

***Minutes of Public Meeting of the
Zoning Board of Adjustment
Monday, November 14, 2022
The Great Hall, 84 south Main Street
7:00 PM***

1. Roll Call:

Members Present: Chairman Audrey Cline, Suzanne Ryan, Tim Cronin, Luke Freudenberg, Cate McMahon, Alternate, Chuck Sumner, Alternate

Members Excused: Sarah Silk, Member, Nancy Stroman, Alternate

Staff Present: Jason Durrance, CEO/Building Inspector

A. Cline discussed one alternate participating remotely if necessary and her desire to re-order the agenda, to hear the Beckwith case first, and then the solar case.

A. Cline motioned to reorder the agenda. The motion was seconded by S. Ryan. All were in favor, with Cate McMahon as a voting alternate in the absence of S. Silk.

A. Cline then asked C. Mahon to be a voting member for the Beckwith case. C. McMahon accepted.

2. Public Hearings

- a. ANN & MITT ROMNEY 2020 FAMILY – 27 Greenleaf Drive – Tax Map 243-02 – Case #16-SE-22 – Public Hearing for a Special Exception under Article VI, Chapter 175, Section 43 (h) No nonconforming portion of a building that is without a roof (such as a deck) shall be roofed over or enclosed unless it receives a special exception. A deck expansion shall not exceed 25% of the nonconforming portion and cannot further encroach into the setback – Formal Submission/Public Hearing
** A Site Visit will be held at 5:00 PM *****

A. Cline stated confusion on the requested Special Exception. She provided a hand-out she'd created to the Board noting thereon that the Board had previously determined that a variance is not necessary because the application actually met the terms of the ordinance. Therefore, the Board did not need to hear the variance and we dismissed the case. She continued by referencing NH RSA 674:33-II where 'those ZBA's shall have all the powers of the administrative official from whom the appeal is taken and can make such order or decision as ought to be made.

A. Cline asked the Board to look at this application to determine whether, in fact, the section that's listed is appropriate for this application. The application, as noticed to abutters, she paused for T. Cronin to read the notice into the record.

T. Cronin read aloud the public notice into the record.

A. Cline stated that in reading that section, she has a couple of issues. No non-conforming portion of a building; she didn't see a patio as being a portion of a building. This is a patio to be roofed over or enclosed, unless it receives a special exception and then the second part is a deck expansion, and there's no deck here, so there can't be an expansion, shall not be exceed 25% of the non-conforming portion and even if there were a deck, it cannot further encroach into the setback which it does. So, looking at the sections that in my hand-out with the little stars on them, the third little star, is the section that they applied under. And if you read under the section for non-conforming uses, there's also several there, I think, nine different potential ways you can increase a non-conforming use. The other four are very clear that non-conforming uses can't be within a setback unless it's a variance. And in this case, we actually have a shorefront setback, and we also have a property line setback that's being proposed to be encroached on. She continued stating that she didn't think a special exception is what this plan needs and that it would need to fit under one of these other ones as I've discussed. That requires a variance, plus a property line variance.

A. Cline asked if J. Durrance could comment.

S. Ryan stated the need to open the public hearing to hear our code officer.

A. Cline stated an interest in the basis of the denial, whether it came in two minutes before the deadline, and it wasn't reviewed, or whether it was reviewed with the Town Planner, and this was the result; Jason could probably tell us that. She continued by stating that if one looked at the elevations that it's not simply a roof over the patio, it's a deck from the second floor indicating that the replace those windows with doors. So, it's a roof deck, I guess. And, in any case either of those would require a variance.

The Board then generally discussed property line locations and the submitted site plan. The further discussed the applicable setbacks. Noting that the plan as is a proposal is to install a roof over, an existing deck located within the 50-foot setback.

A Cline stated it's clearly not a deck it's a patio and I'm just concerned, because if we start considering patios as part of our building, we're going to be in trouble all over the place.

