

September 6, 2023

PINE PLAINS ZONING BOARD OF APPEALS MINUTES

Monday, August 28, 2023, 7:30 PM

In-person and Zoom

IN ATTENDANCE: Scott Chase, Chairman, Carl Baden,  
Michael O'Neill, Marie Stewart,  
Chris Wyant, Alternate

ABSENT: Amanda Zick

ALSO PRESENT: Andrew Gordon (via Zoom) applicant, Loren Kittlesen,  
applicant, Luka Djunic (via Zoom) applicant, Members  
of the Public

Scott Chase opened the meeting at 7:30 with a quorum present.

**Carson Power:** Chase said the zoning board meeting was being held on a different date because the zoning board needed to wait until the planning board had finished the SEQOR portion of the application before the zoning board could act on it. Chase reminded the board of the site visit in March and said the fence does not appear to be visible from any highway. Chase said the applicant would like to increase the fence height to the national electric code of 7 feet, where the town only allows up to 6 feet in the rear and side yard and 4 feet in the front. Chase said the fence is further than 500 feet from any public highway and will not be near any of the nearby houses. Chase said the board had determined that it would not have any impact on the neighborhood and that the board did not have any strong concerns.

Chase asked the applicant if he had anything to add - he did not.

Chase then read the resolution (see attached).

Chase asked for a motion to accept the resolution, motion by Baden, second by Stewart, all in favor, motion carried.

**Djunic Garage:** Chase said he reviewed the application and that the lot was created prior to zoning and is approximately 2.5 acres. Chase

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said with the limited width of the lot they would not meet the side yard setback requirement for a garage. Chase said the house cannot be seen from the road. The applicant said their proposed garage would not interfere with the tree line and no neighbors would be able to see it.

Chase reviewed the process with the applicants, including a site visit and public hearing on September 26<sup>th</sup>. A site visit was set for September 26<sup>th</sup> at 6pm. The board asked the applicant to stake out the spot for the garage for the site visit. A public hearing was set for September 26<sup>th</sup> at town hall at 7:30pm.

**Approval of the July Meeting Minutes:** Motion by O'Neill, second by Stewart, to approve the July meeting minutes, all in favor, motion carried.

Meeting adjourned at 7:52 pm.

Respectfully submitted by:

Tricia Devine  
Secretary

Scott Chase  
Chairman

**TOWN OF PINE PLAINS ZONING BOARD OF APPEALS**

**RESOLUTION GRANTING A FENCE HEIGHT VARIANCE FOR PULVERS CORNER SOLAR 1 AND PULVERS CORNER SOLAR 2 PROJECTS**

**WHEREAS**, The Town of Pine Plains Zoning Board of Appeals (ZBA) is in receipt of an area variance application from Pulvers Corner 1 LLC and Pulvers Corner 2 LLC (collectively the "Applicant") for property located at 454 Bean River Road, in the Town of Pine Plains, Dutchess County Tax Map ID 7071-00-084941 and 7071-00-250960, to construct solar facilities consisting of two solar arrays with a capacity of +/- 5.0 megawatts with a perimeter fence of 7 feet which exceeds the height specified in section 100-19.C , and

**WHEREAS**, the ZBA has reviewed the variance application #1 -2023, conducted a site inspection on March 28, 2023 and held a legally noticed public hearing on March 28, 2023 in person and online, and

**WHEREAS**, the proposed action is a Type I action under SEQRA and after a full and complete coordinated environmental review by the Town of Pine Planning Board, the project is not considered to have significant impact on the environment and no further environmental review is required, and

**WHEREAS** the Dutchess County Department of Planning and Development recommended the Town rely upon its own study of the facts in this matter, and

**WHEREAS**, the existing 172 acre property is located in the Rural District which has a fence height limitation not to exceed 4 feet in the front yard and 6 feet for side and rear yards per Section 100-19.C. of the Town zoning code, and

**WHEREAS**, Federal/State regulations for solar facilities of this scale require a perimeter fence of not less than 7 feet, and

**WHEREAS**, the 7 foot fencing height requirement in Federal/State regulations and electric codes is not under the control of the applicant and hence any hardship was not self created, and

**WHEREAS**, the ZBA determined that the granting of the variance to allow the higher fence will not produce an undesirable change in character to the neighborhood nor be a detriment to nearby properties as the proposed fence location is proposed to be at least 500 feet from any public highway and would barely be visible from any nearby homes if at all. In addition the owner has agreed to place the parcel in a conservation easement in perpetuity for agriculture and conservation purposes when the solar facilities are no longer in use, and

**WHEREAS**, the entire proposal will still require a complete site review by the Town Planning Board which will deal with issues of aesthetics, fencing materials and screening, and

**WHEREAS**, the variance requested is not deemed substantial as deer resistant fencing of similar height is not rare in agricultural operations found in rural areas, and

**NOW THEREFORE BE IT RESOLVED** that based upon the preceding findings, the Zoning Board of Appeals of the Town of Pine Plains hereby grants the application for a variance to the

requirements found in Section 100-19.C. allowing a perimeter fence with a height not to exceed 7 feet at the location and using materials to be approved by the Planning Board as part of the final Site Plan Review with the following conditions:

- 1) The project must receive site plan review and approval from the Town Planning Board.

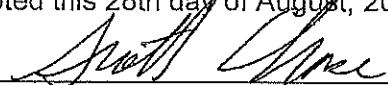
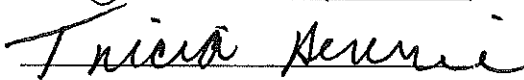
On a motion by, Baden, seconded by Stewart:

Scott Chase	Aye
Marie Stewart	Aye
Michael O'Neill	Aye
Carl Baden	Aye
Christopher Wyant	Aye
Amanda Zick	Absent

The resolution was thereupon duly adopted this 28th day of August, 2023.

Attested: Scott Chase, Chairman

Tricia Devine, Secretary

  
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