



Town of Bethel  
*Zoning Board of Appeals*

PO Box 300, 3454 Route 55  
White Lake, NY 12786

A Regular meeting of the Zoning Board of Appeals was held on February 24, 2020 at 7:00 PM at the Dr. Duggan Community Center, 3460 State Route 55, White Lake, New York. at 7:30 PM. On the agenda at this time is the following:

In attendance: Steve Morey, Chairman, Richard Conroy, Vice Chairman, Jesse Komatz, Daniel Brey, Jim Ahearn, Wendy Brown, Lillian Hendrickson, Town Board Liaison, Jacqueline Ricciani, Attorney, Bette Jean Gettel, Code Enforcement Officer, and Jannetta MacArthur Recording Secretary.

Excused: Cirino Bruno

*Pledge to the flag.*

***Motion to approve the minutes from the December 2019 meeting by Richard Conroy, second by Jim Ahearn***

***All in favor - 6***

***Opposed-0***

***Agreed and carried***

***1) Application for an Area Variance for a professional business office in the C-17B Zoning District located at the corner of SR 17B and Roslyn Ridge Road, known as Bethel Tax Map #: 38B-1-16.2, proposed by Anna Bujor.***

Steve Morey: You folks were here in December. We were looking for a revised site plan. If you would briefly review for the board showing that the existing will be removed. In this zoning district there is a requirement of two acres for the proposed construction. If you could review the map for us.

Caroline Akt: Sure. We removed the gazebo; we have a one-acre parcel. That is why we are here. The building is 720 square feet. Basically, Tom Ward designed the site plan. You see a driveway, well, and septic.

Jacqueline Ricciani: Do you have the well and septic or that needs to be...

Steve Morey: The application is for approval because of the fact it is only a one-acre parcel, and the requirement is two acres. Does anyone have any questions?

Jacqueline Ricciani: Isn't there also a lot depth, or lot width?



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Caroline Akt: There was a gazebo there for a number of years, as a real estate office.

Richard Conroy: That is still there.

Dan Brey: There would only be one structure on there.

Jacqueline Ricciani: The building where they are proposing to situate on the lot it would meet the setbacks, but the lot itself according to the bulk table it is supposed to be 150 ft wide, and they have 137 to 143, it is minor.

Bette Jean Gettel: The front is going to be on Rosalyn Road.

Jacqueline Ricciani: So, the width is measured in setback lines?

Steve Morey: Did you determine the deficiency?

Jacqueline Ricciani: 150 is required, there is 131 ft. It's not marked on the map. The width is measured at the front setback.

Steve Morey: It would have to be slightly wider wouldn't it?

Bette Jean Gettel: Your width has to be 150 feet, your depth 200 ft.

Jacqueline Ricciani: The setback is not marked on the map, so I can't tell.

Richard Conroy: They are not talking about a lot.

Jacqueline Ricciani: No, it's not a lot, but I need to know what.

Richard Conroy: You are talking 20 ft.

Steve Morey: The setback .... this taper....

Jesse Komatz: Where the building is it is 143 ft.

Jacqueline Ricciani: Where you measure the lot width, somewhere between the front property line and where the building is.



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Steve Morey: So, we all understand, I don't know the exact dimension of the property width, it is not marked here on the map, but it needs to be included in the application. If it isn't measured at the building, it is measured at the setback from the road.

Jacqueline Ricciani: According to the bulk table that was provided.

Steve Morey: If you want to settle on that, the 20 ft deficiency, so that would be two items for this application. This will require State and County review.

Bette Jean Gettel: I will take care of that, are you going to go toward public hearing?

Jacqueline Ricciani: What are you doing about the width?

Steve Morey: What is the pleasure of the board? They need 20 ft. I can't scale it; I don't have a ruler.

***Motion to approve public hearing for the March 16, 2020 by Richard Conroy, second by Jesse Komatz***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Bette Jean Gettel: It's less than 30 days but I'll take care of it through the County. Caroline you need to do certified mailings. Call me tomorrow Caroline.

Caroline Akt: Thank you.