S. Ryan commented the applicant says they're asking for a special exception under Article VI, Section 175-43 H and the application is also referring to that number, but that section that says that you can encroach on the setback so they can't actually; they need variance.

A. Cline asked J. Durrance if the applicant sat down with the Town Planner first and went through this project, and got information about what they were applying for?

J. Durrance stated their application was based off what was explained to me on what they were looking to do. He continued stating there's typically a conversation with the Town Planner, but he wasn't sure if that had occurred with this.

A. Cline stated her knowing that zoning is not J. Durance's area of expertise.

J. Durrance spoke to the definitions of building and structure and how the determination regarding the Special Exception was made.

A. Cline disagreed.

S. Ryan motioned to dismiss this case based on the application not being relevant to this section that was applied for; she also noted that the Board had not opened the public hearing and that way dismiss this case as it filed under the wrong provision of the ordinance.

C. McMahon seconded the motion.

C. McMahon asked for clarification as 175-175, it talks about porches, garages, balconies, stairways, and similar structures. She asked why a patio would be considered a similar structure?

A. Cline stated that if the ZBA considered all patios part of a portion of the building, that the ZBA would have done a lot of different decisions in the past, and that the Board need also to consider that it says and cannot further encroach into the setback no matter what it is.

C. McMahon stated this isn't encroaching any further.

The Board discussed process; to deny without prejudice, to dismiss the application having determined the incorrect relief was sought. Also discussed opening public hearing for applicant comments.

A. Cline stated her preference to give Jim Rines and the applicant the benefit of the doubt to at least argue their position on the submitted application. If we still reached that same conclusion, that's fine with me.

L Freudenberg stated the applicant should be able to argue their special exception application as we're here anyways and the applicant put in their time so they should be heard.

S. Ryan withdrew her previous motion; C. McMahon withdrew her second.

A. Cline opened the public hearing.

T. Cronin asked if the site visit had been brought up? He then read the minutes from the Site Visit: *A site visit was conducted today at four o'clock in the afternoon with Tim Cronin Chuck Sumner, Audrey Cline, Suzanne Ryan Haight fan, McMahon, Luke Freudenberg.*

J. Rines, applicant representative thanked the Board for the opportunity to speak.

A. Cline asked J. Rines to speak to why the submitted application was requested; the thought process behind it.

Jim Rines, from Horizons Engineering, stated he hadn't put the application together but was asked to participate in the process for a special exception with the assumption that the patio was in fact a structure and part of the building it goes right up to it. What they're putting on is not exceeding that.

There was discussion of patio, deck, structure and building.

J. Rines continued that by the section that was cited here, section H, where you can have a special exception for a roof, as long as you are, no, further encroaching, it seemed like a reasonable decision that it was denied for and why they applied.

A. Cline stated that all buildings certainly are structures, but don't believe that all structures are buildings. I don't think the intent was to include masonry, earthen type structures, such as patios in the footprint of non-conforming or in new construction.

The Board and the applicant had discussion on patios, decks, structures, buildings, and what the intent of the regulations were.

T. Cronin read a letter from the property's building permit file from September 12, 1997, which referenced the patio use of which requires permanent location, on or in the ground, or attached to something having permanent location on or in the ground...and the need to meet setbacks. Letter written by Robert Houseman. The letter concluded with the then proposed patio being a structure requiring compliance with the applicable structural setbacks for the zoning districts.

The Board returned to general discussion on process and interpretations of the regulations. The Board seemed to be of general consensus that the relief sought by the submitted application was not appropriate under the regulations.

J. Rines withdrew the application without prejudice.

- b. MOUNTAIN LAUREL FARM SOLAR PASTURE GARDEN, LLC & AMANDA J. BEVARD – Off North Wakefield Road – Tax Map #92-03 -Case # 15-V-22 - Public Hearing for a Variance under Chapter 175, Section 125, of the Wolfeboro Planning & Zoning Ordinance to allow a Variance for use not permitted in the Residential Agricultural Zone- Formal Submission/Public Hearing**
** A Site Visit will be held at 4:00 PM ***

A. Cline asked C. Sumner to sit as a voting member for this case.

C. Sumner accepted.

T. Cronin read the project into the record and provided minutes of the Site Visit:

Site Visit was held at four o'clock: Chuck Sumner, Tim Cronin, Audrey Cline, Suzanne Ryan, Kate McMahon.

