states that each property owner has preserved land behind them. He states that it is guaranteed to be rural because of that. D. Eskoff states that the Board received correspondence: a letter from neighbor's Ann Marie & August Pendergast, in favor of the project, two letters from Jim Wimet, not in favor of this project and one letter, with copies of deeds for this subdivision, from neighbor Sand Stubbing, who is not in favor of this project and reads from his letter to the Board. Sand Stubbing, Maddy Groves Road, states that he is the only neighbor that will see this and that this is self-created. He states that he does not want to see it. D. Eskoff states that the Board does not interpret deeds. She states that if you want to put/build something outside the building envelope he would need an Area Variance. She states that these deeds are 20 years old and that ground solar may not have been considered. Jim Wimet, Middle Grove Road, states that he remains concerned with the large amount of relief requested. D. Eskoff reviews the relief amounts in this case for LDR and states that the Board has given prior approval for ground mount solar and refers to a case that was lacking 2.17 acres which was a large amount of relief for an MDR district. B. Howe states that his property is a very unique property/neighborhood. He states that he does not agree with J. Wimet and S. Stubbing. D. Eskoff explains the Code and states that there is no middle line. B. Howe states that everyone is locked in with the Code that is where the ZBA plays a role. D. Eskoff states that her concern is the landscaping plan and the easement. T. Flynn states that he would like to see a survey and the easement on it. B. Howe asks what the Board is looking for. D. Eskoff states the Board needs a buffering plan. B. Howe asks if the species need to be on the plan. C. Kolakowski states yes and how high the trees will be when planted. B. Howe states that he does not understand what the Board is asking of him, what does he need this on the plan? D. Eskoff states to show how it will look like tomorrow and in 10 years, etc. K. Taub states that the Board is taking this seriously and he has driven by the project area many times. He states that the plan will show the Board what it will look like when/if it is completed. B. Howe states that his lawyer is looking into this. C. Kolakowski states the deeds are clear. D. Eskoff agrees with K. Taub the Board is looking at this seriously. B. Howe asks when this has to be submitted. C. Kolakowski states 2 weeks before the meeting.

MOTION: T. Flynn

SECOND: C. Kolakowski

RESOLVED, the Zoning Board of Appeals hereby adjourns the Public Hearing and tables the matter for the Application for Area Variance for a Ground Mount Solar Installation by Kasselmann Solar for property located at 2 Maddy Groves Road, LDR District, TM# 151.-3-69.1, Case #1048, with the Applicant's permission, for continuance of the Public Hearing on this matter on December 6, 2022 at 7 p.m.

Contingent on receipt of the following information to the Zoning, Planning and Building Department by November 22, 2022:

- A more detailed buffering/planting plan for the proposed solar array area indicating the number, size, species, locations and estimated age to maturity of plant materials. (Photos, drawings, etc., may also be submitted to demonstrate the buffering effect).
- A site plan indicating the location and boundary of the building envelope for the property.
- A survey (or similar type document) indicating the location of the easement and the septic or similar structures on the Western portion of the property including those locations which cannot be used for the proposed system on the site plan.

VOTE:

