

March 30th, 2023

The regular meeting of the Town of Chautauqua Zoning Board of Appeals

Opening:

The regular meeting of the Town of Chautauqua Zoning Board of Appeals was called to order at 3:30 pm, on Tuesday, March 21st, by Zoning Chairman, Troy Smith.

Board Members Present:

Chairman Troy Smith, Member, L. James Hurley, Member, Charlie Krause, Alternate, William Titus

Board Members Absent: Stan Marshaus, Roberta Tenpas

Others Present: Ken Shearer (Code Officer), Jeff Paddock (Code Officer), Nicole Yacklon (Code Clerk), Robert Benjamin, LW Parker, Randy Carlson, Rachel Butler, Kara Akin (Mayshark), Emmett Tenpas (Mayshark), Rob Purviance, Jennifer Belovarac, Ken Belovarac, Ted Blanchard, Austin Wellman, Glen Land (Sol Source Power), Steve Long (Sol Source Power), Christian Shlesinger (Arcadis / Forefront Power), Mase Kenward (Sol Source Power), Jeff Flanders, Craig Snethen, Robert Mariea, Jill Mariea, Rick Newell, Sandy Newell, Chris Martin, Joel Seachrist (Town Attorney), Joe Calimeri (Attorney) for resident.

Agenda:

Case No. 1:

To act on the appeal concerns of the Purviance Family Trust (Rob Purviance) to build a single-family two-story home. The property is located at 5748 Maple Springs Road, Mayville, NY 14757, and is designated on the official Chautauqua County Tax map as Section 314.12 Block 2, Lot 21, which requires a variance for lot size, lot width and rear yard setback and over maximum allowable lot coverage.

Public Comments: none

Board Comments: concern about storm water runoff, Mayshark will provide a storm management plan to include run off screens.

Requirements for which Variance is Requested: Lot size, lot width and front yard setback.

Applicable Section(s) of Zoning Code: 143-17A & 143-17B; 143-17D and 143-18B

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Response is. **NO**

Reasons: **New construction will enhance character of the neighborhood.**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Response is. **NO**

Reasons:

3. Whether the requested variance is substantial: Response is. **NO**

Reasons: **Due to substandard lot size.**

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
Response is. **NO**

Reason: **Modern construction will improve these conditions.**

5. Whether the alleged difficulty was self-created: Response is. **YES**

Reason: **Being requested by the owner.**

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

The Benefit to the Applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

Reason: **No adverse impact on either the physical or environmental conditions in the neighborhood.**

The ZBA further finds that a variance of **10,500 sq. ft. lot size, 5'6' minimum building line and 16'9 front yard setback, 20' rear yard setback and over 6% over maximum lot coverage from Sections 143-17A & 143-17B, 143-17D & 143B of the Zoning Code** is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

CONDITIONS: The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: **Silt Fence must be erected during construction and demolition.**

Adverse impact to be minimized: **prevent run-off into Chautauqua Lake.**

Condition No. 2:

Adverse impact to be minimized:

Motion: Chairman Troy Smith to Approve

Second: Charley Krause

Vote: Chairman, Troy Smith – Yes
Member, Charlie Krause – Yes
Member, L. James Hurley – Yes
Alternate – William Titus Yes

Motion Carried

Case No. 2:

Acting on the appeal concerns William Switala to build a single-family two-story home. The property is located at 5747 Magnolia Springs Road, Mayville, NY 14757 and is designated on the official Chautauqua County Tax map as Section 315.13 Block 1, Lot 3, 12 in a Residential Lakeside district which requires a variance for lot size, lot width, front yard setback and side yard setback.

Public Comments: none

Board Comments:

Requirements for which Variance is Requested: Lot size, lot width and front and side yard setback.

Applicable Section(s) of Zoning Code: 143-17A & 143-17B; 143-17C

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Response is. **NO**

Reasons: **New construction will enhance character of the neighborhood.**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:
Response is. **NO**

Reasons: Due to substandard lot size.

3. Whether the requested variance is substantial: Response is. **NO**

Reasons: Due to substandard lot size.

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Response is. **NO**

Reason: Modern construction will improve these conditions.

5. Whether the alleged difficulty was self-created: Response is. **YES**

Reason: **Being requested by the owner.**

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

The Benefit to the Applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

Reason: No adverse impact on either the physical or environmental conditions in the neighborhood.

The ZBA further finds that a variance of **7,031 sq. ft. lot size, 50' lot width, 5' front yard setback, and 3' side yard setback from sections: 143-17A & 143-17B, 143-17D & 143-17C of the Zoning Code** is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

CONDITIONS: The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: **Silt Fence must be erected during construction and demolition.**

Adverse impact to be minimized: **prevent run-off into Chautauqua Lake.**

Condition No. 2:

Adverse impact to be minimized:

Motion: Chairman Troy Smith to Approve

Second: L James Hurley

Vote: Chairman, Troy Smith – Yes
Member, Charlie Krause – Yes
Member, L. James Hurley – Yes
Alternate – William Titus Yes

Motion Carried

Case No. 3:

Acting on the appeal concerns Joseph Saffire to build a single-family two-story home. The property is located at 4092 Traction Avenue and is designated on the official Chautauqua County Tax map as Section 315.13 Block 1, Lot 11, located in a Residential Lakeside district which requires a variance for lot size, lot width, front yard setback and side yard setbacks.