S. Ryan stated that the application doesn't specifically say so, but what this reads like, it's a variance for commercial use in a residential district where the type of commercial use is a solar farm.

Jeffrey Christenson spoke on behalf of the applicant. He stated he is an attorney representing the applicant in this manner, Mountain Laurel Farms Solar.

There was general discussion of solar farm and commercial use.

J. Christenson stated the project is a commercial use, yes, specifically a solar farm, however, if you grant a variance for one commercial use, it doesn't necessarily mean you're granting a variance for all commercial; so, this would be specifically requesting a variance for the particular use of a solar farm not for all commercial uses broadly.

Andrew Keller, New Hampshire Solar Garden, for the Record on the Applicant and the Developer of the project. He thanked the Board or their site visit. He then provided an overview of the project as submitted.

We have a conceptual design here from Nobis engineering, who did all the survey work and put this together.

A. Cline made a point of order in forgetting to open the public hearing. She then opened the public hearing.

J. Christenson concluded his overview of the project by noting the presence of an abutter who we're working with in real time, to figure out what the best access into the property is going to be.

S. Ryan asked about access, fencing, type of solar structure and other project details.

J. Christenson addressed her questions.

There were further questions about area of disturbance and other development requirements and potential permits.

S. Ryan asked about access easements.

Easements were discussed.

There were questions about fire department access and discussion of wildlife migration impacts.

Amanda Bevard introduced herself as owner of the property and introduced her understanding of the existing easements for access.

There was continued dialogue about access and easements, utility poles and the current status of Village Corner Road.

J. Christenson asked if many of the issues being discussed were really for the Planning Board.

A. Cline stated that potential impacts created are what the ZBA is actually looking at under the variance application.

S. Ryan asked about TRC and Conservation Commission.

J. Christenson outlined schedule for TRC, and that no communication had occurred with Conservation Commission.

There was discussion of existing agricultural structures on the property; fencing of the solar array area and how grounds would be maintained within the fence.

Additional discussion about site development and Board members comments about degree of impact on the neighborhood by the proposed project.

The Board took a 10-minute break.

A. Cline turned to the Board with direction to have the applicant present the 5 variance criteria as submitted.

J. Christensen outlined the 5 criteria as submitted. This property is currently undeveloped, it's bisected by the James Young Rook, its currently hayfield pastureland, soil quality, even for that use is not great. So, there's a lot of unique characteristics of this property that make it very suitable for solar, but not suitable for much.

Section 175 -125, states solar arrays are not a permitted use in this district, they're not a permitted use in any district in Town. So that's what we need the variants from to allow this particular use. The surrounding area is primarily wooded and undeveloped, there's a development nearby, but there's a lot of buffer land in-between it. This project is going to be visually screened. It shouldn't be visible to really anybody.

There's not going to be any effect on the essential character of the neighbor. Similarly, none of the harms that a zoning ordinance is typically designed to prevent, to protect neighbors, and public from are present with this use. The solar array just kind of sits there quietly producing clean energy.

There are not any noise concerns. There are no pollution concerns. As I've already stated, there's no real impact on traffic or congestion or anything like that and there's no overcrowding of population, or land. This project will comply with all setbacks; there's really no downside to the use. There are certainly fewer impacts, fewer externalities, than other uses, which are permitted in the district. Further, if there were a large barn or several

large barns on this property, you could put solar arrays on the roof and as an accessory use, which would be permitted, you wouldn't need a variant. This is basically doing the same thing just without that underlying barn. So, there's going to be less impact than there would be if you had a barn plus a solar farm. Having just the solar farm itself is going to be less of a burden to the area. Overall this is a reasonable use of this land.

