

## Town of Torrey Zoning Board of Appeals

December 7, 2020

Area Variance 20-02 SU 20-06

Public Hearing

Present: Vice Chairman Tony Cannizzaro, Mark Gifford, Bob Constantine, George Dowse

Recused: Chris Hansen

Others present: Paul & Ernie Edelmann, Mary Joan LeClaire, Lois Hall, Steve Eskildsen, John Mustico- Atty, Klaas & Peter Martens, Brian Henderson, Chris Hansen, Dave Granzin, Robert Miller, Dan Huntington-Norbut Solar, Dwight James, Code Officer.

Bob Constantine opened the public hearing at 7:00 PM. He asked the secretary to note members present.

**Area Variance # 20 -02** Daniel Huntington of Norbut Solar is requesting an Area Variance for proposed (3) Solar Array project at Hansen Point Rd Tax Map # 52.04-1-4.13 in the Town of Torrey.

An Area Variance is required as the solar project exceeds the maximum lot coverage regulations in an Ag/Residential District per Torrey Zoning Law § 98.42

Town Law Section 267 Art. 16 All property owner(s) within 500' of property line of land affected by a zoning change must be notified.

*Notices sent to the following by clerk:*

City Hill Excavation 2183 Rte 14 Penn Yan NY 14527

Tim Hansen 2244 Hansen Spur Penn Yan NY 14527

Paula Edelmann 210 Lovell Ave Elmira NY 14905

Paula Edelmann 2287 Route 14 Penn Yan, NY 14527

Fiona Gibson 2015 Perry Point Rd Penn Yan NY 14527

Gary & Judy King 105 High Gate Place Ithaca NY 14850

Ivan Eberly 2105 Rte 14 Penn Yan, NY 14527

Lakeland Farms 4395 County Rd # 1 Canandaigua NY 14424

Chris & Brianne Hansen 515 Hansen Point Rd Penn Yan, NY 14527

Torrey Planning Board on November 16, 2020 recommended approval.

### **STATEMENT OF THE CASE**

Dan Huntington appeared to present this application. The project involves construction of three (5 mw) Solar Arrays covering 28% of the property, exceeding the maximum lot coverage. Torrey Code allows for 20% lot coverage, therefore an area variance for 8% is being requested.

Mr. Constantine asked if anyone present would like to speak in support

John Mustico, Attorney representing Paula Edelmann appeared in opposition of this project. Mrs. Edelmann is the property owner to the South of proposed project who would be directly impacted.

Mr. Mustico presented the board a letter listing Mrs. Edelman's concerns on this project. He stated that the state guidelines have 5 criteria's that must be addressed/met before issuance of an area variance. "The board weighs the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood". He inquired "what does lot coverage mean" It is not defined for solar arrays.

The state guideline does not define feasibility as a criterion.

Mr. Huntington stated in the application he has charts of greenspace. There is 12.5 feet of greenspace between each array. Discussion on how the total coverage size was determined. He stated presently Norbut owns a Solar farm in Parma which also includes bee hives for honey production on the property.

Mr. Constantine asked if there were anyone else desiring to speak in support, there was none.

Mr. Constantine asked if there was anyone desiring to speak in opposition.

Steve Eskildsen City Hill Rd asked if the applicant owns the property, the variance if granted goes with the property. If Norbut does not own the land, how can they apply?

Mary Joan LeClair, Lone Oak Rd asked how big are the solar array totally.

Mr. Huntington replied that he submitted a long form SEQRA which addressed lot coverage which is also addressed in Solar Law.

Mr. Huntington replied Norbut Solar Farms has full intentions of purchasing the Stell property once all permits are obtained. Dale Stell is out of country and could not attend tonight. Mr. Stell is the owner of property and signed the application in that compacity.

Peter Martens Ridge Rd stated farmland is bot not a renewable resource. There is non usable land to place the Solar arrays on, not farm land.

Mr. Huntington stated that they were looking into purchasing golf courses, but with Covid hitting, the golf industry is booming. No courses available for sale.

The Stell land has been for sale 3 times and was available for purchase.

Brian Henderson asked about lot coverage. What determines lot coverage and total property size should be considered.

Mr. Mustico quoted Town Law Section 267B (3) are the factors the board MUST consider determining granting the area variance. The guidelines are there.

This project:

1. Will Produce an undesirable change to neighborhood
2. The applicant can achieve his goal by reasonable alternative
3. The proposed area variance is substantial
4. Will have an impact on neighborhood
5. Is self-created hardship

Klaas Martens- Ridge Road is a full supporter of renewable energy and Solar power He asks that the Town determine suitable areas in Town for solar projects, to protect good farm land.

He stated go up with solar on rooftops this will save land. Rooftop arrays can provide many alternate locations.

Ernie Edelman Route 14 is concerned that 28% lot coverage is really 100% land disruption.

Mr. Huntington responded finding location of arrays criteria is power lines.

The power line location drives the locality of arrays. The power line along Route 14.

Discussion on stormwater runoff, Mr. Huntington has presented a stormwater control plan. He has been in touch with many lakeshore neighbors concerned with water runoff. The arrays are permeable. Vegetation will be installed to help with the soil absorption of runoff. They will have a roadway agreement in place for maintenance and stormwater runoff.

Dave Granzin, Chairman of Planning Board addressed the 20% ground coverage. The 80% uncovered will allow stormwater runoff to absorb into the ground.

Discussion on fencing. Mr. Edelman stated that the solar array fencing will disturb the natural pattern of deer runs, from gully to gully.

Peter Martens inquired "what is the next step in this application process?"

