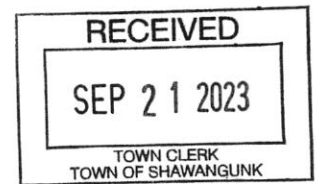


**Town of Shawangunk  
Zoning Board of Appeals  
July 19, 2023**



**Minutes of a Public Hearing held by the Town of Shawangunk Zoning Board of Appeals on July 19, 2023, at 7:00 PM at the Town Hall, 14 Central Avenue, Wallkill, New York, County of Ulster for the following:**

**Present Were:** Mr. Dennis Arluck, Chairman, Mr. John Russo, Mrs. Susan Wiand and Mr. Ryan Reid as Members, Richard Hoyt – Town Attorney, Mark Watkins - Planning Board Chairman, Mary Ann Longano – Planning Board Secretary, John Calaca - Building Inspector and members of the public.

The meeting was called to order at 7:00 PM. Mr. Arluck led the Zoning Board in the pledge to the flag.

**Approval of Minutes:** A motion was made by Mrs. Wiand and seconded by Mr. Reid to approve the minutes of June 21, 2023, and April 19, 2023, making note that there were changes to the transcript submitted on April 19, 2023. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye and Mr. – Russo - Aye, and Mr. Arluck - Aye.

All Public Hearings remain open for one hour.

**Public Hearings:**

**Darla Hall – TM #106.50-1-35 (HWG) 1460 Route 208, Wallkill, NY 12589 - §177-23.2 – Variance for Accessory Dwelling Unit:**

Due to a conflict of interest, Member Russo recused himself from this application. Mr. Richard Spoto of Woodchips, Inc. presented this application alongside Mrs. Hall. Mrs. Hall is looking to add a second story to an existing garage as an accessory dwelling unit. Mr. Arluck stated Route 208 is the frontage and the Zoning code does not allow for a garage in front of the principal structure; it must be in line with the house or behind it. Mr. Spoto stated that this has been going on for a long time and has been told many different things. There are two separate lots involved and have not been combined. Mr. Arluck suggested combining the lots. Mrs. Hall stated that there are two different owners. Mr. Reid stated the Gateway does not allow for accessory dwelling units and Mr. Hoyt confirmed. The single and two-family dwellings were grandfathered only with respect to expanding the existing house. This prevents this from happening. It is not possible to grant a use variance as an accessory use. Mrs. Hall asked if there could be an accessory dwelling unit in a building with a commercial business. Mr. Hoyt stated that the Gateway was created to bring in new business. The application was not specific in its requirements other than an accessory dwelling unit. The survey is missing the bulk requirements. Mrs. Hall stated that this application was submitted last year before the change in the zoning code. Mr. Arluck stated the survey shows it as one big lot, with no definition and does include any bulk requirements. The lot borders three streets. Mr. Reid stated the application is incomplete. A building permit was submitted in November 2022 and was denied as a non-conforming lot.

Mr. Hoyt inquired if the applicant would have to seek a use variance. There was extensive discussion about the Gateway and a possible use variance. There cannot be a third dwelling on the lot. Mr. Hoyt stated the use doesn't fit because the house is not 150' from the road, the accessory structure cannot be in front of the house. Prior to the change to the code, an accessory structure would need a use variance for a detached structure. Mr. Arluck asked Mr. Calaca for his opinion. Mr. Calaca stated there would be setback issues are there are three road frontages, if it is a two-family house, it is only allowed to have a single family, the third unit above the garage would need a use variance, and a commercial business would have to be present in the building in question. There was discussion regarding building a house on the back lot as it is in the RAG-1 zone; and requires two acres. There was misinformation given and unfortunately it doesn't change things. A revised survey would be required, and the building application would need to be reviewed. There was discussion on

**Zoning Board of Appeals**

**July 19, 2023**

**Page 2 of 5**

**Darla Hall – TM #106.50-1-35 (HWG) 1460 Route 208, Wallkill, NY 12589 - §177-23.2 – Variance for Accessory Dwelling Unit continued:**

possibly getting a use variance as Mr. Hoyt stated are much harder to get and there are very different requirements. Mr. Hoyt suggested that Mrs. Hall meet with Mr. Calaca to revisit this application. Mr. Watkins stated the applicant is grandfathered in with the existing duplex, but a triplex is not allowed in this zone and there is no reason to unnecessarily cost the applicant additional money, this must be denied. Mr. Reid stated this is still an incomplete application with the information given. The Board does not have jurisdiction as it was not sent to the County Planning Board. Mr. Hall stated they were given misinformation and they are being penalized. Mr. Arluck stated the back lot is too small for a residence. There was discussion about the site distance coming out of Chase Road with the structure on the road and the parking situation of all the vehicles parked there. Mr. Hoyt stated that it is within the applicant's right to appeal to the Zoning Board for relief, but it is not an easy road for a use variance.

