

Town of Elbridge Zoning Board of Appeals



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TOWN OF ELBRIDGE ZONING BOARD OF APPEALS Reorganizational Meeting Minutes August 16th 2023

MEMBERS PRESENT: Chairman Timothy Gannon, Deputy Chairman John Tambroni, Joanne Spoto Decker, Eric Matthews, Tracy Resch, Paige Boratko ZBA Secretary/Alternate, ZBA Attorney Joe Frateschi

Others Present: Doug Blumer for Eagle Point Farms LLC, Chris Snyder & Henry Anreader of Bergmann and Assoc., Clair Wheeler

[Open meeting](#)

DETERMINATION OF QUORUM AND CALL TO ORDER – 7:00 PM EST

Chairman Tim Gannon called the meeting to order at 7:00 p.m. and after the Pledge of Allegiance, read the legal notice posted in the Post Standard.

A motion was made by John Tambroni and seconded by Tracy Resch to open the hearing for Eagle Point Farms LLC/671 Whiting Rd in Jordan N.Y.

Chairman Timothy Gannon requested Doug Blumer and/or Chris Snyder representing Eagle Point Farms LLC/671 Whiting Rd to come forward and explain to the board the reasons for this application.

HEARING#1

Area Variance of 1-ft

TM #033.-01-11.0

Eagle Point Farms LLC/671 Whiting Rd

Jordan, New York 13080

Z=AG

GML-219-Not Required per

Chapter 265-49 & 265-50

Chapter 265-49 Residential and agricultural use fences.

Fences for one- and two-family residences and fences for nonretail sale agricultural uses shall not exceed six feet in height which are situated other than within a required front yard setback

Chapter 265-50 Other fences.

Uses subject to site plan review must have any proposed fence approved by the Planning Board prior to issuance of a permit by the Code Enforcement Officer.

Henry Anreader of Bergmann and Associates spoke for the applicant in requesting an area variance of 1ft to erect a 7 ft. high fence where the Town of Elbridge Code states no higher than 6-foot high.

The applicant is proposing to construct a 2.5MW commercial AC ground mounted photovoltaic solar facility on a 14.82-acre portion of a 345.55-acre parcel in an agricultural zoning district. The solar field will be contained by a 7-foot-high fence surrounding the solar field and will be located rear of the parcel.

HenryAnreader: the national electric standard requirement height for offense is 7 foot due to safety requirements for deer/anima safety. National code the higher the height allows us to keep out deer and anything that would trigger safety issue. Our town is fully fitted into the town solar code we've submitted it to the planning board and we feel that we are one working within what the town wants for solar. Our Company has developed over 70 projects of community solar. These are projects of 5 MW or smaller. This solar farm is going to be 2.5 MW in size on just under 8.8 acres. This parcel is over 300 acres so with the location of this project and the size of the parcel and given the distance from the road; we feel that this would not have an adverse effect on the community.

Chris Snyder: I am the project engineer; just to provide a little bit of an overview for all of you, the solar site is bounded by the fence (showing a drawing where the solar field would be). This is 7.26 acres. In total the entire development area is an area of 14.2 acres. With that perspective; it's about 4.3% of the site that they would developed. We will be removing .74 acres of forest and brush area to make way for the solar field. There are some wetlands but solar site is not impacting any of the wetlands so in terms of topographic and change of elevation; there is no significant change in elevation. The change in elevation from the road to the base of where the site would be plus or -30 feet. Which is pretty significant. So even with fencing and the heights of the panels the entire site will not be in view. The only parcel that would have that would have a clear line of sight would be this property owner in the back. There's an entire line of dense forest in the area there. It's a pretty significant distance from the road if this property owner can see any of it; it would have to be from the second story. There is a very low visual impact.

The fence is a C019 wood post and then fixed-not woven wire of 7-foot-tall. Somewhat like a grid almost like a chain-link but square. This fence is to keep animals and people out. The only other alternative to doing a fence like this would be a 6-foot fence with barbed wire to make up that additional national standard requirement. Most of the agricultural sites do not wish to have the eyesore of Barbed wire.

John Tambroni: This project is to supply the people in the community?

Chris Snyder: It supplies NYSEG and then the local people/residents would have the opportunity to sign up for a discount. It is about a 5% savings from their bills. Per megawatt; so roughly 164 homes can be powered. So, a little over 400 homes can be powered with 2.5 mw's

Tracy Resch: How long is the term of the contract with the solar company and at the time that the contract terminates, who is responsible for taking down this fencing and removing the panels and things like that.

HenryAnreader: That is a concern that we are addressing with the planning board through the site plan process. We are also working that out in our lease with Doug. I can share that it is up to a 40-year lease. It would be the project company's responsibility to remove or take down. If it wasn't operating for a period of extended time or at the end of that 40 years. We maintain the facility and deal with any broken equipment, mowing the lawn around the areas of the site.

Chris Snyder: I do want to note too that this was a question that was also brought up the planning board. They asked to see additional information on that so there will be something in writing.

Clair Wheeler: Coming back on your concept the state of California has had an issue with solar panels in their end of life. You can't dispose of them. They're all heavy metals and highly toxic so if unless there's any financial guarantee that the company's will still be around. If there's any problems that it doesn't go back on the town. Right now they must be disposed by sending them to the state of Arizona.

Doug Blumer: I can comment on a little bit of this. I can tell you right now the language I have in the contract is more stringent than what the town has in the contract with Abundant Solar. I want to protect

my property. We will have a bond in case this company or whoever owns it goes under and it will be reviewed every five years. As far as I know there isn't any place in this country that can recycle them. I think they do it in Europe.

Chairman Timothy Gannon: The Town of Elbridge zoning needs to be updated to incorporate the 7-foot fence if it's a national standard and because if we approve this 7-foot height fence around a solar field then the zoning Board of appeals sets the precedence.

Doug Blumer: We've already been in conversations with the code enforcement officer as far as updating the code with the town board. As more and more of these sold fields are popping up. Especially if it's a national standard requirement.

Chairman Timothy Gannon asked the following questions:

Are there any other questions from the board?

None

Does the board have enough information to make a determination?

Yes

Is there any one to speak in favor of or in opposition?

No one

Chairman Timothy Gannon made a motion seconded by **Joanne Spoto Decker** to close the hearing for Eagle Point Farms LLC/671 Whiting Rd. It passed with all in favor at 7:22 p.m.

[Open meeting /SEQR Determination](#)

After a brief discussion the ZBA Attorney Joe Frateschi announced that the TOE Planning Board is the lead agency for SEQR review.

ZBA Attorney Joe Frateschi: in ruling on a variance what we are considering is whether the benefit to the applicant outweighs the detriment to the neighborhood

TOE ZBA THEN REVIEWED THE AREA VARIANCE CRITERIA:

Requesting an area variance of 1-ft. fence height from the Town of Elbridge Zoning Laws Chapter 265-49 & 265-50; to be located at Eagle Point Farms LLC/671 Whiting Rd in Jordan, NY.

AREA VARIANCES. Town Law Chapter 265-49 & 265-50; General Cities Law Section 81-b(4).

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.

Response: **No, the project is set back is far enough from the neighborhood and nearby properties, no undesirable change in the neighborhood.**

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than by the variance.

Response: **- Required by NYS Law.**

3. Whether the requested area variance is substantial.

Response **- looking for a 1- ft variance from a 6 ft height requirement. Numerically it is not substantial. State and us requirements of 7-ft. any substantiality is mitigated by remaining factors**

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Response – **No, none determined**

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision, but

shall not necessarily preclude the granting of the variance.

Response: - **yes, but not the determining**

***The benefit to the applicant outweighs the detriment to the neighborhood**

ZBA DECISION VOTE: -Area Variance -19ft

Requesting an area variance to be located at Eagle Point Farms LLC/671 Whiting Rd in Jordan, Town of Elbridge Zoning Laws Chapter 265-49 & 265-5

Z=AG

Area variance of 1-ft. from 6ft minimum height requirement

Resolved:

It is the decision of the Town of Elbridge Zoning Board of Appeals that with the evidence presented as set forth in the findings of facts and with the review of the area variance criteria that the detriment to the applicant outweighs the detriment to the neighborhood and that the relief petitioned for by Eagle Point Farms LLC/671 Whiting Rd be granted with the following conditions:

- 1) The project must be completed in accordance with the plan and specifications submitted with the application and as amended at the public hearing with the town of Elbridge zoning Board of appeals
- 2) Zoning Board of appeals approval is contingent upon site plan approval and special permit approval as well as aesthetics and compliance with town code

Eric Matthews made a motion seconded by Chairman Timothy Gannon to:

X Approve Amend Deny **X Area Variance** Use Variance Interpretation

It passed with 5 Aye(s) and 0 Nay(s) at 7:25p.m.