***2) Application for an Area Variance for a Solar Farm to be located on 2017 SR 17B, known as Bethel Tax Map #: 26-1-4, proposed by Delaware River Solar for Peter Hofstee. (Garigliano)***

Bette Jean Gettel: Mr. Chairman, Jannetta has a disclosure.

Jannetta MacArthur: For the record, I'm Peter Hofstee's sister.

Walter Garigliano: Good evening, I believe this is a fairly straight forward application. There is a subdivision map prepared by Gary Packer which was in your packet but what I have put up on the easel is actually the site plan map because it better shows the property. The proposal is to create two lots, one lot being 42.94 acres in size which is the lot that fronts on the Dr. Duggan Road, the other lot would be a little over a 59 acre parcel which would be this parcel which only had 50 ft of frontage on Rt 17B. Jacy pointed a discrepancy on the sub division map that I'm not



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sure I understand but I will get in touch with her. The sewer is for one family residences, but I will get in touch with you getting it on their directly.

Jacqueline Ricciani: That's what solar farms go by.

Walter Gargiliano: Single family houses.

Jacqueline Ricciani: Yeah, they have to meet all of the setback requirements, for residential structures, I think is the language under the solar portion. You can call me.

Walter Gargiliano: Okay. We also submitted with the application an avadavat from Rich Winter, who is the CEO of Delaware River Solar setting forth all of the underlying reasoning which address all of the criteria of both the Town law and your local law in terms of what the board must consider in determining whether or not it is proper to grant an area variance. There would be some amount of traffic coming in and out of the access road that is in the 50 ft strip to 17B during construction. Following construction there would be very minimal traffic, periodic traffic if there was a problem with some of the facilities, there is maintenance repair personnel, and then a few times a year there would be and I'm not sure and I don't think they know what their strategy is whether they are bringing in sheep to maintain the grass, or hire a company to cut the grass, but they do need to maintain the area under the solar panels so that vegetation remains lower than the lowest level of the panels due to not getting any shade. The reason why this location was selected is that the entire pole and wire array along Dr. Duggan Road is all single phase. They need to tie in to a three-phase line. There are three and only three poles along 17B that front on this property and the others would be much more difficult to access and have a lot more negative visual impact because of where those poles are located. This pole happens to be almost directly across the way on 17B from the access road.

Steve Morey: The access road is Dr. Duggan?

Walter Gargliano: The access road I'm speaking of is the 50ft wide driveway to get to the solar frame on 17B.

Jacqueline Ricciani: He wants the variance on that 50 ft driveway, that is why he is here.

Walter Gargliano: The width of this lot at the building setback line is 50 ft, instead of what is required under the zoning law. The parcel is actually bisected by two different zoning districts. This is the Gateway district, and this is the Ag district, this is some other district down in here, but the project doesn't reside on that.



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Daniel Brey: Is that on the right side of Dr. Duggan Road?

Bette Jean Gettel: It's not on Dr. Duggan at all.

Jacqueline Ricciani: Show him where 17B is?

Walter Gargiliano: (Showing on map) This is 17B.

Bette Jean Gettel: Dan, it's right behind the Dancing Cat Distillery.

Richard Conroy: So, what kind of variance are you looking for?

Walter Gargiliano: We are looking for a lot width variance to allow a lot to be created of 50 ft.

Richard Conroy: What is it supposed to be?

Walter Gargiliano: I believe it is 150.

Jacqueline Ricciani: Yes.

Walter Gargiliano: I especially believe that now that Jacy tells me that your solar law requires to look at a single-family house, the surveyor has 200 on there because that is what is listed for essential services, but I believe it is 150.

Jacqueline Ricciani: Even essential services is 150.

Walter Gargiliano: That's it then. We have a subdivision application pending, this is a variance that is not subject to SEQRA, because it is a side yard variance. Which is exempt under C16 of the SEQRA regs and under your new intermunicipal agreement with the County the variance is not subject to referral, but if you want to send it, send it. They are probably just going to send it back.