Mr. Constantine stated the Zoning Board of Appeal is the last board to review this application and will make the final determination. The ZBA will gather all information at this public hearing and then make a determination at a regular monthly meeting.

Peter Martens asked if the county weighed in on this project. As this project is on a private road and has no impact on a county or state roadway, it was not reviewed by the county.

Brian Henderson urged the ZBA to take due diligence to protect farm land by supporting the use of less productive land for solar farms.

Mr. Huntington stated this land has been up for sale three times. He has been told that the soil is poor and that only # 2 corn can be grown on it.

Klaas Martens argued that it is valuable farm land, he is unaware of any # grading on corn. This is prime farm land.

Roger Peck Seneca St inquired if there will be porta johns at this site.

Response: During construction only.

Mark Gifford asked what Mr. Huntington was referring to "this project would be a benefit to Torrey residents?"

Mr. Huntington stated they are signing a PILOT program with IDA and taxes will be split School, County & Town.

Klaas Martens remarked that the Ag land value with tax breaks could be higher than on the Solar Farm.

Peter Martens inquired about the Yates County proposed Solar Farm on the Long Point Road former dump. A perfect site for solar as the dump land has no value.

Will this project delay the County's project??

Mr. Huntington stated Yates County had not submitted an application to state when he submitted Norbuts.

Mr. Huntington stated if they cannot get the area variance they will have to walk away from the project.

Mr. Mustico stated the State has not preempted Solar arrays.

Mrs. Edelmann asked why give up 8% more coverage when panels cover 87 acres already.

Mr. Mustico stated the board needs a justification of variance

Dwight James stated there is 5 questions on justifications needed for variance

Mrs. Edelmann questioned power to site. From railroad to Rte 14, is there an easement needed. This is a private road; they would need to work with Hansen Pt association on this.

Brian Henderson asked if there has been consideration for a decommissioning plan.

Mr. Constantine read the town solar decommissioning plan taken from the state.

Ernie Edelmann stated New York Laws do not address local need and the Board should take this into consideration.

Mr. Constantine closed the public hearing at 8:02pm

Mr. Constantine opened the public hearing on the following application at 8:03pm

**Special Use Application # 20-06** Dan Huntington of Norbut Solar Farms to build three (3) solar arrays on property of Dale Stell TM # 52.04-1-4.13, at Hansen Point Road Town of Torrey. A special use permit is needed to operate a commercial business in an Ag/Residential District per Torrey Zoning Law.

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Lakeland Farms 4395 County Rd # 1 Canandaigua NY 14424

**Torrey Planning Board** on October 19, 2020 recommended approval of this application.

Dan Huntington of Norbut Solar Farms is applying to construct three (3) Solar arrays for commercial business in an Ag District. Each solar array would be 5-Megawatt ground mounted. The power line runs along Route 14 and the site would be connected to it by way of Hansen Point Road. This renewable energy can be sold to area businesses and residential. Hansen Solar Farm was submitted way ahead of Norbut regarding approval status. This farm land was up for sale previous to this application. Has a contract with Dale Stell for purchase upon approval of permits needed for solar array project.

Mr. Mustico referred to viewshed. It is not in the zoning law therefore we must refer to a dictionary.

Merriam Webster Dictionary “the natural environment that is visible from one or more viewing points.

A special Use permit application must meet criteria also. He presented a letter to Mr. Constantine and members.

Discussion followed on

He listed the following as points the board must consider on this application

1. Natural resources, farmland, hills lakeview
2. Viewshed
3. Lot Coverage
4. Height and setbacks
5. Landscape buffer

Mrs. Edelmann asked if easements are required to run electric line on right of way from railroad to Rte 14?

Mr. James stated ROW is not applicable to this application.

Mr. Huntington stated Fisher Associates did all his engineering and studies. He presented a viewshed analysis of east, west and overhead in the packet presented.

Discussion on the engineering and analysis of visually impacted areas around project site. Natural buffer vegetation will help with view and stormwater runoff.

Mrs. Edelmann invited them to do an analysis from her property view. Declined.

Asked to do an analysis from land across Seneca Lake, declined out of jurisdiction of this project.

Question on jurisdiction on space view presented. No comment

No further questions on this application,  
Mr. Constantine closed the hearing at 8:20pm

Respectfully submitted  
Betty Daggett- Sec.

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Regular meeting

Present: Vice Chairman Tony Cannizzaro, Mark Gifford, Bob Constantine, George Dowse

Recused: Chris Hansen

Others present: Paul & Ernie Edelmann, Mary Joan LeClaire, Lois Hall, Steve Eskildsen, John Mustico- Atty, Klaas & Peter Martens, Brian Henderson, Dave Granzin, Robert Miller, Dan Huntington-Norbut Solar, Dwight James, Code Officer

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Motion by Mr. Constantine 2<sup>nd</sup> Mr. Dowse to table this for more information and to review comments and definition of coverage, carried by all.

**Special Use Application # 20-06** Dan Huntington of Norbut Solar Farms to build three (3) solar arrays on property of Dale Stell TM # 52.04-1-4.13, at Hansen Point Road Town of Torrey. A special use permit is needed to operate a commercial business in an Ag/Residential District per Torrey Zoning Law.

Motion by Mr. Cannizzaro, 2<sup>nd</sup> Mr. Gifford to table this application for viewshed analysis and to review information, carried by all.

Motion to adjourn by Mr. Constantine 2<sup>nd</sup> Mr. Cannizzaro carried at 8:27pm

Respectfully submitted  
Betty Daggett- Sec.