The project will provide clean energy for the surrounding community, reduce energy costs, increase the town's tax base. This property given its unique conditions is uniquely suited to solar array, it's already cleared: it's already flat. You don't have to do a lot of working with the land to get it there. You don't have to cut down mature trees the way you might somewhere else. This is a really good spot for this.

Additionally, Section 125 1, the general purposes of Wolfeboro Zoning Ordinance, expressly recognizes that solar is an important thing to have in the town. The quote is exactly that the zoning ordinance is intended to, quote, encourage the installation and use of solar, wind and other renewable energy systems. State law also RSA's 672:1, III A also recognizes that solar is an important and reasonable use and prohibits towns from unreasonably limiting them by zoning power. So, town/local and state law both recognize that solar is an important and reasonable use. This is a good property for it.

The Zoning ordinance by not permitting solar does create a hardship for the applicant by preventing that reasonable use. There is no harm to any of the butters, and even members of the general public ranting, the variance. There's no reason to prohibit this use, and therefore, we are asking the Board to grant this variance to it. Happy to take any questions from the Board.

A. Cline opened the public hearing to those to speak in favor of this project?

Tony Fallon stated he was present to speak in favor of it. He questioned why a variance, since it's a solar farm. And farming is permitted. Why isn't it considered accessory use or really, a farming operation.

Eddy Demarrias also spoke in favor stating the Town should be supportive of all projects that move us away from our dependance on fossil fuels. She further commented that solar is permitted and I think that in the right place if it doesn't interfere with the biters that it is something we should be advocating for and not prohibited.

S. Ryan clarified; the ordinance doesn't permit a commercial operation of solar in a residential agricultural zone. The ordinance does have provisions for residential, solar, in residential zones, for which, we do have, existing solar panels on residential homes.

Lorene Stroke commented about knowing Amanda for many years. She's a very strong supporter of agriculture. We serve on the Farm Bureau in Carroll County Together, my farm is in the Ag district. I can't see anything from my farm I can't see her property and my son can't see anything from his house. I don't think that should bother anyone because she can't use this area as a hayfield. I think that the as a passive use for renewable energy it and letting

her sheep graze on this land.

A. Cline asked Ms. Stroke if there has been any discussion on the county basis or in any of the other agricultural groups as to whether creating energy from solar is actually agriculture?

L. Stroke added she knows that out west a lot of our farming they call it farming under the grid. They are using their open land, put solar panels and then they phone sit in, and they put their sheep on it or allow their cows to graze.

Katie Pattern stated not knowing whether or not solar is actually agriculture or not, however, I know that it costs an exorbitant amount of money to farm and if we can help our local farmers in any way by offsetting the cost of maintaining their land and their property by giving them a way to earn some money by leasing their property than we should probably, or farmer local farmers in any way we can.

Not being anyone else in favor of the application, A. Cline asked about any opposed to the proposed variance.

Kevin Sands, Village Corner Road, and president of the village Informal Homeowners Association. Didn't want to be labeled as opposed to this particular variance, but had some concerns. I want to thank you for your diligence. He noted the ZBA had captured many of his concerns but would like to go on the record in expressing concern about what's going to happen to our open space and conservation area, a very important, selling aspect of our community. It's also a very important recreation facility, especially for me, as I pointed out during the site visit. He further expressed concern about the impact of the power lines coming into our community, and concerns with fire access.

A. Cline asked if the applicant wished to address any of the comments made in favor or in opposition.

J. Christensen stated first, the question of solar as agriculture; that hasn't been determined in New Hampshire. The first, that's easy to address, somewhat easy to address, is the question of, is solar power, actually an agricultural use? There are a lot of courts, a lot of towns, a lot of states outside of New Hampshire that are considering an agricultural use. Basically, it's the same thing as a greenhouse, you're using sun's energy to produce something whether it be flowers or electricity. It is benefiting the agriculture use. There are a lot of studies solar array and the impact of having a solar array on the grass underneath grass actually grows stronger and sheep who are grazing under solar arrays. It does support the agricultural indirectly as well. Last thing I'll say is that there are quite a few states that are now actually incentivizing solar projects within agricultural environments, and they have a term little cheeky, but it's called Aggro.

