

**Town of Charlton
Zoning Board of Appeals
Business Meeting Minutes
And Public Hearing Minutes**

December 13, 2016

Minutes of the Zoning Board of Appeals meeting held on December 13, 2016

Chairman Albert Smith called the meeting to order at 7:05 p.m. at the Charlton Town Hall, 758 Charlton Road, Charlton, New York 12019.

Roll Call attendance was taken.

Present: Albert Smith, Chairman, Mark Chotkowski, Richard Potts, Douglas Ranaletto, Joseph Marchesiello, Robert Van Vranken, Town Attorney and Kimberly Caron, Recording Secretary.

Meeting

Chairman Smith identified Michael Trbovich, the applicant proposing to install ground mounted solar panels on his property located at 116 Crane Street. Mr. Trbovich indicated that he was going to be represented by Kasselmann Solar, the company providing the solar panels and installation, who had been advised of the proposed beginning of the Public Hearing, but no representative was in attendance at that time. It was then suggested that until the Kasselmann Solar representative appeared, the Public Hearing would not be opened. Subsequently, an informal conversation occurred between the applicant and members of the Zoning Board of Appeals (ZBA) regarding clarification of the facts which created the need for this appeal to the ZBA by Mr. Trbovich. The original cause for the appeal was based on a letter dated October 17, 2016 from Town Zoning Enforcement Officer Gizzi to Chairman Smith indicating that he would not approve the proposed ground mounted solar system installation due to visual requirements as referenced in the Town's recently enacted solar installation legislation. Included in the letter from Mr. Gizzi to Chairman Smith was a statement indicating that the proposed location of the solar panels did meet all required setbacks. ZBA member Chotkowski indicated that there was a setback issue. Mr. Chotkowski indicated that the solar panel legislation required a setback of 200 feet from the front property line, whereas the map provided to the ZBA indicated that the front setback for the proposed solar panel location was 125 feet. Attorney Van Vranken then stated that the ZBA would need to consider both the setback issue (area variance) and the visual impact of the location of the proposed solar panel array. At approximately 7:25 p.m., Lindsay Halse, representing Kasselmann Solar, did arrive and was identified by Mr. Trbovich. The informal conversations were then terminated and Chairman Smith opened the regular meeting of the ZBA.

Minutes

Chairman Smith stated that the ZBA had last met on June 9, 2015 and that the minutes from that meeting needed to be either amended or approved. Chairman Smith inquired if there were any proposed changes or comments related to the June 9, 2015 draft minutes. There were no comments from the Board.

Mr. Chotkowski moved to approve the draft of the June 9, 2015 meeting minutes. Mr. Marchesiello seconded the motion. Board members Potts and Ranaletto abstained from voting, as neither was in attendance or able to vote at the June 9, 2015 meeting. Board members Smith, Chotkowski and Marchesiello voted to approve the minutes. The minutes were thereby approved.

Public Hearing

Chairman Smith then indicated that the Public Hearing scheduled to begin at 7:00 p.m. would be opened at 7:30 p.m. Chairman Smith further noted that there was one Town resident in attendance for the Public Hearing. Zoning Enforcement Officer Gizzi, applicant Trbovich, Kasselmann Solar representative Halse, members of the Zoning Board of Appeals and Board Attorney Van Vranken were the remaining attendees.

Trbovich/Kasselmann Solar (Tax Map Parcel 246.-3-85)

For the record again, Chairman Smith stated that applicant Trbovich and Kasselmann Solar representative Halse were present.

Secretary Caron read the Public Hearing notice that was published in the Daily Gazette on December 3, 2016. Secretary Caron stated that the notices to adjoining land owners had been mailed on December 1, 2016, and that no responses were received by the ZBA.

Chairman Smith read a letter from Zoning Administrator Gizzi dated October 17, 2016 denying the building application to install solar panels on the Trbovich property. Chairman Smith then noted that during the informal conversations with Zoning Administrator Gizzi and the ZBA, it had been determined that the front setback for the proposed location of the solar panel array did violate the requirements of the Town of Charlton solar installation legislation. The front setback requirement as set forth in Local Law #1 of the year 2015 regulating the use of ground or pole mounted solar arrays in the Town of Charlton requires under Section 5Cb(ii), 200 feet setback from the front property line. The document provided by the applicant and applicant's representative indicated that the proposed setback for the Trbovich property would be located 125 feet from the front property line.

Chairman Smith then reviewed all other documents received by the ZBA relative to this matter.

Discussion

The Board, applicant and applicant's representative then discussed at length the significant issue of the degree of variance that would be required by the ZBA to allow the proposed location of the solar panel array on the Trbovich real property. The Board asked multiple questions of the applicant and his representative concerning the feasibility of alternate location of the solar array in order to meet the Charlton legislation requirement. Ms. Halse indicated that based on the technical data her company had compiled, it would be difficult to relocate the solar array on any other portion of the Trbovich property and still maintain the advantages of the installation. In particular, Ms. Halse indicated that due to the location of trees, shrubs and other natural growth, the north side of the Trbovich property would be unavailable. During these discussions, the Board also indicated that the degree of the variance which would be required for the current proposed location would not meet the standards that would allow the ZBA to approve the degree of variance necessary to maintain the currently proposed array location.

The Board then determined to adjourn the meeting, with the consent of applicant Trbovich and representative Halse in order to allow the applicant to meet with the solar panel company representative in order to consider possible alternatives to the original proposal. These alternate proposals would need to address a significant increase to the proposed front yard setback and would also need to address alternate proposals to the array screening that would reasonable minimize view blockage for surrounding properties while still providing adequate solar access for collectors.

Adjournment

The Board agreed to adjourn the meeting and to reschedule following notification from the applicant that an amended site plan would be submitted to address the front yard setback and the screening of the array.

Mr. Chotkowski made the motion to close the Public Hearing and adjourn the meeting. Mr. Marchesiello seconded the motion. All were in favor.

Meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary