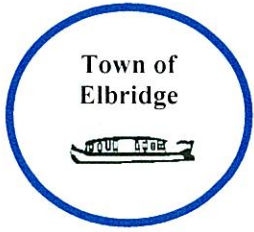


Town of Elbridge Zoning Board of Appeals



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TOWN OF ELBRIDGE ZONING BOARD OF APPEALS Meeting Minutes November 15th 2023

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

Others Present: Victor Ciaccia and Nate Cobb of Norbut Solar Farms

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 on 10/31/2023 in the Post Standard.

A motion was made by Chairman Timothy Gannon and seconded by Joanne Spoto Decker to open the hearing for Norbut Solar Farms/O'Connell Farms LLC

Chairman Timothy Gannon requested Norbut Solar Farms/ Victor Ciaccia representing O'Connell Farms LLC/Wheeler Rd in Elbridge NY, 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

O'Connell Farms LLC

Wheeler Rd in Elbridge

Jordan, New York 13080

Z=AG, 48.5acres

Publish Date – 10/31/2023

GML-239 = OCPB Case Area Variance #Z-23-285, Site Plan # Z-23-274, Special Permit #Z-23-275

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.

The TOE Planning Board has submitted this project to the OCPB for GML-239 review for site plan, special permit and area variance regarding this project. The OCPB has determined that the area variance will have no significant adverse inter-community or county-wide implications.

The Toe ZBA has received correspondence from the TOE Planning Board has declared its intent to assume the role of Lead Agency in the SEQR review.

Victor Ciaccia of NSF spoke for the applicant who is requesting an area variance to allow 7 ft. fencing around a proposed of a 5 MW AC solar array facility where 6 ft. is the maximum allowed on a 48.5-acre parcel in an Agricultural zoning district. Surrounding lands are enrolled in NYS Agricultural District 3 and both the site and surrounding lands contain active farmland. The facility will be on the northwestern section of the parcel and a 20' wide access road will extend west from Wheeler Road to the middle of the proposed array where equipment will be stored on concrete pads and battery energy storage systems will be installed on elevated steel platforms; the solar panels will be pole-mounted with a maximum height of 18' from ground; GOAB utility poles will be installed at the base of the access road, adjacent to existing overhead power lines. The applicant is seeking an area variance for the perimeter fence surrounding the array, the proposed fence will be 7' in height where 6' is allowed by the Town Code. The national electric standard height requirement for a fence surrounding a solar facility is 7-ft.

Chairman Timothy Gannon: This fence will encapsulate the whole array? How many acres?

Applicant: Yes, there's approximately 48.5 acres

Tracy Resch: approximately how many panels will be going up on the field?

Applicant: 15,000 and a then couple hundred modules.

Tracy Resch: I've asked this question before when similar issues were in front of us, is there anything in your contract about disposal of those panels if and when it becomes inoperable and what's going to happen to the land after the fact?

Applicant: Yes, it's part of our application package and we've discussed this numerous times with the Planning Board. We have a decommissioning estimate. It's kind of like an itemized breakdown of all the different materials that are on the site. It accounts for a specific amount of modules, poles, the electrical equipment such as the transformers and things like that; facility fencing. It factors that in and multiplies it all out for wages for what it would cost for removal and disposal cost and labor involved with that. This all creates a decommissioning estimate for the site. We also have a plan that describes the methodology of removing the facility and then we will provide the Town with a draft of the decommissioning agreement. Once we've been granted final approval from the Planning Board we would then take that decommissioning agreement back to the Town Board and have them execute it.

Tracy Resch: Would you then remove the facility or does the land owner have to pay someone to deal with it? I realize this doesn't have anything to do with the area variance.

Applicant: We are the land owners. We would hire a subcontractor to come out and remove it. The land would then revert back to aglands. We've never actually had to do that but it's more of a document of bonded protection for the town. It would be our intention of course as the land owner to be managing the facility and if at such a time the facility would be no longer economically viable we would either repower it or decommission it and sell it for scrap value.

John Tambroni: Are there any batteries?

Applicant: There is battery storage contemplated for this facility. It is located on the on the equipment pad. Its located in the center of the site. It would just be for peak load times. This project is considered a **Community Distributed Generation** solar project, It's a special designation for solar facilities that was authorized by the NYS Public Service Commission. They are unique from other solar projects in that you can hook into the distribution side of the utility grid. It can generate power and that power can be sold usually at a changeable discount to community's members in the surrounding area. What that means though is that you have to comply with a series of regulations that the Public Service Commission has set forth for what these facilities are allowed to do. One of the major regulations is being that the CDG site can't exceed more than 5mw s in size. You would assume when the sun is high up in the sky that the panels are more productive so there are some hours that we call peak production times when the facility will be able to generate in excess more than 5 MW's of power but that power

can't get pumped out onto the grid because we're capped. That's why battery storage is a useful component for CDG facilities and it is becoming more and more common because you can take that peak load that's generated and pump it into the battery storage units that are located on the equipment pad. Then when the sun is no longer out or a really snowy day when the facility is not generating 5 MW's, that power can then be pumped out of the battery storage unit and onto the electrical grid.

Tracy Resch: Do you have a street view or a map of the solar farm? I know its huge and it looks like only a small bit of it is facing a main road and is it hidden from view? What's the road look like at this point?

Chairman Timothy Gannon: We can look at the maps and all after the meeting as we need to stay focused. We're here to discuss the area variance of the fence.

Sec/Alt. Paige Boratko: There is a planning board file with the NSF application that includes the County GML-239 resolution. The review states that there was a View shed analysis with limited information and conclusion was completed by Tectonic classifies the approximate area currently covered by forest as "Not Visible due to Vegetation" and the approximate project area as "Potentially Visible. I will pass that around for you to see.

Chairman Timothy Gannon: I know the area pretty well; I don't think even the fence will be seen. There will most likely be a gate coming off of Wheeler Rd and that to will be 7-ft?

Applicant: Yes, as a solar project, we have to comply with the requirements of the National Electrical code which states that outdoor electrical generation facilities or high voltage electrical systems have to have a 7ft fencing around them.

Chairman Timothy Gannon: Yes, I believe our Town Board will be updating our Zoning Code as more and more of these facilities are going up.

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

Joanne Spoto Decker: Yes, I think they did a very nice job with their presentation.

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

No one

Chairman Timothy Gannon made a motion seconded by Eric Matthews to close the hearing for O'Connell Farms LLC/Wheeler Rd in Elbridge. It passed with all in favor

[Open meeting /SEQR Determination](#)

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

Applicant: We did that last night at the TOE Planning Board with a negative declaration. They will be forwarding your board a copy.

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 O'Connell Farms LLC/Wheeler Rd in Elbridge, 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 and National 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.

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 factor

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

Chairman Timothy Gannon read Resolution for Approval of Area Variance resolution #4 of the Town of Elbridge Zoning Board of Appeals. (see attached).

ZBA DECISION VOTE: -Area Variance –1-ft

Requesting an area variance to be located at O’Connell Farms LLC/Wheeler Rd in Elbridge, 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 O’Connell Farms LLC/Wheeler Rd in Elbridge NY 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

John Tambroni made a motion seconded by Tracy Resch to:

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

It passed with 5 Aye(s) and 0 Nay(s) at 7:33p.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 – 09/20/2023

A motion to approve the September 20th, 2023 minutes with a correction to the SEQR title wording was made by Chairman Timothy Gannon and seconded by Joanne Spoto Decker. It passed with all in favor.

DISCUSSIONS: Planning and Zoning training moved to November 29th, 2023.

OLD BUSINESS: *None*

ADJOURNMENT: With no further business on the agenda, a motion was made by Chairman Timothy Gannon and seconded by John Tambroni to adjourn tonight's meeting. The meeting was adjourned with all in favor at 7:40 pm.

Respectfully Submitted

Paige Boratko- Secretary/Alt. member