

Town of Clarence  
One Town Place, Clarence, NY  
Zoning Board of Appeals Minutes  
Tuesday February 13, 2018  
7:00 p.m.

Vice-Chairman Ryan Mills called the meeting to order at 7:01 p.m.

Zoning Board of Appeals members present:

Vice-Chairman Ryan Mills	Patricia Burkard
Richard McNamara	Jonathan Hickey

Zoning Board of Appeals members absent: Chairman Daniel Michnik

Town Officials present:

Director of Community Development James Callahan  
Deputy Town Attorney Steven Bengart  
Councilman Paul Shear

Other interested parties present: Sue Tannehill

**New Business**

**Appeal No. 1**

Susan T. Tannehill  
Agricultural Flood Zone

Requests the Board of Appeals approve and grant a variance to allow for the construction of a ground-mounted solar photovoltaic system on and Agricultural Flood Zone property less than five (5) acres at 8750 Tonawanda Creek Road.

Appeal No. 1 is in variance to §184-6(B)(3).

**DISCUSSION:**

Susan Tannehill is present and explained that 2018 is the last year that you can get a 30% tax credit. If she puts a pole mount in it pays itself off in about seven (7) years. Because of the way her roof lines are, if she put it on her roof line, it takes longer. She will be 65 years old next month and what she is trying to do is to live at her home for a long time. She had been in the house since 1991, she moved her when she was 10 years old and she wants to stay in the house she is in now. She is trying to get the house to be as low in its monthly expenses as possible. The other issue is in addition to having a roof line like this where the sun comes from the south you've got solar panels that are not going to be as efficient as they are in a pole mount. Her roof is going to need replacing in three (3) to five (5) years. She does not have the money to do the solar panels and the roof now. If she puts the solar panels on the roof now and then have to replace the roof it will cost her \$2,000-\$4,000 more to have them snap off the panels, pull up the framing, redo the roof and then replace the panels. This also means it would be about ten (10) years before she recoups her investment. She is trying to make it so that when she retires it is more affordable. She was widowed a year ago and that changed the financial situation that she is in right now.

Vice-Chairman Mills noted that there are two (2) neighbor notification forms on file. Ms. Tannehill spoke with both neighbors, neither neighbor voiced an objection to the variance request.

In response to Mr. Hickey's question regarding the size of the applicant's property, Ms. Tannehill said it is about 185' of frontage and 90' on the east side and about 240' across, due to the creek the property is oddly shaped. Mr. Mills said he pulled the County records and this property is at .25 acres. Mr. Hickey asked how long the neighbors have lived at their respective homes. The neighbor across the street has been there nine (9) years, the other neighbor on the east side of the applicant's property will not be able to see the proposed structure. Mr. Hickey asked what the dimensions are of the pole. Ms. Tannehill said it is about 7' above the ground level, that's where the panels are. There is no neighbor to the west of her property. There are several big cement blocks and dead-end signs in front of her house because the road is washed out there. Mr. Hickey asked if the applicant is aware of any other ground mounted solar systems anywhere in proximity to her property. Ms. Tannehill said yes there is one at the end of Goodrich Road before you get to the bridge that goes into Rapids Road. Mr. Hickey asked if the code was the same in 1991 as it is now. Mr. Callahan said there was no Solar Code in 1991. Mr. Hickey said this provision was enacted subsequent to Ms. Tannehill purchasing the property. The Solar Code was adopted in the middle of 2017. Mr. Hickey asked what the cost of the project will be. Ms. Tannehill said the initial front is \$14,000, eventually it will pay for itself. 30% of the \$14,000 is a federal tax credit, after about seven (7) years it will have paid for itself and Ms. Tannehill can live there without paying electrical bills. Mr. Hickey asked if the system makes noise, Ms. Tannehill said no. Ms. Tannehill went on to say that down Northfield Road there is a big solar array in the side yard of a home.

Ms. Tannehill explained that currently she has a wood burning stove and gas furnace. Mrs. Burkard asked what color the panels are. Ms. Tannehill said they are glass, they look like tinted glass.

Mr. McNamara said the dimensions of the system are about 10' by 20' and went on to ask if this system moves with the sun or if it is stationary. Ms. Tannehill said there is a rocker bar and twice a year you manually change the tilt, it is not automatic. Mr. McNamara calculated the dimensions from the information listed on document PV-S1, which is on file.

Mr. Mills asked for more information regarding drawings, Ms. Tannehill said she submitted all that she has. Mr. Mills asked what Ms. Tannehill's secondary plan is if the variance is not approved, would she go with the roof mounted units? Ms. Tannehill does not know, she would have to go back to square one. Mr. Mills asked if there is any foliage or landscaping planned for around the panels, if approved. She is an avid gardener and there will be plantings around the system, it will be attractive.

Mr. McNamara clarified that the pole is 7' high and the system extends another 4'-5' from that so it would be approximately 12' in height total, and 4'-5' off the ground. It needs to be off the ground so the snow won't pile up and affect the panels. Mr. Mills asked if Solar Liberty provided an estimate in terms of height. Ms. Tannehill said no. She believes her system would be a three (3) by four (4) panel system.

Mr. Hickey asked who picked the proposed location of the structure. Ms. Tannehill said the contractor picked it. Mr. Hickey asked if there were other options provided. Ms. Tannehill said the contractor said that was the best location per the maps of the property they had, however, the representative who comes to the site will make the final decision, but it will be in the vicinity of what was proposed. It is noted that there is a State credit and a NYSEDA credit as well. Mr. Hickey asked when the applicant has to be up and running in order to ensure she gets the full benefit of the seasons, the sun or whoever it works. Ms. Tannehill

said the solar panels work best in the spring and the summer, the company is running 4-6 weeks out so once this is approved it puts her installation in March or April.

**ACTION:**

Motion by Jonathan Hickey, seconded by Patricia Burkard, to **approve** Appeal No. 1, as written.

**ON THE QUESTION:**

Mr. Hickey said the property is  $\frac{1}{4}$  to  $\frac{1}{2}$  an acre, so he considers this a substantial variance. The economic and the proximity points that have been explained indicate that there is no feasible alternate method to accomplish what the petitioner wants to accomplish. The timing of Ms. Tannehill's ownership of the property, when there was not Solar Code, indicates that this issue was not self-created. If this request was proposed when the property was purchased there would have been no need for an area variance. Any physical or environmental impact seems minimal at most base on what is in the record. The modular information is listed in the record on document PV-S1. The change is not undesirable.

Mr. Mills said there is testimony and the evidence shows that this is a unique parcel in its size and layout with a large amount of frontage. There is no neighbor to the west, there is a creek to the rear of the property. The parcel is situated with plenty of foliage and trees as well as a garden, this helps to mitigate the size and the view of the structure.

Councilman Shear noted that the property it .58 acres.

Jonathan Hickey	Aye	Richard McNamara	Aye
Patricia Burkard	Aye	Ryan Mills	Aye

MOTION CARRIED.

Motion by Jonathan Hickey, seconded by Richard McNamara, to **approve** the minutes of the meeting held on January 9, 2018, with the following amendments:

- the final sentence in the final paragraph on page 2 should read, "Mr. Hickey asked..."
- the first sentence in the 5<sup>th</sup> paragraph on 4 page should read, "Mr. Mills noted..."

Jonathan Hickey	Aye	Richard McNamara	Aye
Patricia Burkard	Aye	Ryan Mills	Aye

MOTION CARRIED.

Meeting adjourned at 7:27p.m.

Carolyn Delgato  
Senior Clerk Typist