**A motion was made by Mr. Reid and seconded by Mrs. Wiand to continue this public hearing to August 16, 2023. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye and Mr. – Russo - Abstain, and Mr. Arluck - Aye.**

**Christopher Sparaco/NY USLE Bruynswick Road I LLC – TM #99.2-6-10 (RAG-4) 2319 Bruynswick Road, Wallkill, NY 12589 - §177-23.1.E(3)b) – Solar Energy Systems – Variances for 7% Lot Coverage, 50' Area for Vegetative Buffer and 13.9 Acres Clearing:**

Michael Fingar, CEO of USLE, a solar development company and owner of the LLC presented this application stating they are allowed to build larger solar arrays and to determine credits and send those off to numerous off takers as subscription holders. As electric use becomes more prevalent in this society and an aging infrastructure, it is necessary to find ways to supply electricity. One of the benefits of a larger solar array is that they are required by Central Hudson to perform necessary upgrades. The credits only benefit those who chose to subscribe. The upgrades to the necessary service will improve the community. The electricity is being generated on site and will be going to the closest load regardless of if they choose to subscribe, but also benefits the load on the electric grid. They have several other projects that are due to come online in the next year.

They are looking to present a 3.75-megawatt AC system at 2319 Bruynswick Road on the lands of Chris Sparaco. That system is expected to generate 5.5 million kilowatt hours annually, it would serve residential 400-500 customers.

The first thing they look for is a willing landowner and a viable utility interjection point. They have spent the last few months exploring the viability of that site with their partners, and Genevieve Trigg of Barclay Damon (attorney). They have worked closely with Central Hudson. One of the considerations of their array is to conceal the array which will require some considerations and variances. They are not looking for a decision tonight as they are in front of the Planning Board, and they will take care of SEQRA.

Chris Koenig stated the property is a 33.4-acre flag shaped lot with an entrance off Bruynswick Road. Access will be through an existing gravel path and then into the rear of the wooded property. The site is relatively flat in topography. There is a stream that crosses over the property. The adjoining properties are residential parcels on Bruynswick Road. The panels will sit on single axle trackers that will move with the sun throughout the day. The fence proposed is an agricultural 8' tall deer fence as Angry Orchard has. The access road will have utility poles on the existing driveway. Three variances are required, 7% lot coverage, 50' area for undisturbed vegetative buffer and clear to the property line and 13.9 acres of clearing in the RAG-4 zoning district. 19.4 acres are within the fence line. There will be stump removal as the posts need

**Christopher Sparaco/NY USLE Bruynswick Road I LLC – TM #99.2-6-10 (RAG-4) 2319 Bruynswick Road, Wallkill, NY 12589 - §177-23.1.E(3)b) – Solar Energy Systems – Variances for 7% Lot Coverage, 50' Area for Vegetative Buffer and 13.9 Acres Clearing continued:**

to be on the ground. The perimeter of the property would have to be cleared to remove the shade from the panels. They are also proposing supplemental planting.

Genevieve Trigg, the attorney for the applicant, reviewed the five criteria for area variance. They are proposing that this will not change the characteristics of the neighborhood. The size of this project is necessary to make it viable, and there is no other achievable method. They feel the 7% lot coverage is not substantial as it is all underdeveloped land. There are no increases in traffic, no noxious odors, noise, or waste. The solar law was adopted after the property was leased so it was not self-created. Granting these variances will be in keeping up with the state's requirement of renewable energy. This is a unique situation. Ms. Trigg reaffirmed the information that was presented earlier.

Mr. Arluck stated this does not fit into our zoning, it was self-created and not for consideration. There was a law passed in 2018. Mr. Arluck asked what it would cost to reduce this project into something that would fit into our zoning. They stated it would not be economically viable to decrease the size of the array. Mr. Arluck stated if this was granted, it would be setting a precedence for anyone else to come in and put a solar array in. Mr. Reid inquired that before they signed the lease agreement, was the town code investigated and yes, they were aware they would need substantial variances. Mr. Reid stated he would like to review the lease agreement as the Planning Board would require it. Ms. Trigg stated there is some proprietary information contained in the agreement and there would be some redaction. It is not something they would be willing to provide. Mr. Hoyt stated a memorandum was issued to explain what will happen, but typically not with financial information. Everything that is pertinent is in the memorandum and it was submitted to the Planning Board. Mr. Hoyt stated the memorandum was issued to put the world on notice that there is an encumbrance but usually the financial information is not included. There was discussion regarding the lease agreement. The applicants stated there is a hardship if the array is smaller. There was an analysis done to determine if it was done on a smaller scale and they need this size to make it viable. Mr. Russo stated that the adjoining landowners are not getting any consideration with the proposed vegetative buffer. They would be clearing, but not clear cutting that buffer. The lower vegetation would remain. Mr. Russo stated the perimeter buffer, and the tree clearing are major concerns. Mr. Russo stated the applicants would have to present new figures to the Board regarding reducing the size of the buffer and tree clearing.

