**Town of Jefferson**

Office of the Zoning Board of Adjustment

**Minutes**

August 8, 2024

The meeting was called to order at 7:30 pm.

**Members present**: Chairman Kim Perry, Rodney Houghton, Jason Call, Wayne Bilquin, alternate

**Absent**: Tom Walker, Biff Wyman

**Others present**: Charlene Wheeler, Board secretary; Merle Tilton, Jamin Tilton

In the absence of a regular member, Wayne Bilquin was designated a voting member for this meeting.

**Hearing – Case # 229-2024 – Tilton**

Chairman Perry opened the public hearing for an application from Merle Tilton as Specialized Purchasing Consultant, Inc for a Variance, Article IV, Section 2 of the Land Use Ordinance. He proposes to construct a solar panel array closer to a lot line than allowed at 469 Valley Road, Map 21, Lot 6. Board members had received copies of the application to examine. A map of the property and proposed location of the proposed panels was submitted with the application. The Lot contains 106.64 acres with Valley Road, the Portland Pipeline, and the Israel River running through it. A house and barn is located on the lot facing Valley Road. Chairman Perry read the application. He asked Mr. Tilton if he wanted to add anything to the proposal as was read. Mr. Tilton described why this was the best location for the panels and his concern about the Israel River flooding up into the lot behind the house and barn. There is a dug well located on one side of the residence. A septic field is behind it possibly reaching into the reported flood zone. The land across the road could be used but it would interfere with lovely views and connection to the house would have to run beneath Valley Road. Mr. Tilton described problems with the Carter’s Cut bridge and its impact on the flow of the Israel River. Pictures and a video were viewed by Board members. He had already constructed five (5) concrete poles sunk several feet into the ground before realizing he needed a building permit and Variance as one of the poles is within fifteen (15) feet of the road, well within the required setback of fifty (50) feet. The poles will support 36 panels. Panels on the closest pole because of its width would have an edge closer to the road than fifteen (15) feet, maybe about eight (8) feet. Mr. Tilton later said the distance was closer to thirteen (13) feet. Each panel cost about $150. Moving the whole array would probably cost in the vicinity of $7000. The array of panels are designed to be set exactly on the poles already there. The poles are not placed uniform distances from each other so moving just one pole wouldn’t be possible. Mr. Tilton did not have any drawings or specifications of the proposed solar array to show to the Board. Board members were most concerned about potential damage to the panels from a plow truck throwing up snow and stones, especially as the truck routinely wings snow back quite a distance from the edge of the road. Especially in conditions at night or poor visibility. Perhaps lights or reflectors on the unit would warn a plow going by. It probably wouldn’t damage the truck, but the Board was concerned about liability for the town if panels were damaged. Mr. Tilton said he would sign any waiver form saying he would be responsible for any damage and pay any additional charge to prepare it. The Select Board would have to sign off on it as well. Other locations on the property were considered, but all seemed to have drawbacks such as flooding, having to cut trees, location of well and septic, or interfering with views.

Chairman Perry opened the meeting to public questions or comments. The Board secretary reported she had received no questions or comments about the application from abutters or the general public.

There being no further questions or comments, Chairman Perry closed the public portion of the hearing.

Jason Call led the Board through the 5 criteria for granting a Variance.

1. The Variance will not be contrary to the public interest; the Variance would not injure the public or the private rights of others property owners. Yes, Tilton’s property has a private home and barn on a very large lot (100 acres+) with a public road crossing it. The lot is on a town-maintained road and the nearest residence is some distance away. No abutters have made any objection to Mr. Tilton being granted this Variance. It wouldn’t create more noise or additional traffic in the area. Still a supporting pole will be well within the 50 feet setback and there is concern about potential damage from snow and stones being thrown by a town truck.
2. The spirit of the Land Use Ordinance (as outlined in its preamble and Article II) is observed. Yes, utilizing solar energy contributes to environmental sustainability, which benefits the entire community. This location of the panels would preserve the scenic quality of the land from Valley Road and from the residence. It will keep the panels away from flood prone areas.
3. Substantial justice is done. Perhaps. The town supports the adoption of renewable energy. Alternative locations on the property are unsuitable due to frequent flooding. The Portland Pipeline runs across the property behind the residence. There is also a septic system located behind the residence and a dug well on one side of the residence. Installing the panels on the other side of Valley Road would involve digging up the road, not only disrupting the road but increasing the cost substantially. It would avoid the necessity of cutting more trees. But it could be done.
4. The value of surrounding properties is not diminished. Yes, this property, now much upgraded and improved with its structures and the surrounding properties will exist together without diminishing property values. There are no close abutters to the property.
5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship: (An unnecessary hardship is deemed to exist if owing to special conditions or uniqueness of the property that distinguishes it from other properties in the area, the property cannot be reasonably used in strict conformance with the Land Use Ordnance, and a Variance is necessary to enable a reasonable use.) A hardship in this sense is to be denied the location of the solar panels given the uniqueness of the lot, with a well on one side and a septic system to behind the residence and a flood prone area to the rear. There were still questions, however, about the structure of the solar panels themselves. They would like more information about its construction and if it could be modified. Mr. Tilton said he would not hold the town libel for damage from snow removal on Valley Road. Board members still were undecided.

Rodney Houghton made the motion to continue the hearing until Thursday, August 22 so more information could be gathered and submitted to allow Board members to make a final decision. Board members wanted to see the diagrams with dimensions for the panels and specific distances. The Board secretary was asked to check on waiver forms and the procedure on them from Amanda, Assistant to the Select Board. Also, the town’s attorney should be asked about liabilities. If sufficient information isn’t received before August 22, the continued hearing will be held on September 12, the Board’s regular meeting date. The motion was seconded by Wayne Bilquin. The vote to accept the motion was unanimous. The secretary will post notices about the continued hearing date.

**Minutes**

Jason Call made the motion to approve the February 8, 2024, meeting minutes as edited, seconded by Rodney Houghton. The vote to accept the motion was unanimous.

**Financial Report**

Jason Call made the motion to approve the financial report, seconded by Wayne Bilquin. The vote to accept the motion was unanimous.

Rodney Houghton made the motion to adjourn the meeting, seconded by Wayne Bilquin. The meeting was adjourned at 9:52 pm.

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Charlene Wheeler

Secretary to the Board