

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

September 5, 2017

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to Order by Denise Eskoff, Chair, at 7:30 p.m. On roll call the following members are present: Denise Eskoff, Curt Kolakowski, Joe Szpak, Andrew Wine, Laura Sanda, and Neil Toussaint Alternate.

Minutes

August 1, 2017
MOTION: J. Szpak
SECOND: C. Kolakowski

RESOLVED, The Zoning Board of Appeals waives the reading of and accepts the August 1, 2017 minutes as written with minor corrections.

VOTES: Ayes: D. Eskoff, L. Sanda, J. Szpak, C. Kolakowski
Noes: None
Abstain: A. Wine

NEW BUSINESS

**Lally, Andrew Case# 990
TM# 126.-1-111**

Area Variance

Andrew Lally, applicant, is not present. D. Eskoff states that she has some questions regarding this case. D. Eskoff states that this case was brought to us for an area variance request that does not have any road frontage and he wants to build a second house on the same property as the first house and under Greenfield Zoning we do not allow two (2) houses on one parcel, usually if you are building a new house the old house has to be removed at some point in the future once you receive the Certificate of Occupancy. D. Eskoff states that A. Lally has 51.66' of road frontage for the house he has and we require 250' in the LDR-District, so a 250' variance would be required for the second house that has no frontage. D. Eskoff states that the problem is A. Lally will have to get an Open Development Permit if he goes about this way and it would also require a subdivision and she believes he is also in front of the Planning Board for a subdivision. D. Eskoff states that she has another question because they have done other cases where there have been keyhole lots added for a second house and we have had in-law houses that were built and people wanted to keep it on the same property or adjoining property. If A. Lally is doing a subdivision D. Eskoff states she does not have conformation from the Code Enforcer regarding no keyhole potential and would like that clarified. D. Eskoff states that as it is now we are looking at this needing an Open Development Permit if that is the case so we would not be accepting this application tonight we would be referring this to the Town Board. A. Wine asks can we refer it without him present. D. Eskoff states that we could refer it to the Town Board but, we need things clarified to make sure we

have all the necessary information first. D. Eskoff states that we can't ask the needed questions so does the Board want to wait another month? J. Szpak and A. Wine both state that this project should be postponed. C. Kolakowski asks can if A. Lally get a minor subdivision before he gets an Area Variance. D. Eskoff states that she is not really sure exactly he will defiantly need a subdivision to have two (2) houses and the way our code is written he would have to get a minor subdivision for two (2) houses. L. Sanda states that it looks like a log house, a larger family home. D. Eskoff states that the house that is there is already a family home. J. Szpak states that if it goes to the Town Board for Open Development Area will it come back to us. D. Eskoff states that it would come back to us for an Area Variance for the frontage for the second lot as part of the subdivision.) L. Sanda states that she feels that the ZBA needs better maps too. The Board concurs.

MOTION: A. Wine
SECOND: J. Szpak

RESOLUTION, that the Zoning Board of Appeals, postpones the application of Andrew Lally Case# 990, 50 Ure Way, TM# 126.-1-111, until October 3, 2017 pending further information to be submitted to the ZBA/Building Department by September 19, 2017 to include: 1) a more definitive map of where the existing house is and where A. Lally wants to put the new house; 2) a size comparison of the two (2) houses; 3) pictures of the property and; 4) a detailed description of the new construction.

VOTE: Ayes: D. Eskoff, L. Sanda, J. Szpak, C. Kolakowsk, And A. Wine
Noes: None

Shemroske, J. Case# 986
TM# 151.-3-55

Area Variance

J'Mae Shemroske is not present. D. Eskoff states that this case was in front of the Board two (2) months ago and they were looking to build a storage area for firewood and a covered pavilion, and there was a question of whether or not there were issues with their property and the ZBA postponed the case for the applicant to have further discussion with our Codes Officer. The applicant did speak to our Codes Officer and a follow up letter from the Zoning Board of Appeals to ask if they were going to continue or withdraw their application and that is why they were not on the agenda last month. We did hear from them following that letter. D. Eskoff reads the email from J. Shemroske received by the ZBA Executive Secretary on September 5, 2017 stating they are withdrawing their application. D. Eskoff states that this case is officially withdrawn from consideration...