Public Comments: none

Board Comments:

Requirements for which Variance is Requested: Lot size, lot width and front and side yard setback.

Applicable Section(s) of Zoning Code: 143-17A & 143-17C

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Response is. **NO**

Reasons: New construction will enhance the character of the neighborhood.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Response is. **NO**

Reasons: Due to substandard lot size.

3. Whether the requested variance is substantial: Response is. **NO**

Reasons: Due to substandard lot size.

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Response is. **NO**

Reason: Modern construction will improve these conditions.

5. Whether the alleged difficulty was self-created: Response is. **YES**

Reason: **Being requested by the owner.**

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

The Benefit to the Applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

Reason: No adverse impact on either the physical or environmental conditions in the neighborhood.

The ZBA further finds that a variance of **12,311 sq. ft. lot size, 56' lot width, 3' Left side yard setback, and 1' right side yard setback from sections: 143-17A & 143-17C of the Zoning Code** is the minimum variance

that should be granted to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

CONDITIONS: The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: **Silt Fence must be erected during construction and demolition.**

Adverse impact to be minimized: **prevent run-off into Chautauqua Lake.**

Condition No. 2:

Adverse impact to be minimized:

Motion: Chairman Troy Smith to Approve

Second: L James Hurley

Vote: Chairman, Troy Smith – Yes
Member, Charlie Krause – Yes
Member, L. James Hurley – Yes
Alternate – William Titus Yes

Motion Carried

Case No.4:

Sol Source Power, a Solar Collection Facility proposed location for 2 sites at 6049 Wright Road. Glen Land from Sol Source Power was invited to speak about the plans for the proposed solar collection facility, he introduced Steve Long, Engineer and Mark Kenward. Mr. Land started out by discussing the benefits of a solar collection facility:

- Creates local jobs for the area.
- Some local rate payers may be eligible for discounts.
- Taxes would go to the local, county and town.

Mark Kenwood from Sol Source Power explained that the parcel they were looking at was on 183.3 acres, one parcel would house 1-5 megawatts and the other smaller parcel would be 1 to 2 ½ megawatts, which he stated was under the Town's 23.7 maximum according to Town code. The panels would have trackers that roll with the sun (meaning they move). There are federal wetlands on the site. There will be a fence line and the potential for a honeybee forage. National Grid approval has already been attained. Construction will be minimal, lawncare would take place approximately 3 to 4 times a year. There will be 25 trucks coming in each day and 25 trucks out a day during construction. Interconnection poles – will be on Hartfield-Centralia Road, with string inverters mounted on rows of arrays. There will be 2 sets of 5 poles = 10 poles total.

Monitoring is done remotely and if there is one array in trouble that array can be shut down remotely, separately from the other arrays. An Agricultural Data statement was sent to the neighbors.

Member, William (Bill) Titus had concern about chemicals within the material of the panels. Mr. Titus will send his concerns and questions to Wendel, the engineering firm. With no further questions, the meeting proceeded.

Case No. 5: Arcadis / Forefront Power with a proposed Solar Collection facility located at 6455 Cadenza Passage. Christian Schlesinger from Fore Front power was in attendance to answer any questions the board or audience may have, there were no questions.

At this time, Joel Seachrist, Town Attorney addressed the board and audience.

to explain what the purpose of the ZBA board is to report and make a recommendation to the Town Board. The ZBA's role is to identify concerns and make recommendation(s) to the Town Board. Mr. Seachrist explained that this process is at the ground level for these projects at this time, and a decision from the ZBA board is many months away.

The Town is utilizing Wendel as the engineer to review and research this project. There are levels of conditions for solar projects that are for before construction, during construction and post construction.

Andrew Reilly, Engineer for the Town was introduced along with Planner Heike Jacobs who will be spearheading the research that the Town needs to make a recommendation to the Town Board. If anyone has any questions/concerns they would like the Engineer's to look into they should e-mail or write to Town Code Clerk, Nicole at the following e-mail, nyacklon@townofchautauqua.com and the concerns/questions will then be sent to Wendell for research. Mr. Reilly explained that the Town has a great tool in utilizing the SEQR for review. Mr. Reilly stressed the importance of making sure bonds are in place in case the company goes out of business. There were no other questions or concerns at this time.

Case No.6:

Bob Mariea's storage shed located at 6013 Elmwood Road will be required to apply for a new building permit that will require an area variance that should match the existing structure. There is a 60-day timeframe for the appeal this will be brought back to the ZBA board at its April 18th meeting date.

Motion: Chairman Troy Smith to re-visit a new area variance for Bob Mariea at the April 18th meeting.

Second: L James Hurley

Vote: Chairman, Troy Smith – Yes
Member, Charlie Krause – Yes
Member, L. James Hurley – Yes
Alternate – William Titus Yes

Motion Carried

Meeting was adjourned at 4:55pm