

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
July 27, 2023**

MEMBERS PRESENT

John Calogero
Charles Canham
Norma Dolan

Russel Tompkins
Frank McMahon

ALSO PRESENT

Arlene Campbell, Secretary
Eliot Werner, Liaison Officer

MEMBERS ABSENT

Joseph Malcarne, Chairman

Ron Mustello

Acting Chairman Charles Canham called the meeting to order at 7:30 pm. He asked Ms. Campbell if the application was properly posted and the surrounding properties were properly notified. Ms. Campbell responded, "Yes". He also noted that the meeting is being recorded.

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

AREA VARIANCE:

Levin Area Variance – property owned by Richard & Kathleen Levin located at 143 Browning Road Hyde Park **Tax Grid No. 6366-00-517296.**

The applicants request an area variance to Sec. 250 attachment 8 of the Town of Clinton Zoning Law for a front yard setback reduction from 300 feet to 177 in order to install a Ground Mounted Solar Energy System in the AR5 Zoning District.

Richard Levin appeared for his application. He explained that there is a maple tree in front of the house that is probably 100 years old that he doesn't want to remove. The most intrusive area that is not covered by trees is behind the garden and the pool area. The house faces south. Due to the shape of the road, Mr. Levin said that the side yard becomes the front yard that triggers the setback variance reduction from 300 feet to 177 feet. He explained the way the road

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
July 27, 2023**

curves and the slopes on the property. He also discussed why the proposed location is the most practical location to install the ground mounted solar energy system. This will not be visible from the road.

Mr. Calogero read the PB recommendation dated July 18, 2023 which is positive. No correspondences were received from any of the neighboring property owners.

Mr. Calogero expressed his comments per his site visit. This is a large parcel with a beautiful setting. He agreed that the proposed location makes a lot of sense and meeting the setback regulation will make the proposed ground mounted SES more visible. Based on his site review in trying to visualize the proposed array, Mr. Calogero agreed that the proposed location is the most feasible location.

Mr. Tompkins commented that the proposed project requires a variance given the angle of the road. He walked through the second driveway to try to visualize the proposed array and concluded that the only way to see this structure is by being nosy. Putting the system on the center of the property will require running more cables, lots of wires and more site disturbance. He agreed that the proposed location behind the pool area is the most undetectable place to install the system.

Ms. Dolan and Mr. McMahon echoed the above views.

The board agreed to open the public hearing.

Mr. Canham motioned to open the public hearing, seconded by Ms. Dolan, All Aye, Motion carried, 5-0.

Hearing none, Mr. Canham motioned to close the public hearing, seconded by Mr. Tompkins, all Aye, Motion carried, 5-0.

Mr. Levin noted that they hesitated for a number of years to construct ground mounted SES because of the visual concern but later decided to go for it given the electric cost.

Mr. Canham commented that most houses in town are probably in the same situation. They just don't have the correct roof to install the system and might not have the right orientation or enough square footage to put the system. Contractors might suggest ground mounted system installation if you need to work on your roof.

Mr. Levin agreed and remarked that they don't want to mess up with the roof of their house. He stated that they are also installing roof mounted systems on the barn and garage structures.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
July 27, 2023**

Mr. Tompkins commented that the Levins also have a metal roof which is much better lived than the slate. Mr. Levin remarked that he hates to cover the metal roof. The visual of the metal roof is really nice.

The board discussed the benefit of the ground mounted system.

Mr. Tompkins asked about the height of the proposed system given the slopes of the ground. Mr. Levin responded that the height of the structure is 12 to 14 feet from the level area but because of the hillside, the structure is 8 feet high.

After all the reviews were made, the board passed a resolution, to wit:

Mr. Calogero motioned that the Town of Clinton Zoning Board of Appeals grant a variance to Section 250 Attachment 8, for a reduction in the front yard setback requirement from 300 ft to 177 ft., to allow for a Tier 2 solar installation, on property owned by **Richard and Kathleen Levin**, located at 143 Browning Road in the Town of Clinton, **tax grid number 132400-63366-00-517296-00** in an AR5 Zone.

