

September 12, 2023

Dear Town of Hoosick Zoning and Town Boards,

Last week I attended the Public Hear for a solar project on Ford Rd. and Pine Valley Rd. I would like to summarize my talking points for review. I have sited NYS Law as written in the James A. coon Local Government Technical Series on NYS Department of State's Website, for Special permits and Area Variances.

I referred to the 5 legal questions an applicant must answer to be granted and are Variance.

**“The Zoning board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:**

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance**
- 2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance**
- 3. Whether the requested area variance is substantial**
- 4. Whether the purposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district**
- 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the variance**

**The zoning board of appeals, in the granting of area variances, shall grant the minimum variance it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community**

These are essentially how the company answered and my comments to their responses

1. Efficient design, cost savings, more panels, ( more money they make) is not a viable answer to question 1. They needed to prove that it would not affect the character of the neighborhood
2. They admit that project can be done without variance but at a greater cost to themselves. Again not a viable answer under the law. It costing more or the fact they won't make as much money is not a legal answer to this question
3. The company says that this is not a substantial ask. This is very substantial to the people who live there.
4. They claim there will be no adverse effect or impact. Area variances are attached to the property forever. Just one circumstance I see is that one of the properties could be sold and the new owners would have solar panels right up to their property line with no set backs and no recourse to get them back.
5. This is from the view of the companies not having control over local laws and setbacks so therefor it was not self created. I argue that it is completely self created because they do not need the setbacks changed to proceed with the project, they just make less money.

**All of these questions need to be legally answered correctly for an area variance to be granted.**

I also made the argument that the landowner has to be the one who fills out these questions. The Variance goes with the property and Lessees and renters cannot be the one answering these questions. My thoughts were substantiated by Rensselaer County's office of Economic Development, specifically the person who has written most of the Zoning ordinances in the County for many years.

**Questions I left with the Board:**

**1. Special Use Permit application is needed as per our own Zoning laws. To apply and receive this permit you must prove that your project does not “adversely affect the neighborhood”. The sheer turnout of people against this project including all of the surrounding property owners believe there will be a huge adverse effect of the neighborhood and who else should determine that but the people who live there.**

**2. How were decommissioning amounts come up with considering there has not been one in NYS to date? Who is the recycler and are you using their current recycling rates? Have you factored in shipping the panels to the recycler if recycling is not local? Is there a time line promised for remediation?**

**3. How does removing of mature trees not effect the neighborhood and the environment? The flora and fauna in just one tree and below it is significant. You are changing shade to full sun which is a huge environmental impact.**

**4. Why aren't agrivoltaics being used?**

**5. In the Town of Hoosick Solar Zoning law ,if variance is granted the zoning board has the right to require screening for panels. Will you consider large trees planted with native shrubs to screen the entire perimeter of the project?**

**6. Company has stated that trees will be replanted when remediation/ decommissioning happens. Have these funds to be set aside, calculated “whips” or larger size trees as replacement estimates?**