PUBLIC HEARING

Bailey, K. (Sharon Jenkins) Case# 987
TM# 125.-1-11

Area Variance

Kevin Bailey, applicant/agent, and Mike Millis, owner, are present for the applicant. D. Eskoff states that this a Public Hearing for ground Solar Panels. D. Eskoff states that this project and the next project both were originally in front of the Planning Board because in the

Town of Greenfield we require a Special Use Permit for ground mount Solar. When it went to the Planning Board they determined that the project didn't have enough acreage or size or frontage, there were size issues, and that is why these cases are before us, and if the Area Variances are granted or not granted they will go back to the Planning Board. D. Eskoff asks the applicant if this case was under Ed Parker originally and asks who he is. K. Bailey states that he is a sales associate for High Peaks Solar Company. D. Eskoff asks for clarification that he is associated with K. Bailey's company but, he is not the Authorization of Agent. K. Bailey states yes. D. Eskoff states that this project is in MDR-2 District. D. Eskoff states that the applicant needs a Variance of 2.17 acres according to our notes. D. Eskoff states that the Planning Board mentions in their minutes that the applicant needs 200' of frontage and they only have 160'. D. Eskoff opens the Public Hearing for this case at 7:43 p.m. and asks if there is anyone present that would like to speak regarding this project. Mike Millis, owner, is present and states that he is Sharon Jenkins husband she is unable to be here because she is working. M. Millis states that they just want to get away from National Grid and they have done everything that is asked of them and he states that it is 160' across and 240' back and he has cleared an area where the Solar Panels are going to go and it was just brush that he cleared. M. Millis, owner, states that he has spoken with his neighbors and everyone has told him that they are not opposed of the project. D. Eskoff asks if anyone has written any letters of support. M. Millis states no. D. Eskoff asks if we have received any correspondence. K. McMahon states no. M. Millis states that they are hoping that they can have the Solar Panels soon. D. Eskoff thanks M. Millis. L Sanda looks up the code online code. D. Eskoff asks K. Bailey what Level of Solar is he proposing, is it Level 1. K. Bailey thinks it was correct. C. Kolakowski states that as long as they have the acreage they appear to have the setbacks. D. Eskoff states 200' of frontage is not listed in our Code Enforcement notes as required it appears the lesser amount of frontage applies. D. Eskoff asks K. Bailey to talk more about the project. D. Eskoff asks are the Solar Panels going to shade any of the neighbors. K. Bailey states the Panels will be on the North of the property and the road is South of the house, the panels are 11' in height depending on how they are angled they are adjustable for snow shading. A. Wine asks how often they will be adjusted will it just be in the winter months. K. Bailey states that is up to the ambition of the home owner, some people fix them at 45 degrees and some people adjust them every month. D. Eskoff states that they saw all the photos and there is quite a bit of foliage there. M. Millis states that they had that wrong the panels are going to be South and the road will be to the west and the house is to the west. D. Eskoff asks if they foresee them shading any of your neighbors. M. Millis states no. D. Eskoff asks do they know how the sun hits the house and where the afternoon sun is going to be, that tends to be one of the issues with structures that go up and putting Solar, this is something they are looking at. D. Eskoff asks is there anyone else here who wishes to discuss this project. There being no one else present and no correspondence, D. Eskoff closes the Public Hearing at 7:50 p.m. D. Eskoff states that keep in mind that what foliage is there if it is a concern or tree structure are there now and should remain there as part of this Variance. D. Eskoff states that as we go forward we will be getting more Solar Applications and there are some things we can look at if we chose to or we may not chose to. J. Szpak states that the only thing he is struggling with is because it is somewhat substantial but, it is a pre-existing non-conforming lot and although his current neighbors don't have a problem do they have one (1) neighbor that is unshielded. D. Eskoff states that the project will go through a Site Plan Review for a Special Use Permit and the Planning Board will have a Public Hearing on this, that is the process with all ground mount Solar. A. Wine asks if they should stipulate a minor buffer. D. Eskoff states that the Board can state that something is maintained that is there now is also an option. A. Wine asks what if a new neighbor moves in and to be considerate to the new neighbor there is obviously a buffer to the street side. D. Eskoff states that we don't want have anything in the way of the Solar Panels. D. Eskoff states that she thinks it is the only open space on the property to collect

