**Town of Jefferson**

Office of the Zoning Board of Adjustment

**Minutes**

August 22, 2024

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

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

**Absent**: Biff Wyman

**Others present**: Charlene Wheeler, Board secretary; Merle Tilton, Terry Kenison, Members of Scout Troop 218: Victor Willey, Bailey Phillips, Lance Labens, Michael Melllet, Connor Perry, John Hallerberg, and David Phillips

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

The scouts attending the meeting were working towards a merit badge and were courteous and attentive throughout the meeting.

**Hearing continued from August 8, 2024 – Case # 229-2024 – Tilton**

Chairman Perry continued 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 more information from Mr. Tilton including drawings of the rack of panels, letters from the manufacturer, more explicit dimensions, and photos. A map of the property and location of the proposed panels were previously submitted with the application. Lot 6 contains 106.64 acres on both sides of Valley Road. The Portland Pipeline and the Israel River runs behind the house and barn. Chairman Perry asked Mr. Tilton if he wanted to add anything to the additional information the Board had received. Mr. Tilton said he had reached out to the company in Michigan, and it was confirmed he couldn’t just move one pole or reduce the length of the rack of panels. The supporting pole is about 17 feet away from the edge of Valley Road and the rack hangs about 40 inches out from the side of the pole, making it about 14 feet from the edge of the road. It was noted there is a banking about 2 feet high along the edge of the road which would increase the height of the rack on higher ground. Utilities wires would run about 3 feet underground near the base of the poles towards the barn. Terry Kenison said he didn’t believe any plow truck would throw stones that far away from the road. It was also mentioned that there are speeders along that stretch of road, sometimes drag racing, and a speed limit sign should be placed on the road 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 was very concerned about the potential for flooding in the area behind the house. Mr. Tilton again described problems with the Carter’s Cut bridge and was very frustrated it wasn’t being dealt with. He showed the Board pictures again of what was causing the problem at the bridge. He said the elevation of the riverbed (1336 feet) was higher than the elevation where the house sits (1323 feet). Jason Call, who is also a member of the Planning Board, said he had spoken to the town’s attorney who had attended their meeting. What is the actual right-of-way of Valley Road? Who owns the land under this road? Some of the answers may be lost to time at this point. In order to determine where the lot lines actual are a survey would have to be done by Mr. Tilton, an expensive proposition. A waiver of liability for both Mr. Tilton and the town might be possible, written by his attorney and agreed to by the town’s attorney, but that was stated as a guarded opinion. Mr. Tilton had previously said he would sign any waiver form saying he would be responsible for any damage and pay any additional charge to prepare it. But the town’s attorney said the biggest hurdle for Mr. Tilton to overcome was the hardship requirement.

Chairman Perry opened the meeting to public questions or comments. He read a letter from Biff Wyman stating after reading all the information from the last meeting, he did not believe the Board should approve Mr. Tilton’s request for a Variance.

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. No. Mr. 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 and panel will be well within the 50 feet setback along a traveled public road and there is concern about potential damage from snow and stones being thrown by a town truck. Also, there is the potential for an accident as speeding seemed to be a problem at times along Valley Road. Voters approved the 50’ setback and expect it to be enforced.
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. Work has been done to save the vary old barn and citizens of the town would probably feel it’s lose.
3. Substantial justice is done. Yes. 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.) No. Board members sympathized with the river situation Mr. Tilton described. But there are other locations on the property the panels can be located at the proper angle needed. Trees may have to be cut. There is potential for flooding, but flood insurance is an option. Mr. Tilton said he would not hold the town libel for damage from snow removal on Valley Road. But there is potential for damage from other road traffic or vandalism of what would be an easy target.

Jason Call made the motion to deny the application for a Variance based on criteria one and five not being met, seconded by Tom Walker. The vote to approve the motion was unanimous.

**Minutes**

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

Tom Walker made the motion to adjourn the meeting, seconded by Wayne Bilquin. The meeting was adjourned at 8:40 pm.

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Charlene Wheeler

Secretary to the Board