S. Ryan commented on difference between residential solar and commercial/industrial solar.

J. Christensen stated that in many cases, solar installations are not efficient or even effective on residential homes. 80% of homes typically don't support effective solar: wrong roof, wrong orientation, etc.

There was discussion of tax benefit to Wolfeboro despite the electricity itself not going to Wolfeboro.

J. Christensen revisited the five criteria as submitted. We spoke to the lack of the different health and of safety concerns, there is public health safety welfare benefit by producing clean renewable energy, which will help the area, regardless of whether or not you're actually participating in the electricity generation rectory. Other concerns of health, public welfare, traffic, noise, pollution: they don't exist. Solar farm is a passive use of a property. Like a greenhouse, like any other use that is not going to be requiring somebody driving there every day. There's not going to be delivery trucks going in and out. There's not going to be residents going in and out. Going to be a very passive, low intensity use and as we've discussed before when I was just hitting the highlights, the local ordinance recognizes that solar is important to encouraging the town. State law also recognizes that solar is important to encourage throughout the state and should not be unreasonably restricted by zoning. That's the language the State statute uses.

The second question is the spirit of the ordinance, the spirit of the ordinance standard, that element is been recognized as Stablish by New Hampshire Supreme Court to be related to the public interest. So there's not a lot of overlap, but, or, there's not a lot that doesn't overlap here. So, I'm going to fly through this one pretty quickly. But again, the biggest one hears the spirit of the ordinance, section 175, dash, one of the ordinances expressly recognizes that encouraging the installation and use of solar is important. And more generally, allowing the property to be put to its highest and best use of allowing for grazing and production of clean energy as opposed to just grazing alone property that is very well suited for it. Highest and best use of the property is really in keeping with what zoning ordinances are designed for. There was a question about the agricultural, whether this is or is not agricultural.

I agree with S. Ryan, I recognize, and I agree with you. This isn't defined under the state law, under the zoning ordinance as an agricultural use. That's why we've brought this application. The question is not, is there any other use that you could possibly put this land towards, but is this use reasonable? And are the harms that a zoning ordinance trying to prevent going to be created by this use? So the exact level of how productive the hay bales are a field is isn't something we really looked into for this application. But it has been a viable use.

So, the next element is the substantial justice element. This is the balancing act element, if you're familiar with it, what are the harms and losses to the applicant by denying the application, what does the public stand to gain by denying the application? In this case, there's significant harm to the applicant, just depriving them of the use of the property that's beneficial desirable, both for the applicant, the landowner, but also the general public, by producing clean energy. That loss, deprivation of a reasonable use, is not offset by any gain to the public. Public doesn't have anything to gain by preventing solar array from being developed on this property. It's not an area where it's going to be impeding anybody's views. There are no negative externalities, like noise or pollution, or smell, or any of those sorts of things that you might want to prevent, certainly less than what could go in on this property

under the scope of agricultural use. If you put a hog farm there, a lot of buildings and all of the smells and everything that come with a hog farm, that's going to smell worse than a solar array. It's going to smell. So, there is a lot, nothing is no cost.

If the whole world could just be trees and open space. That would be lovely. But if you're comparing this to any other conceivable use of this property, this is going to be less impactful to the neighbors, less impactful to the public and carry with it a public benefit. So, when you're doing that balancing act, there's really no public gain. There's no public benefit in denying this variance that would offset the loss to the applicant. The values to the surrounding property element, again, as I mentioned, this is well screened. Buy undeveloped land around it to the south. It's not even taking up the whole of this property. So, you've got the undeveloped land from the landowner to the south. It's not going to create an unsightly visual aspect to any residential area. It's not going to impact the essential character of the neighborhood. It would be no different from a neighboring property value standpoint is having a greenhouse there. Visually, there'd be something there that you can see. But that's really all it is. There are no other negative externalities at all, certainly less than any other reasonable use.