enough solar energy. L. Sanda states that she would be less concerned with a future neighbor, if the current neighbor is not opposed to them, future neighbors will make their determination when they look at the house and decide from there. J. Szpak states that the neighbor has some property where if they don't like it they can put up a buffer. D. Eskoff asks if they have considered roof mount solar and asks why they chose ground mount solar. M. Millis states they can't do roof mounted solar because of the pitch on the roof; it is 46 degrees not 45 degrees. D. Eskoff states that is an important answer and thinks that we need to ask everyone who comes in front of us seeking an Area Variance for ground mount Solar. C. Kolakowski states that this is a pre-existing non-conforming lot our code contemplates and states that you need a 150' of road frontage and this is 160' wide lot and in this application it is the width that is causing the issue it's not the size of the lot or the acreage or the depth of it and theoretically these folks could be exactly the same spot as they are now with the same width and just put it up I feel there is some extenuating circumstances.

MOTION: J. Szpak
SECOND: L. Sanda

RESOLUTION that the Zoning Board of Appeals hereby grants an Area Variance for 2.17 acres for case #987, TM#125.-1-11, 4017 Nys Rt 9N based on the following:

- The benefit cannot be achieved by other feasible means to the applicant
- There is no undesirable change to the neighborhood or character to the nearby properties, the property is heavily shielded with foliage
- The request is substantial but, it is offset by being a pre-existing non-conforming lot
- The request will not have any adverse environmental affects to the property or the surrounding properties.
- The difficulty was not self-created because roof mounted Solar is not feasible due to the degree angle of his roof.

VOTES: Aye: D. Eskoff, L. Sanda, J. Szpak, C. Kolakowsk, And A. Wine
Noes: None

Bailey, K. (Matthew & Kristina Gashel) Case# 988
TM# 163.-2-8.112

Area Variance

Kevin Bailey is present for the applicant. D. Eskoff states that this project is also a Public Hearing and that Kevin Bailey is the applicant and authorization of agent and Matthew and Kristina Gashel are the owners. D. Eskoff states that this is in MDR-1 District and it has 53.64' of road frontage and 150' is required they are going to need an area variance for 96.36' according to our notes. D. Eskoff opens the Public Hearing at 8:02 p.m. and asks if there is anyone present from the public to speak regarding this project. D. Eskoff asks if there is any correspondence. K. McMahon states no. D. Eskoff states that due to the fact that there is no one present to speak on this project and no correspondence, she closes the Public Hearing at 8:03 p.m. D. Eskoff asks K. Bailey to review the case and asks is it different from the first case. K. Bailey states that the issue is the road frontage not the acreage they have a very wooded lot. D. Eskoff asks if they just put in the driveway and is it very far back off the road. K. Bailey states yes. K. Bailey states that he sent photos to K. McMahon and they property owner will be the only ones that will see the Solar Panels. D. Eskoff stated that she considered driving back

