

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
March 24, 2022**

MEMBERS PRESENT

John Calogero
Charles Canham
Norma Dolan
Ron Mustello
Russel Tompkins
Arthur Weiland

MEMBERS ABSENT

Joseph Malcarne, Chairman

ALSO PRESENT

Arlene Campbell, Secretary

Eliot Werner, Liaison Officer

Acting Chairman Calogero called the meeting to order at 7:35 pm.

Acting Chairman Calogero welcomed everyone and asked his colleagues to introduce themselves.

Acting Chairman Calogero asked the secretary if the applications on the agenda were properly advertised and adjoining neighbors were notified. Ms. Campbell responded positively.

VARIANCE:

Camp Rising Sun Campground Area Variance – property owned by Louis August Jonas Foundation at 6 Rising Sun Lane, Tax Grid No. 6469-00-476251.

The applicant requests an area variance to Sec. 250 Attachment 8 Table 2 reducing the front yard setbacks from both Centre Road (from 300' to approximately 162') and Rising Sun Lane (from 300' to approximately 155') in order to construct a Tier 2 Solar Energy System on a 66.9-acre lot. The property is in the C Zoning District.

Nicolas Clingerman and Martha Dhal both Plug PV LLC appeared for this application.

Mr. Clingerman explained that they are doing a solar system project on this property that includes roof mounted energy system and ground mounted array. The roof mounted SES is already permitted. They are proposing to construct the solar canopy behind the main building.

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Mr. Clingerman explained the sample picture of their proposal to give the board an idea how the proposed structure looks like compared to the typical ground mounted solar system. The array is flatter than the regular array. The applicant intends to use underneath the array a picnic area.

Mr. Tompkins asked if this array is weather proof. Mr. Clingerman responded that this is not weather proof. This will shield the area but there is still quarter inch gap in between the arrays so the rain can get through.

Mr. Clingerman discussed the screening and explained the photos taken from different directions about the visual of the structure. Driving from the south, you can see through the woods a little bit. You barely see the array during winter time when the leaves are off. He noted that what you will see is the building that already exist.

Mr. Tompkins stated that there are four stakes in the ground. Jill Fieldstein from Camp Rising Sun told him that's where it's going to be installed. Since the arrays are not going to be slanted, he asked, "How much will it protrude to the south to pass the stakes?"

The applicant explained the sample pictures showing the cones and the stakes. The frame itself lies within those cones and the footprints and the panels are where the cones are showing. Mr. Mustello verified if these cones are the outermost corners of the overall structure. Mr. Clingerman affirmed.

Mr. Canham asked about the outside dimension of the canopy. Mr. Clingerman responded that the dimension is 21' x 69'. The overall project is 86 kW including the ground.

Mr. Tompkins said that the building permit states that they are proposing to put 141 solar panels for 86 kW on the roof.

Mr. Calogero read the verbiage on the building permit application dated January 20, 2022 that states, "141 solar panels, 86.43 kw, Roof Mounted SES, on the building behind the main building.

Mr. Clingerman noted that the number of the panel is correct, the dc kw of the remaining 141 panels is incorrect. The 86.43 kw is the overall for the 201 panels including the 60 panels on the ground.

Mr. Tompkins stated that the application also states "building behind the main building." The panel discussed the permit application and verified that the solar canopy will be at the rear of the front building.

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The panel had a lengthy discussion about the proposed ground mounted array.

Mr. Tompkins stated that the architectural drawing shows panel on the main building. Mr. Calogero said that one of the photos shows roof mounted on the same building where the canopy is.

The applicant explained that they originally were going to have panels on both buildings. He believes due to structural reasons they decided not to do the red building but they received structural approval on the other building. They maximized that and put the rest on the ground. There was a system size change at some point.

The panel discussed screening. Mr. Clingerman said that there are existing natural screenings. If you're driving and you get to the very first point where you can see the red barn and after the red barn disappears behind the dumpster, you're not going to see anything but the dumpster. He commented that there might be some profile views of the structure during this time of the year when there is no foliage.

Ms. Campbell asked about the height of the structure. Mr. Clingerman responded that the height of the structure is around 8 feet to the lowest beam and over 10 feet at the rear of the panel.

Mr. Calogero asked how far is the nearest neighbor to the south. The applicant responded it's 438 feet to the property line per the GIS calculation. He estimated that the nearest neighbor is around 1,000 feet.

Mr. Weiland said that the neighbor lives quite farther south. There are trees in that area. Mr. Tompkins echoed Mr. Weiland's comment. It's wooded in that area.

Mr. Clingerman added that there's also some elevation change there too that makes it hard to see.

Mr. Tompkins read the Planning Board's recommendation that is positive. There are no correspondences receive from the neighboring properties.

The board agreed to close the public hearing.

Mr. Canham motioned to open the public hearing, seconded by Mr. Tompkins, all Aye, Motion carried, 6-0.

Hearing no comment, the board agreed to close the public hearing.