S. Ryan asked about impact to the values, the surrounding properties...what, what do you have that's concrete, that you can say, it will not disturb the values, the neighboring properties?

J. Christensen stated there was no study in New Hampshire specifically, but there was a study in Connecticut done to understand the impact of real estate next directly next to a solar farm. So I don't have it here with me this evening, but I can just give you some high level details of it. Then the net outcome of that study was that there could be an impact to a property in the like five to 7% range. They then compared that to if you went to buy a home that had a pool and you had little children, that may be, that may devalue the property to you as a buyer or if you were to go buy a home that had granite countertops, you just don't like them, that, might take away from it. So, it's an opinion, you could have an opinion and we could have an opinion and one may not be right or wrong.

Turning to the Hardship Element, a multi-pronged element. The first is whether the special conditions of this property distinguish it from other properties in the area, such that the burden on this property is different than the burden on the others. And as we went through, there are a number of unique conditions on this property. The fact that it's bisected by the wetlands, and a large portion of it is taken by wetlands, particularly the portion that is closest to the public highway, significantly limit the use of this property or almost any development. We spoke about the soil quality that limits its ability to be used for agricultural purposes--it's currently used for animal grazing. But beyond that, to expand the agricultural use soils are going to be a limiting factor. Also note that special conditions do not to be negative conditions of property. There's been a lot of case law about this in New Hampshire that if the property is uniquely suited to this use, unlike other properties, that's a special condition that can give rise to a hardship. And in this case, this property is uniquely suited to this, use, the fact that it's already been cleared, it's very flat. It's uniquely suited for solar panels in this layout. Some other property, if you want to put solar somewhere else, might have to cut down a lot of trees, that's going to have an impact on the environment. There's not going to be any environmental impact, negative environmental impact of having it here. Obviously, there's a positive environmental impact. So, there's a number of unique conditions that totality of all of those conditions together create the unique circumstances that give rise to the

hardship criterion.

The second part of this prong is whether there's a fair and substantial relationship between the general purposes of the zoning ordinance and the application here. That goes to whether the harms that a zoning ordinance is designed to prevent. If any of this zoning ordinance zoning harms are here would be created by this proposal. And in this case, they really wouldn't be all of those things. I talked about noise, pollution, traffic, population congestion, no, and the associated burden on schools, emergency access, police, all of that. You wouldn't have that here. The second half of the hardship is, Is this a Reasonable Use? And this goes back to that question of, what do you need to prove a hardship under New Hampshire law? Under the old law you had to be able to show that the property was being deprived of all reasonable use and if there was some alternative use, you could put the property to, there was no hardship, that's not the case anymore. That's been overturned by the Supreme Court. The standard now is not, is there an alternative use? But is this use reasonable? And if it is, is it creating any of those zoning harm sets, that first prong that I talked about. But the only question here is not can we do something else with this property, but is it suited for this use? And the answer there is unequivocally Yes, for all of those reasons that I've talked about before. It is a reasonable use here, because it's not going to create any of the negative externalities this property is suited for. And as I mentioned before, local and state law, both expressly state that solar is something that should be encouraged. So generally speaking, it's reasonable as well.

S. Ryan motioned to close the public hearing and move to deliberations. A. Cline seconded the motion which passed with a unanimous vote.

A. Cline started with deliberation on the first criterion noting she would be trying to write down findings of fact.

S. Ryan suggested reviewing the first and second criterion together.

A Cline stated she does think it's a benefit to the public interest because there's an increase in tax, and that's a fact because of what there's an increase in tax revenue, and that's a fact. That's a fact for our findings of fact. She added that if we're doing 1 and 2 together, although we're not getting any electrical out of this, it does have a regional, positive impact. And we always consider regional impacts when we have large projects that impact something outside of the borders of the town. So, in a general sense, I think just positive: because of the regional impact over time, reducing the necessity for fossil fuels, a little bite at a time.