Ayes: D. Eskoff, A. Wine, C. Kolakowski, K. Taub and T. Flynn

Noes: None

Abstain: None

Absent: S. MacDonald

Aldrich, W. Case #1054
 TM# 113.-1-35.1 & 35.2

Interpretation
 250 & 280 Greene Road

John Cannie, Esq. is present for the Applicant. D. Eskoff states that this project is a Public Hearing tonight and opens the Public Hearing at 8:12 p.m. She states that the Board received correspondence from resident, Peter Pedrotty, in support of project, and from the neighbors, Vince & Erika Walsh expressing their concerns with the project. K. McMahon confirms. J. Cannie explains the LDR District and the definition of a recreational facility. He states that this is in front of the Planning Board for a Special Use Permit for approval. He states that when the pandemic hit his client/the Applicant did this for his family and friends. He states that this is a huge benefit for the Town. He states that the parking area is gravel and there are no buildings of any kind on the property. Currently there are two property lots and they will be combined. There is quite a bit of wetlands in the front of the parcel. This is in violation because the Applicant needs to receive approval from the Planning Board. He reads M. Waldron's determination for Interpretation. He reads the Zoning Code definitions and he states that it does not support the determination. There is no building so there are not any setbacks. At a golf course every golfer will not meet the setbacks. D. Eskoff states that they have buildings that need to meet the setbacks. J. Cannie states that is true, but not all golf courses have buildings. Public Hearing Comments: James North, Green Road, states that the Town adopted the Comprehensive Plan and there are eight Districts in Town. He states that he is in favor of the project. Dillon states that she is a member of the Saratoga Shredders Mountain Bike Group and she is in favor of this project. John Straight, Locust Grove Road, states that he is in favor of this project. He states that he is unable to use the trails, but he would if he could. He states that he was on the committee for the Comprehensive Plan and he was also on the Planning Board. He feels that the Town Official is throwing every wrench in this project. He feels that it is a big slap in the face for W. Aldrich. Felicia Lynn states that she is in support of the project. Olivia Bracket states that she is speaking for a friend and her mentor who was not able to attend this meeting. She is from Saratoga Shredders and she is in favor of this project. Bradley Howe, 2 Maddy Groves Road, states he is in favor of this project. Peter Pedrotty, states that he is in favor of the project and he was impressed with the trails and the parking and he enjoyed it. David Walters, Greene Road, states that when the property was for sale he thought it was going to be subdivided. When he found out this was a trail system he was thrilled. He is in favor of this project and it is free. Jane Barian, President of the Saratoga Shredders states she is in favor of this project and she is a past Board member of the Saratoga Snowmobile Club. Sean Britten states that COVID has done enough to our youth and he is a mentor for Saratoga

Shredders and is in favor of this project. Sunshine Stuart, states that she is in support of this project. She states that W. Aldrich has done a lot to make up for his mistake. She is asking that this project please move forward. Christopher Jennings, Ballston Spa, states that he is in favor of this project. He went there once and thought it had amazing community appeal. He states that Tupelo is an opportunity and it would entice people to come to the community. Doug Gurling, states he is in favor of this project and states his kids have learned to mountain bike at Tupelo. Kelsey Earns, states that she is in favor of this project and supports it. Erika Walsh, Greene Road, states that she is not in favor of this project. She states that her kids are out in nature all the time and are not destructive. There have been 100's of bikers riding that trail. The reason that the trail system is closed is on W. Aldrich is because he didn't get approval. She states that the Town should have been notified and they weren't. There are a lot of wetlands on this property. She states that this project was snuck in and she feels that it is very misleading. She would like buffers. Vince Walsh, Greene Road, states that everyone here is a father, brother, husband what have you. He states that he is not in favor of this project. He states that he is looking for a solution. He feels that the applicant's sign is bigger than what is allowed in Town and it has been there the whole time and states reasons against variances. D. Eskoff states they are here for an Interpretation not Area Variance. V. Walsh states that he understands he is trying to explain his problems with this project. People are trespassing onto his property. He asks will the property be maintained while it is closed. People are accessing the property from the State forest behind the property. He states that he has a Special Use Permit and it is not open to the public. He feels that this project needs an updated Application and the long form SEQRA along with new maps that should be submitted. Larry Ramsey states he is the only paid fire fighter in Town. He states that he spoke to the Town Highway Superintendent and he was told that the driveway was never approved. He states his concern out potential accidents and safety. He feels that the parking area should be moved by J. Strait's property. D. Eskoff states the ZBA has no control over the parking area. Anna Lalaway, Middle Grove, states that she is the founder of Saratoga Shredders and she is in favor of this project. She states that they have used Tupelo Community Forest two times and the parking area was never full and no one was parked on the road. D. Eskoff states that the Board is here for an Interpretation what M. Waldron has determined and that is why they are in front of the ZBA and nothing the ZBA states will preclude the Planning Board's role. L. Ramsey asks if the interpretation includes the parking area. D. Eskoff states no. Karen Wadsworth, Locust Grove Road, states that she will submit something in writing she is aware how people listen to one another. She states that things get started before the neighbors are aware of anything going on. J. Cannie states that this is a very narrow issue. M. Waldron's interpretation goes against everything the law of the Town of Greenfield. D. Eskoff asks for clarification from J. Cannie as to where they are with the Planning Board. J. Cannie states at the Planning Board the Public Hearing is still open. D. Eskoff asks if they will be reviewing SEQRA. J. Cannie states yes. D. Eskoff states that she wants to make it understood that they are going through the proper channels. She states that this is a big reminder to do things the right way. A. Wine asks how long the ZBA has to make a determination. D. Eskoff states 62 days. The Board wishes to move forward with a decision. There being no one else present wishing to speak about this project, D. Eskoff closes the Public Hearing at 9:33 p.m. A. Wine states that he is concerned for the neighbors. K. Taub states that he has experience living next to a recreation facility and there is a lot of disturbance to the natural community. He feels that nothing with this Interpretation fits this. He states that the Code states that this is not a building. The Board agrees and discusses for Resolution.