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Mr. Canham motioned to close the public hearing, seconded by Ms. Dolan, all Aye, Motion carried, 6-0.

Mr. Weiland asked if the building permit was issued for the wrong building. Mr. Calogero responded that the pictures were wrong.

The board reviewed the pictures and the permit application. Mr. Mustello agreed that this needs to be addressed. Mr. Tompkins, Mr. Mustello and Mr. Weiland want the record to be corrected. The building permit for the roof mounted SES should be installed on the main building and not the building behind. The kw indicated on the permit application is also incorrect. The roof mounted SES should be 60.63 kW. The 86.43 kW is the total kW for the roof and the ground mounted SES.

Mr. Canham commented that the installation of the roof mounted SES to the main building does not seem to require a variance. He feels that the issue before the board is about the ground solar variance and not the roof.

Mr. Tompkins feels that the record still needs to be rectified. Somebody can come back later and say that it was installed to the wrong building. Ms. Campbell agreed and said that she will correct the building department record.

After all the discussions were made, the board passed a resolution.

Mr. Tompkins motioned that the Town of Clinton Zoning Board of Appeals (ZBA) grant an area variance requested by Camp Rising Sun on property located on Centre Rd at 6 Rising Sun Lane, tax grid #6469-00-476251-00 from section 250 Attachment 8 Table 2 reducing the front yard setback for a Tier 2 solar energy system from 300 feet to approximately 162 feet. The parcel is 66.9 acres in a Conservation Agricultural Residential Zoning District.

Factors:

1. The applicant requests a variance to reduce the front yard setbacks from 300' to approximately 162' from Centre Rd. and from 300' to approximately 155" from Rising Sun Lane in order to construct a Tier 2 solar energy system (SES) on a 66.9-acre lot. The Denial Letter dated February 23, 2022 from ZEO Rich Travis left the decision as to whether this is a corner lot section (250-21) to the ZBA. The definition of "Lot Corner" in the zoning law states "A lot abutting upon two or more streets at their intersection or parts of the same street". Looking for the definition of "street" in the zoning law it says "See "road". "Road, Roadway, Street, Highway" is then defined as "A public way primarily used or intended to be used, for passage or travel by motor vehicles". According to the Town of Clinton Highway Superintendent, T. Martin this is a private access to the

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Rising Sun Campus. With this information this location is not a corner lot and removes the question of a setback of 300 feet from Rising Sun Lane as it is merely a private access in the property. Rising Sun Lane was created to assist the "Enhanced 911 System" as an identifier.

2. The denial letter from the ZEO also states that the proposed system would exceed the allowable capacity of 25 kWAC however this was addressed before to the Town of Clinton Planning Board where it was explained that the capacity is actually 25.8 kW DC which converts to 22.8 KWAC which is under the legal limit and negates a variance needed for section 250-71.1.E.
3. The property is not within the Ridgeline, Scenic and Historical Protection Overlay District or the Taconic State Parkway Viewshed.
4. The property is not in a Critical Environmental Area.
5. The area variance is substantial and self-created however this does not preclude it's granting.
6. The view from Centre Rd of the location of the SES will be blocked by two large existing buildings and a row of trees.
7. No undesirable change will occur in the neighborhood character or will this be a detriment to nearby properties.
8. This location appears to be the optimal location on this property for this SES, due to it's in place screening and nearness to the buildings. The benefit sought by the applicant can't be achieved by using another location.
9. An area variance is a Type II action under SEQRA and requires no further action.
10. The planning board has made a positive recommendation to the ZBA on this request.

Conditions:

All fees are paid

Seconded by Mr. Canham.

Discussion. The board discussed screening.

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Mr. Tompkins doesn't think that they need to address screening. It is an L-shape between the two buildings. The one building blocks the view almost entirely. Coming south, you see the back of the building and going north, you see a different building. He added that before you get to the main building, there are native trees.

The board agreed that the structure has natural screening.

All aye, motion carried, 6-0.

BOARD DISCUSSION:

The board had discussion about Solar Energy System regulations. Mr. Calogero wants to know what happened with the original verbiage of the regulations when the committee was crafting it. Mr. Werner stated that he will look into it.

The board asked Mr. Calogero if he would construct a letter addressed to the Town Board about the matter. Mr. Calogero agreed.

APPROVAL OF MINUTES:

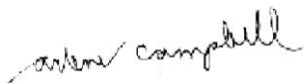
Mr. Calogero motioned to accept the minutes of October 28, 2021, seconded by Mr. Weiland, all Aye, Motion carried, 6-0.

Mr. Calogero motioned to accept the minutes of Dec. 2, 2021, seconded by Mr. Mustello, all Aye, Motion carried, 6-0.

ADJOURNMENT:

Mr. Canham motioned to adjourn the meeting at 9:25 pm, seconded by Mr. Mustello, All Aye Motion carried, 6-0.

Respectfully Submitted By:



Arlene A. Campbell
Zoning Board of Appeals Secretary

Cc: Carol Mackin, Town Clerk