there to see what is going on back there but, because it was just a new driveway she didn't want to, it goes a long way back. D. Eskoff asks if there are any shading issues that we need to be concerned with and how close is the nearest house to this building site. K, Bailey states probably at least 500' away. D. Eskoff states that you can't see any house from there either correct. K, Bailey states you cannot. D. Eskoff states that when the foliage is gone same case. K. Bailey states correct it's so wooded it would not be an issue it's kind of tucked around the house. D. Eskoff asks why they chose ground mount Solar as opposed to roof mount. K. Bailey states that the applicant did not want roof mount Solar. D. Eskoff states that we have to ask because they would not need a variance with roof mount. L. Sanda states that this is another one that C. Kolakowski's point speaks to this were taking about a frontage variance for a keyhole lot and if you look at the lot in and of itself it's four (4) acres and it sets back and the only reason it doesn't have frontage is because of the keyhole, it's not that it's a narrow lot. D. Eskoff states that it is kind of the opposite of the other case but yet it suits the property. L. Sanda states yes. L. Sanda states if other homes are not going to see this and all of the home owners got a letter and didn't have a comment I don't see an issue with it. D. Eskoff states that we do not have anyone here and we do not have any correspondence. K. McMahon states that there were two (2) people that came to the Town Hall and asked to see the application/ information regarding this property and stated that though they didn't care for it they did not submit any written comment nor are they present tonight. D. Eskoff states that they did not comment publicly. K. McMahon states no. D. Eskoff states that is their prerogative not to comment or say anything if they don't want to be on record. K. McMahon confirms that we did not get anything in writing. J. Szpak asks if anyone else have any other discussion. L. Sanda asks can you just tell me how many panels you are proposing. K. Bailey states 32. D. Eskoff asks how much ground space is that going to cover. K. Bailey states most of it is elevated. D. Eskoff asks how many structural beams will be going up. K. Bailey states four (4) six (6") inch steel poles seven (7') out of the ground. L. Sanda asks how big the panels are. K. Bailey from a birds eye view it's probably about 10x44' they are spread out enough so you can walk and mow. D. Eskoff asks are they behind the house. K. Bailey states they are kind of North East of the house, behind their driveway, it's the sunniest spot. L. Sanda states that as a home owner I would not want to see it in my immediate back yard right outside my house I guess anyone buying the home in the future would see it. A. Wine asks are the panels ten feet away from the propane tank. K. Bailey states that he did not realize that there was a propane tank on the property. L. Sanda states that it is in the pictures and the maps. A. Wine states that you better check because you cannot put it within ten feet of the tank. D. Eskoff asks if the location of the Solar going to change. K. Bailey states no we are not going to be near that that is west of the Solar panels. L. Sanda states it will have to go through Site Plan Review. D. Eskoff asks how close you are to the property line. C. Kolakowski states 65'. D. Eskoff asks if that is enough of a setback. L. Sanda asks for the Solar Code. D. Eskoff states for any structure. L. Sanda states 50' building setbacks. D. Eskoff states that it did go through the Planning Board and it did not have any more information in their minutes. L. Sanda asks if this will be a Level 1 or 2. D. Eskoff states 1. L. Sanda states that is 100' of frontage not 150' from the way the Board viewed the information provided for the first case from the Codes Enforcement. If so, MDR-1 Solar ground mount is 1.5 acres and 100' frontage. D. Eskoff asks this is Level 1 correct, level 1 is for residential ground mount, not producing a lot of extra electricity that will be going back on the grid system. K. Bailey states that all of their systems are, NYSERDA has basically 110% requirement. K. Bailey explains NYSERDA for Level 1. D. Eskoff states that it is basically for home owner use only in our definition of level 1 it's meant to be read more for the grid we realize that you are not producing it to use elsewhere that it goes through a grid system and it is written to be interpreted that way. D. Eskoff states that we do not have a hard copy of this so L. Sanda reads the code definition for Level 1 online. D. Eskoff asks K. Bailey if that is the correct definition for this project. K. Bailey states yes. D. Eskoff asks L. Sanda to read level 2 to K.

Bailey. L. Sanda reads Level 2. L. Sanda states that Level 2 is nonresidential Solar system. and level 3 energy production. D. Eskoff asks that in level 1 and in MDR-1 is 100' frontage. L. Sanda states yes we are going with 100/150 like we did on the last one. L. Sanda states that Level 1 would be 100' of frontage .5 acres with septic the front setback is 40' and the minimum side yard setback is 25' minimum rear yard setback is 50'. D. Eskoff states that they more than meet setback requirements. L. Sanda states yes. A. Wine states that their frontage requirement has dropped. D. Eskoff states that this isn't correct. L. Sanda states yes. J. Szpak states 46.36'.

MOTION: J. Szpak
SECOND: L. Sanda

RESOLUTION, that the Zoning Board of Appeals, hereby grants a road frontage variance of 47' for a Level 1 ground mount solar system for case# 988, TM # 163.-2-8.112 at 50 Sand Hill Road for the following reasons:

- The benefit cannot be achieved by other feasible means to the applicant without construction changes this being new construction
- There is no undesirable change to the neighborhood or character to the nearby properties
- The request is not substantial, this is a keyhole lot
- The request will not have any adverse environmental affects the property or surrounding properties.
- The difficulty was not self-created being a keyhole lot.

