

ZONING BOARD OF APPEALS  
TOWN OF CANAAN  
COLUMBIA COUNTY, NEW YORK  
March,27 2018

Present: David Cooper, Pat Liddle, Jack Steffek, Sandy Haakonsen, Christy Ransford

Board Chair David Cooper opened the meeting at 7:05 with 1 person in the audience. There is one item on the agenda for this meeting – Consideration of file #2018-2 (Application for a Use Variance by TJB Land Corp., who is being represented by Andy Petersen of Monolith Solar Associates.)

Motion made by Jack Steffek to accept the February minutes as submitted, with a 2<sup>nd</sup> from Christy Ransford. All in favor.

David thanked Pat Liddle for conducting the Public Hearing at the February meeting.

**7:06 Consideration of file #2018-2:** TJB LandCorp 30 Flints Crossing Road, Tax map ID #70.-1-4.100. Chairman Cooper gave each of the Board members as well as Andrew Petersen of Monolith Solar Associates some documentation to read in regards to what must be proven for a Use Variance. He stated that the Appellant must be able to prove everything, and can't just pick and choose, as there are really strict criteria. David went on to say that if this isn't challenged within 60 days, then it is done. He said the criteria for a Use variance was decided through various court cases, and that there are 4 parts. #1: is that the property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district. #2: The property is being affected by unique, or at least highly uncommon circumstances. #3: That the variance, if granted, will not alter the essential character of the neighborhood. #4: The hardship cannot be self-created.

If any one or more of the above factors is not proven, State law requires that the ZBA must deny the variance.

David suggested that Andrew frame his documentation and get it to the Board as soon as possible. He understands that the criteria for issuing a Use Variance is challenging, and none of this is personal.

David said that this is essentially challenging the heart of zoning, and as well intentioned as the zoning is, it can't possibly understand all our circumstances. There might be other reliefs that may be more appropriate for what they are trying to do. Unfortunately, the ZBA is not in a position to generate a law but are here to administer the law that we have. David said that all he is suggesting is that if Andrew can't convince the 5 Board members, that maybe the way to approach this is by using another venue, lobbying heavily with the Town Board who can amend the law, or the Planning Board who can suggest an amendment.

Chairman Cooper said he had no interest in having Andrew unprepared. He thinks it is very important that the arguments or proofs are relatively direct and relatively easy to understand. The burden of proof is on him and Board is not in a position to generate the proofs for him. David said there is some leeway, but all of the criteria need to be met. Andrew said that he needs to do this for the landowner, and if it doesn't work out he will try a different path. David again said that the better prepared the file is the better for the Board to make a good decision. He also stated that Andrew can ask to continue the

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hearing before it is closed if he feels he has not given enough information, and the Board can vote on it. Once the hearing is closed the Board is obligated to deliberate within 60 days, and it will be based on the information that has been provided.

David said that he had spoken to the town attorney who had agreed that this file would need a Use Variance due to the fact that the energy generated is more than what can be consumed on site, and therefore will go to a third party. The Town Law says that this cannot be done, and that is why a Variance is needed. Andrew said that Monolith Solar will be credited with the extra electricity, and then in turn credit that to the Granville School District. Andrew went on to say that Monolith likes to put the mounted solar panels in places that aren't necessarily going to be seen by everyone, and that this was a good location.

David went over the contents of the file that included the Denial from the Zoning Enforcement Officer, Zoning Board application, SEQR Part 1, three maps, designation for Monolith Solar to be the authorized agent and a project narrative. The project is located in a C2 zone. David read the application for file# 2018-2. TJB LandCorp., 30 Flints Crossing Road, Tax ID#70.-1-4.100. The project is located in a C2 zone. The provision of the Zoning Ordinance being appealed is Article IV, section III. David said that a Use Variance was the only way to go, and that the Planning Board, the Appellant and the Town Attorney were all on board.

David asked what the acreage of the parcel was, and Andrew wasn't sure, but said it was reasonably small. He said that there are four buildings on the lot with no septic or utilities.

David asked the Board if for their purposes do they need more maps, and the answer was no.

Pat asked for clarification on direction for one of the three maps. Andrew clarified for her and pointed out the structures on the map. She asked what RNM stood for on the map, and Andrew stated that it was Remote Net Metering and said what happens with that is when energy is generated it goes through the meter there and turns it back as far as it can for their usage and the rest then goes back to the grid and gets credited to Monolith Solar.

Christy Ransford asked if there were any streams on the property and Andrew said no.

Andrew said that National Grid can't keep up with them with the power lines and the feeders because there is no capacity for solar repump back into their systems anymore. Pat asked if he was sure it was National Grid, and he said that he thought so, but will check into it. He said because it was going to Granville it needed to be in the same load zone. David said he thinks it is NYSEG. Andrew said he would check again as they had approval from the National Grid.

David mentioned that if this file is accepted Andrew will have to notify the abutters, which include CSX.

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Pat said that Andrew said in the filing that he would get the Board financials and wanted to make sure that he does so. He will provide it before the hearing, as he needs to get it from the accounting department.

Chairman Cooper suggested that Andrew read the documents that he handed out from the James A. Coon Local Government Technical series.

Jack Steffek asked for clarification on another map, and Andrew showed him what he needed.

David asked how long the panels last, and Andrew said they were warrantied for 25 years, and Pat Liddle said they last much longer.

Christy made a motion to accept the file as submitted, with a 2<sup>nd</sup> from Pat Liddle. All in favor.  
The hearing date will be April 24<sup>th</sup>.

Jack Steffek with a motion to adjourn with a 2<sup>nd</sup> by Sandy Haakonsen. 7:51.

For the Board,

Heather O'Grady  
Clerk