MOTION: K. Taub
SECOND: T. Flynn

RESOLVED, the Zoning Board of Appeals hereby makes the following decision regarding the Request for Interpretation by William Aldrich, Trustee of the William C. Aldrich and Jennifer E. Aldrich Trust for property located at 250 & 280 Greene Road, (aka Tupelo Community Forest), LDR Zoning District, TM# 113.-1-35.1 & TM# 113.-1-35.2, Case #1054 as follows:

The Town of Greenfield Zoning Administrator/Code Enforcement Officer's determination dated September 13, 2022 for this property states that the "trail system upon the subject parcel IS the Recreational Facility and therefore is required to be within the zoning district setbacks prescribed by Area Regulation Table 105 Attachment 5:2."

The Zoning Board of Appeals agrees with the Zoning Administrator/Code Enforcement Officer that the Tupelo Community Forest is a Recreational Facility as defined by the Code of the Town of Greenfield. Under the clear language of this definition, the trail system is a "disturbance of the natural terrain" and also meets several of the public recreational uses listed therein. The definition of Recreational Facilities within the Code of the Town of Greenfield (§105-7 Definitions) is:

Recreational Facilities

Recreational uses that involve structural development or disturbance of the natural terrain. "Recreational uses" involve public or commercial parklands, golf courses, playing fields, ice-skating facilities, hiking facilities, nature preserves, bike paths, nature walks, horseback riding, fishing, cross-country skiing, sledding, sailing, motor boating, swimming, tennis court facilities, snowmobiling, motor biking and other more-intensive uses.

The Zoning Board of Appeals further agrees with the Zoning Administrator/Code Enforcement Officer that dimensional lot requirements for "Recreational Facilities" in the Town of Greenfield are listed under Area Regulation Table 105 Attachment 5:2. Area Regulation Table 105 Attachment 5:2 specifies dimensional requirements for "Front Setback," "Minimum Side Yard" and "Minimum Rear Yard" by Zoning District.

However, the Zoning Board of Appeals agrees with the Applicant that the following corresponding definitions of "Front Setback," "Minimum Side Yard" and "Minimum Rear Yard" within the Code of the Town of Greenfield (§105-7 Definitions) are at issue in the Zoning Administrator/Code Enforcement Officer's determination:

Setback, Front

The required minimum distance between the front line of a building and the related front lot line. See "building, front line of" and "lot line, front."

Yard, Rear

An open space extending across the entire width of the lot between the principal building and the rear line of the lot. [Amended 7-12-2007 by L.L. No. 2-2007]

Yard, Side

An open space on the same lot with a principal building, between the principal building and the side line of the lot and extending through from the front yard to the rear yard. [Amended 7-12-2007 by L.L. No. 2-2007]

The Zoning Board of Appeals acknowledges that there is no building on the subject property and further agrees with the Applicant that the definition of "building" is determinative as it applies

to the above corresponding definitions and lot requirements listed on Area Regulation Table 105 Attachment 5:2.

The definition of building within the Code of the Town of Greenfield (§105-7 Definitions) is:

Building

Any structure wholly or partially enclosed within exterior walls and columns or within exterior and party walls and a roof, affording shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more fire walls extending, from the ground up, each part is deemed to be a separate building, except as regards minimum side yard requirements.

The Zoning Board of Appeals finds that the clear language within the above definition of “building” requires a structure on the subject property to be “wholly or partially enclosed within exterior walls and columns or within exterior and party walls and a roof, affording shelter or enclosure of persons, animals or property.” Although the Tupelo Community Forest trail system meets the definition of a Recreational Facility, the trail system does not meet the definition of a “building.” As such, the “Front Setback,” “Minimum Side Yard” and “Minimum Rear Yard” requirements of Area Regulation Table 105 Attachment 5:2, by their corresponding definitions, cannot be applied in this situation because there is no “building” present or proposed in order to apply the specified area dimensions and measurements listed on the Area Regulation Table to the subject property.

For the aforementioned reasons, the Zoning Board of Appeals agrees with the Applicant and disagrees with the determination of the Zoning Administrator/Code Enforcement Officer that the Recreational Facility, aka Tupelo Community Forest, “is required to be within the zoning district setbacks prescribed by Area Regulation Table 105 Attachment 5:2.”

VOTE:

Ayes: D. Eskoff, A. Wine, K. Taub and T. Flynn

Noes: None

Abstain: None

Absent: C. Kolakowski and S. MacDonald

Meeting adjourned at 9:42 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahan
ZBA Executive Secretary

DRAFT