S. Ryan added that 1 and 2 must not alter the essential character of the neighborhood, and I'm not convinced that that's the case. When you take and put 17 to 20 acres and a change of views from grazing and hay fields to solar equipment, certainly is going to change the neighborhood, as well as the access. Let me just point out to my counterparts here, that what we're doing is, and I'm reflecting on the master plan. I worked on the land use section. And I worked on the natural resources section. What we're doing here is, we're making a tradeoff. We're going to give one preference to solar, which makes people feel good and we're going to give up something else that makes people feel good, which is farming and agriculture, and fragmented land and open space. The Master Plan also says to encourage the preservation of agricultural lands and buildings and the agricultural operation described in the statute which I've shown you Audrey. So, when we also look at the master plan says an increase of agricultural products, farmers markets, use of agricultural land, re-emergence of land,

pharma, signals, sorry the re-emergence of agricultural farming and the town. So, to me, 1 and 2, do not fit the bill.

T. Cronin stated that they were going to graze sheep in their application. T. Cronin stated having solar panels where the deer go under there, every single day chewing on grass and all that, and did turkeys and had a moose out there eating grass underneath the solar panels. So, the ability for animals to do that is not a big problem, and minor ground mounted just like the Regulator. As far as the variance, the proposal would not be altering the essential character of the neighborhood, you can't see it from anywhere, its land locked in the back.

T. Cronin and S. Ryan debated their points.

A. Cline turned discussion to the third criterion.

L. Freudenberg stated his believe that substantial justice had been well articulated by the applicant.

T. Cronin and A. Cline concurred.

A. Cline commented could see benefit to landowner no harm to Town and that this request is consistent with surrounding area.

S. Ryan stated substantial justice not addressed because project is not consistent with the surrounding area, OK, Period.

A. Cline turned to the 4th criterion.

S. Ryan stated no information submitted to show whether it would or would not diminish values and that the Board would have to go with the fact that we don't have anything, rather than we don't have anything that shows that it will We don't have anything that says it will diminish property values.

A. Cline noted the fact that this particular site is very well hidden just reinforces points presented by the applicant.

S. Ryan reminded the Board, it's the obligation of the applicant to submit such information. None was so therefore, we're stuck, and we have to just say, Yeah, I guess it does.

A. Cline turned to the fifth criterion.

A. Cline noted not knowing where a solar farm could go without a variance. We don't have many places that allow commercial development, we have the town property behind our spray fields. We have a couple of lots back there, but we don't have a lot of places that handle this. Therefore, if we're going to have it, it needs a variance someplace. So, I think the fact that we don't allow it by right is a hardship.

S. Ryan asked what makes this property uniquely different from its surrounding properties.

There was discussion of flat slopes, wetlands, existing access, southern exposure, lack of trees.

S. Ryan commented not seeing the property as unique.

L. Freudenberg stated he believed the use to be a reasonable use. T. Cronin concurred.

C. Sumner stated he believed property is unique as it's already cleared, it has an access and a right of way already laid out are in the process of being laid out.

There were no further deliberations on the criteria.

Discussion turned to the recommend conditions of approval.

S. Ryan wanted date received and date of hearing added to Condition #2.

A. Cline wanted to add a condition stating that the right of way, be in proximity to the access shown on law, October 20, 22, site plan, or the existing, right of way.

L. Freudenberg motion to approve the variance request as submitted with the conditions, as modified by the Board from the Planner's review. C. Sumner seconded the motion. The vote was 4-1-0.

A Cline stated need to do findings of fact. She asked if the Board wanted her to work on that.

Board consented to A. Cline working on Findings of Fact. A. Cline stated she would bring them to the next meeting for approval. All agreed.

S. Ryan asked to postpone the minutes because they were incomplete?

T. Cronin motioned to adjourn the meeting. C. Sumner seconded and the vote was unanimously approved. Meeting adjourned 10:45 PM.