Jacqueline Ricciani: So, this would be a Type 2 action?

Walter Gargiliano: Type 2 action, and there is plenty of time to send to the County. The site plan application before the Planning will get deferred, the variance application is actually covered by the new intermunicipal agreement between the Town and the County indicating that area variances are not subject to referral.



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Steve Morey: You are in front of the Planning Board now?

Walter Gargliano: We have two applications pending in front of the Planning Board. We have a site plan application for the solar array, and we have a two-lot subdivision application. We would like to schedule a public hearing for your next meeting because timing is very critical for this project to get out of the ground this year. It seems like time is plenty, but there is so much that needs to be done with a project like this. With NYSERTA, credit facility, processing after they get an approval....

Richard Conroy: We are looking at a 100 ft variance.

Walter Gargliano: You are looking at a variance to allow the lot to be created with 50ft of width at the building setback line.

Jacqueline Ricciani: The purpose is to provide access to where the solar panels are going to be. There are some existing structures already on the property, that kind of limit the options for getting access to that parcel, and as Walter said it is not going to be used on a daily basis, it will be used during construction, and then monthly for maintenance.

Walter Gargliano: Monthly, maybe more or less than monthly, but it will be.... whenever there is a problem they need to be there. Routinely it will be a guy there once a month, checking the gages, writes down the information, and if they don't have a problem they leave.

Jacqueline Ricciani: It is to provide access that is what this is for.

Walter Gargliano: The only reason I don't I want to say that it is a 100 ft variance because I am not sure that that is right, but it is a variance to allow it to be built at 50ft.

Steve Morey: You referred to some poles on 17B, are they three phase poles that need to be connected too?

Walter Gargliano: The entire pole and wire array down 17B is a very high voltage of a three-phase line, there will be some offsite upgrades necessary to accept the power from.... this is a 4.4-megawatt solar project, so it is a little bit more than double the size of your typical community solar project. The other option for interconnection that they looked at was along Duggan Road, which is one phase. That would be impossible and costly to upgrade that line. The line down 17B is a three-phase line and they particularly selected this because it was the only one that made sense otherwise the wires would run over top Mr. Hofstee's barns. This goes along the property line, and access road. Their plan is to make the last span as long as possible



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so there is the least impact on the house next door.

Jacqueline Ricciani: The final pole, is that something that is existing?

Walter: None of the poles from the transformer to 17B are existing, what is existing is the pole across 17B that is part of.....

Richard Conroy: You are going to do screening through the Planning Board. I have seen a lot of these solar farms around the County, and there isn't a lot of screening. This is the gateway, so I was wondering.

Walter Gargliano: The Planning Board has given this a pretty thorough review. Glenn Smith has written a number of review memo's regarding the project. The projects engineer has responded to those, and we are in front of the Planning Board next Monday.

***Motion to grant public hearing by Jesse Komatz, second Jim Ahearn.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

Walter Gargliano: Are you going to send the notices or a list?

Bette Jean Gettel: I'll send you a list.

***3) Administrative – Interview***

Bette Jean Gettel: We have an applicant for interview for an alternate.

Steven Kaufman interviewing – Alternate

***Motion to go into executive session by Dan Brey, second by Jim Ahearn.***

***All in favor – 6***

***Opposed-0***

***Agreed and carried***

***Motion to go into regular meeting by Jim Ahearn, second by Richard Conroy.***

***All in favor-6***

***Opposed-0***

***Agreed and carried***

***Motion to recommend Steven Kaufman as an alternate to Town Board by Richard Conroy, second by Dan Brey.***



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*All in favor – 6*

*Opposed-0*

*Agreed and carried*

Steve Morey: Congratulations Mr. Kaufman

Bette Jean Gettel: The Town Board has the final say. We will recommend to them on Wednesday evening. The next meeting will be March 16<sup>th</sup>.

*Motion to adjourn by Dan Brey, second by Richard Conroy.*

*All in favor – 6*

*Opposed-0*

*Agreed and carried*

Respectively submitted,

*Jannetta MacArthur*  
Recording Secretary