Mr. Russo asked if the Town Board had been made aware that the arrays are larger scale now than in the past and they have not. Mr. Reid stated that he believes that a mixed use of commercial and residential is not an allowable use in the zoning district. Mr. Calaca, the Building Inspector, stated this is a self-created hardship and that the applicants are using the neighboring properties as the buffer. There was discussion about a stream on the property. Fire access was discussed, and the applicant stated the Fire Department has not responded. Stormwater was discussed and it infiltrates through the panels, so it meets the DEC requirements.

Mr. Hoyt stated he received a five-page typewritten area variance Statutory Analysis that was missing the date and attributions were not included. It was submitted to the Planning Board in spring of 2023, and he wanted to make sure the Zoning members have seen it. There will be a sub-surface septic system as if it were a single-family house. Mr. Hoyt questioned if 33.8 acres was the lot size they started with, if they had netted out the single-family house and its accessory uses and wetlands and if that was done. The applicants stated they netted out the 0.4 acres which includes intermittent stream bed and the non-jurisdictional isolated wetlands in the southwest corner.

**Christopher Sparaco/NY USLE Bruynswick Road I LLC – TM #99.2-6-10 (RAG-4) 2319 Bruynswick Road, Wallkill, NY 12589 - §177-23.1.E(3)b) – Solar Energy Systems – Variances for 7% Lot Coverage, 50' Area for Vegetative Buffer and 13.9 Acres Clearing continued:**

Mr. Hoyt stated that in Sections 177.11 and 177.16, the uses each must be described to a certain density and should be reviewed again.

No soils report was done, a provision in the solar law states it is to stay off prime active farmland. Mr. Hoyt stated the applicant gave permission for a site visit and a couple of Board members should visit as the aerial views cannot determine the maturity of the trees. There was discussion about slopes, and it is between 5-10% average and grading are consistent throughout the site.

The narrative discusses the grid at Galeville substation - upgrades will take place. There will be 6 poles required and are typically 30' into the interior. The utility companies mandate that they are above ground.

There are discrepancies between the deed and the survey. Mr. Hoyt stated that the Town has opted out of PILOTs. The applicant is going for an Ulster Industrial Development Agency. Mr. Hoyt suggests that the Town Supervisor acknowledge the receipt.

The Board is very concerned about the buffer and the number of trees involved and if there is some way to scale this down, this is something that needs to be considered. Mr. Russo suggested speaking with the Building Department about fire access and discuss the interconnection and possibly reduce the number of poles. This will have to go to the Ulster County Planning Board and the Board will wait until they refine their application. This Board cannot decide until a Negative Declaration is declared.

**A motion was made by Mr. Reid and seconded by Mr. Russo to continue this Public Hearing to August 16, 2023. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye and Mr. – Russo - Aye, and Mr. Arluck - Aye.**

**Public Hearing Continuation:**

**Debra and Stephen DeEntremont – TM #98.1-1-9 (RS-1) 123 Clark Road, Pine Bush, NY 12566 - §177-23.2c.(2) and 117-10 – Variances for Lot Area of 5.448 Acres, Lot Width of 42.52' and Rear Yard Setback of 53':**

Mr. and Mrs. DeEntremont had submitted a letter stating they are going to go forward with the lot line change of combining two lots for an accessory dwelling unit for a family member in the early stages of dementia. Mrs. DeEntremont stated when they combine the two lots, they will still need a .6 Acre lot area variance. The next step would be to put together a package for the Planning Board.

**A motion was made by Mr. Reid and seconded by Mr. Russo to continue this public hearing to August 16, 2023, pending a possible withdrawal by the applicant. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye and Mr. – Russo - Aye, and Mr. Arluck - Aye.**

**Zoning Board of Appeals**

**July 19, 2023**

**Page 5 of 5**

**Appearances:**

None

There was discussion on miscellaneous zoning matters.

**A motion was made by Mr. Russo and seconded by Mr. Reid to adjourn this meeting. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye and Mr. – Russo - Aye, and Mr. Arluck - Aye.**

**Meeting Adjourned at 8:45 PM**

**Respectfully submitted,**

**Kathy Ebbrell**

**Zoning Board of Appeals Secretary**