VOTES: Ayes: D. Eskoff, L. Sanda, J. Szpak, C. Kolakowsk, and A. Wine
Noes: None

Szpak, J. Case# 989
TM# 164.-1-23.112

Area Variance

Joseph Szpak is present and recuses himself from this case. N. Toussaint, Alternate, is raised to full voting member for this case. D. Eskoff explains that J. Szpak is applying for an area variance to complete a project he started in 2002 and wants to add a carport to his garage. We did request photos and they were submitted and asks if everyone has had an opportunity to look at them. The Board states yes. D. Eskoff states that this is a Public Hearing and opens it at 8:16 p.m. and asks if there is anyone present to speak regarding this case. D. Eskoff states that there is no one present but, we did receive a letter of support from Brian Green and she reads the letter into the record. D. Eskoff asks if there is any other correspondence. K, McMahon states no. D. Eskoff states there being no one else present and no other correspondence we will close the Public Hearing at 8:17 p.m. D. Eskoff asks if anyone has any questions for J. Szpak. A. Wine states that he was not here for the last meeting and asks if he can explain what it is going to be used for and how the applicant will be accessing it. A. Wine states from what he recalls the applicants driveway would run parallel to the back of the garage so will the applicant be driving on his lawn to get back to it is that how he will be driving a car which A. Wine is not sure. J. Szpak states that he plans on storing his wood chipper and tractor there. D. Eskoff states it's for work equipment. J. Szpak states that in the woods he has stored pieces of

equipment and wants to store them in the carport. D. Eskoff asks if the footings were there before. J. Szpak states yes and so was the retaining wall was put on the footings and that is what the post and beams will set on. A. Wine asks if he will change what is there now. J. Szpak states correct. D. Eskoff states that basically the applicant is just finishing a started project that was not completed. J. Szpak states yes. A. Wine asks if J. Szpak will be using any of his lawn. J. Szpak states that it is already setup. A. Wine states as is. J. Szpak states yes. C. Kolakowski states that the photos that we asked for show that there is no impact which is backed up by the neighbor's letter. D. Eskoff states that he has 35' and 50' requiring variance of 15'. A. Wine states that reflects the Zoning from last time. D. Eskoff states correct this Variance is actually less than last variance granted.

MOTION: C. Kolakowski

SECOND: L. Sanda

RESOLUTUION, that the Zoning Board of Appeals, hereby grants an Area Variance for a rear yard setback for fifteen feet for Case # 989 TM# 164.-1-23.112, 24 Lester Park Road, based on the following:

- There is no undesirable change to the character of the neighborhood or detriment to nearby properties. Neighboring HMO is in favor;
- Benefit cannot be achieved by other means feasible to the applicant;
- The request is not substantial and is a decreased amount from the previously granted area variance;
- The alleged difficulty is not self-created because the applicant is finishing a project that could not be completed earlier;
- The request will not have any adverse environmental effect.

VOTES: Ayes: D. Eskoff, L. Sanda, C. Kolakowski, A. Wine, And N. Toussaint
Noes: None
Recused: J. Szpak

J. Szpak returns to the Board as full member.

OTHER BUSINESS

**Vanderzee, D. (George Smith) Case# 985
TM# 137.-2-49**

Area Variance

D. Eskoff states that for D. Vanderzee and Over the Hedges, LLC subdivision on Squashville Road we have referred the case to the Planning Board and it is still with the Planning Board and Mr. Vanderzee's agent Mr. Smith did submit the information that we have requested which was on the LLC Incorporation and the Authorization of Agent. D. Eskoff states that she wanted to let the Board know that it has been submitted. C. Kolakowski asks if they were going submit their rights to cross National Grids property. D. Eskoff states yes they are

still working on that with the Planning Board. D. Eskoff states that we will need that information in the future but, we have not accepted that application yet. D. Eskoff states she just wanted to let the Board know what we did ask for has been submitted and what we discussed with the Town Attorney was also submitted so that case will be in the future and that concludes our business for this meeting.

Joseph Szpak discusses posted Public Hearing notices, those received by the applicants. The Board discusses and K. McMahon will look into how to improve them.

Meeting adjourned at 8:26 p.m. All member in favor.

Respectfully submitted,

Kimberley McMahon
Zoning Board of Appeals
Secretary

DRAFT