Recorded Vote: (A = Aye, N = Nay)

J. Spoto Decker- A, Chairman T. Gannon- A, E. Matthews - A, T. Resch- A, J. Tambroni- A

Approval of Minutes – 04/19/2023

A motion to approve the April 19th, 2023 minutes as written by John Tambroni and seconded by Joanne Spoto Decker. It passed with all in favor at 7:35pm.

DISCUSSIONS: next month's agenda 627 Eno Rd, TOE planning and zoning training.

OLD BUSINESS: *None*

ADJOURNMENT: With no further business on the agenda, a motion was made by Joanne Spoto Decker and seconded by John Tambroni to adjourn tonight's meeting. The meeting was adjourned with all in favor at 7:45 pm.

Respectfully Submitted

Paige Boratko- Secretary/Alt. member

RECEIVED
TOWN OF ELBRIDGE
 08.21.23
TOWN OF ELBRIDGE
TOWN CLERK

Town of Elbridge Zoning Board of Appeals
Area Variance Findings & Decision

Applicant Name & Address: Eagle Point Farms LLC/NY Elbridge I, LLC 140 E. 45 th Street, Suite 32B-1 New York, New York 10017	Application No. Zoning District: AGR Notice Published: Yes Referred to County Planning: Sent Hearing Date: Wednesday, August 16, 2023 at 7:00 PM SEQRA Determination: N/A Lead Agency: Planning Board
Property Location: 671 Whiting Road Sec-Blk-Lot: 033.-01-11.0	
Requested Variance: 7' High Fence where 6' is required.	
Applicable Section(s) of Town Zoning Ordinance:	

- Exhibits Submitted: (check all that apply)
- Site Plan Exhibit No.: _____
 - Staff Report Exhibit No.: _____
 - Letters to adjacent property owners Exhibit No. _____
 - Other _____ Exhibit No. _____
 - Other _____ Exhibit No. _____

FACTORS CONSIDERED:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:
 Yes No
 Reasons: Set back far enough from

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes No
 Reasons: Requirement of NYS Law

3. Whether the requested variance is substantial: Yes No
 Reasons: Any substantially mitigated by remaining factors

4. Would the Variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 Yes No
 Reasons: None determined

5. Whether the alleged difficulty was self-created: Yes No
 Reasons: Yes but not determining

Environmental Assessment: If this is a Type I or Unlisted action, discuss the potential environmental impact(s):

N/A

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, taking into consideration the above five factors, finds that:

- The Benefit to the Applicant *DOES NOT* Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is *denied*.
- The Requested Variance is *approved*.

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

- The applicant must obtain a building permit within 30 days of the date variance granted.
- The applicant must complete the project within the time frame that the building permit is valid, or the variance shall expire.
- The project must be completed in accordance with Plan and Specifications submitted with the application and as amended at the public hearing with the Town of Elbridge Zoning Board of Appeals.

Other conditions (explain below):
Condition Site Plan Approval and Special Permit Approval

Adverse impact to be minimized: Aesthetics and compliance w/ Farm Code

Condition _____

Adverse impact to be minimized: _____

RECORD OF VOTE:

- Fin Gannon, Chairman
- John Furbish, Member
- Tracy Resch, Member
- Joanne Decker, Member
- Fin Gannon, Member
- Joanne Spoto Decker, member

- | | | |
|------------------------------|------------------------------|----------------------------------|
| <input type="checkbox"/> Aye | <input type="checkbox"/> Nay | <input type="checkbox"/> Abstain |
| <input type="checkbox"/> Aye | <input type="checkbox"/> Nay | <input type="checkbox"/> Abstain |
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| <input type="checkbox"/> Aye | <input type="checkbox"/> Nay | <input type="checkbox"/> Abstain |
| <input type="checkbox"/> Aye | <input type="checkbox"/> Nay | <input type="checkbox"/> Abstain |

The above statements and findings of the meeting constitute and is the decision of the Zoning Board of Appeals for the Town of Elbridge.

Chair Zoning Board of Appeals _____ Date _____