Factors:

1. As part of a plan to reduce their commercial energy usage by 95%, the applicants would like to include a Tier 2 array in the proposed system.
2. The property is beautifully landscaped with varying elevations, gardens and a fenced in pool area.
3. The proposed location is screened from one direction by mature natural vegetation and plantings already well established, and at least partially by the existing dwelling from another direction.
4. This is a 57.64 acre parcel in an AR5 zone so surely there are other areas where a solar array could be located but to do so would greatly increase its visibility as this is a corner parcel which partly rolls upward from the roadway.
5. The request to reduce the front yard setback from 300 ft to 177 ft is substantial but is consistent with the town's Solar Energy Systems requirements which states that "... equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties ...". The proposed location minimizes the visibility of the array and confines the disturbance of the property to a previously

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES**

July 27, 2023

developed area. The visibility of the array will be minimal from either road and therefore from neighbors.

6. The property is not within the Ridgeline, Scenic and Historic Preservation Overlay District nor in a CEA.
7. The variance should not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.
8. The alleged difficulty is self-created.
9. The Planning Board has issued a positive recommendation for approval.
10. This Area variance is a Type II Action under SEQRA and requires no further action.

CONDITIONS:

- All Fees have been paid.

Seconded by Mr. Tompkins.

Discussion. Mr. Calogero asked the board whether the ground mounted system is a type II action. Based on his research, he didn't find the ground mounted system in the regulation to require no further action.

Mr. Canham noted that this is an area variance application. Maybe it is a question whether the ground mounted solar system requires long form environmental review. If it does, he feels that this is the Planning Board's purview.

Mr. Tompkins agreed that this is a variance application request. Chairman Malcarne always suggested including the verbiage in the resolution stating "This is a type II action and requires further no action." Mr. Tompkins opined that it is safe to include that verbiage in the resolution.

The board had a lengthy discussion about the matter. Is ground mounted system type I or type II action? Mr. Calogero said that Tier 3 is definitely type I action and requires long form EAF.

The board exchanged opinions about the issue.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES**

July 27, 2023

Mr. Calogero asked, "How about if we include a verbiage stating that this application requires no further review? How does it complicate the issue?"

Ms. Campbell stated that the Planning Board determines whether the action is type I, type II, unlisted or uncoordinated review. This is part of the SEQRA process when they're doing the site plan review. The Zoning Board can include in the resolution that this is an area variance application and an area variance application is a type II action and requires no further review.

After a very lengthy discussion, the board agreed to include a statement in the resolution stating "An Area variance is a type II action and requires no further review."

Ms. Campbell asked the board to include the fees as a condition to the variance. The board agreed.

All Aye, Motion carried, 5-0.

INTERPRETATION:

None

ADMINISTRATIVE ITEMS:

Mr. Werner discussed the update about the Proposed Farm Operation Local Law. Public hearing remains open. The board had a lengthy discussion about the matter.

Mr. Werner asked the board how they felt about starting the ZBA meeting at 7 pm instead of 7:30. He noted that the Planning Board now agreed to start the Planning Board meeting at 7 pm. After a brief discussion about the matter, the board had the consensus to wait for the rest of the board members to decide on the matter.

APPROVAL OF MINUTES:

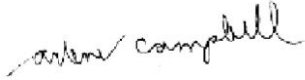
No minutes were approved.

ADJOURNMENT:

Acting Chairman Canham motioned to adjourn the meeting at 8:50 pm, seconded by Mr. Tompkins, All Aye Motion carried, 5-0.

**TOWN OF CLINTON
ZONING BOARD OF APPEALS MEETING
FINAL MINUTES
July 27, 2023**

Respectfully Submitted By:

A handwritten signature in cursive script that reads "Arlene A. Campbell".

Arlene A. Campbell
Zoning Board of Appeals Secretary