

Regular Meeting of the Zoning Board of Appeals

**TOWN OF STEPHENTOWN
26 GRANGE HALL ROAD,
STEPHENTOWN, NEW YORK 12168
MAY 27, 2026**

The Regular meeting of the Zoning Board of Appeals, Town of Stephentown was called to order by *Chairman Roland Barth* at 7:04 PM at the Town Hall.

ZBA MEMBERS PRESENT:

Owen Cassavaugh, Code Enforcement Officer
Roland Barth
Tom Quimby
Joel Hunt (joined meeting at 7:12 p.m.)
David Cass

OTHER TOWN OFFICIALS PRESENT:

Craig Crist, Esq., Legal Counsel

ZBA MEMBERS ABSENT:

Dick Sime

A quorum was established.

Several members from the Public were present, including Stephanie Deyo, her son, and Ryan Sweeney.

The Pledge of Allegiance was recited.

Attorney Crist pointed out the building exits.

Barth made a motion to further authorize and ratify the conducting of the meeting at the present date and time, which was seconded by Cass. The motion passed 3-0 with Quimby also voting in favor.

Crist noted that the Clerk had a sudden family emergency and was therefore not able to attend the meeting. He said that she had the January 20, 2026 minutes ready but they are not at the meeting so they will have to be adopted at the next meeting.

Barth made a motion to ratify and further authorize Stephanie Hoffman to serve as the Clerk for the ZBA at the amounts set at the January 26, 2026 Town Board Organizational meeting. The motion was seconded by Quimby and Cass voted in favor so the motion passed 3-0.

Crist noted that the ZBA was in receipt of an updated application by Applicant. James Armstrong of Applicant said that was correct. Armstrong said that he would like to present it. He said that he was with Delaware River Solar. He said that at the January 2026 meeting he presented the variances that Applicant was seeking and that the ZBA suggested that he reach out to the adjoining landowner from where the setback variance was needed. He said Sweeney asked if they could place solar on his property. This kicked off an analysis of whether they could put solar there. He said that the Sweeney property shared the same topography. Crist noted that it was actually the Planning Board made the suggestion. Armstrong and Cassavaugh said that was correct.

Armstrong said that the project still falls within the scope of a community solar project as it is still under 5MGW. He said that the project is good for both Stephentown as well as Applicant. He said that the project is set far back from the road.

Barth asked where the project is in relation to West Road. Armstrong showed him on the map. Armstrong showed the new layout of the project. He said this increases the amount of capacity being used which will limit future solar projects. Crist asked him to explain. Armstrong said that community solar projects keep the energy in the community and the local NYSEG substation has a specific amount of capacity. Here they are utilizing more capacity, leaving less for future projects.

Joel Hunt joined the meeting at 7:12 p.m.

Armstrong said that they are using the same access road. He said that they need a zero lot line area variance. He said that neither the Deyos nor Sweeney have any objections. The other parcel that is affected in the former Carr Pit property, site of the proposed Solar Power Network solar project.

Armstrong said at the January meeting they were seeking a wetland variance but that based on the determinations of insignificance and no jurisdiction by both the DEC and ACOE, Cassavaugh said that was not required. When asked Cassavaugh agreed.

Armstrong, when asked by Crist to re-explain to Hunt as to how the application has been modified since it was presented in January 2026 explained the above.

Armstrong said that there are three variances that are needed per CEO Cassavaugh: lot size, lot coverage and insufficient setback. He said that the CEO is of the position that the lot size equals the leased area. He said that the leased area is 25 acres on the Deyo property and six acres on the Sweeney property.

He said that Applicant is leasing 6 acres on the Sweeney parcel and intends to put panels on 6 acres putting Applicant at roughly at 100% coverage of the leased area. He said that his interpretation of the New York State law is that a lot is an SBL "we are not subdividing we're not purchasing it is one lot and it is important to mention that a special use permit goes with a parcel it doesn't go where the leased area it goes with a parcel so it is an overall parcel so while we are occupying 100% of the leased area." He said that the CEO disagrees with this "and rather than argue this we are happy to seek the variance on the lot coverage and lot size understanding that the lot in our definition is roughly 90 acres and 200 plus acres but we're not asking for interpretation we're just asking for the ruling and will seek those variances."

He said that Applicant and CEO disagree but that they are not seeking an interpretation. Armstrong said that the variances sought are lot coverage, lot size and setbacks with zero setback as to the Deyo and Sweeney lots and 31 feet from the Carr property.

Hunt said that one of the big concerns he had in January was the wetland and also noted that Deyo and Sweeney were in agreement with a zero setback. Crist asked Deyo and Sweeney to confirm they were fine with it and they said that they were. Hunt said that one of the nice things is that Deyo and Sweeney are in agreement, but is concerned that Carr Pit owner may have an issue. Armstrong said that is why they have public hearings.

Barth and Hunt said that one of the reasons that they have setbacks is to not affect neighboring properties. Armstrong said that is not an issue because the leased area goes all around the property. He said that the access road is also part of the leased area. The leased area goes beyond the fenced area so that they can fully service everything even if there is a sale. He said that the leased area includes all utilized areas.

Armstrong said it is a fixed array parcels which will require less maintenance.

Armstrong had attorney Liponis speak. Liponis said he wanted to present the standard that applies to area variances. He explained the Con Ed case which he said involved an area and use variance. He said that a closed cycle cooling system was required. A 40-foot limit and could not emit onto neighboring properties. He said the Court of Appeals said you do not need to apply the area and use variance standards under Town Law. He said a different criterion is to be applied. The standard is – is this a public necessity in that it is required to provide safe and adequate service to anyone who needs it and is it more feasible to construct it here versus somewhere else. He said that Applicant here has identified the available capacity and to the extent that there is an intrusion on the community the standard is reduced.

Crist asked that he break the standard down. Liponis said:

1. Is it a public necessity required to provide service;
2. Is it more feasible to construct it at the present site versus elsewhere;
3. Is it minimal community effect. He said, if yes, it reduce the burden on 1 and 2.

He said, when asked by Crist, that the public utility standard applies for area variances as well. He said two courts have considered it and both said yes. Town of Stockport and a case he litigated (Sun 1009 LLC) . He said no court has ruled against his assertions.

Barth asked if there was any movement to harmonize the law. Liponis said it did not happen in the budget because the legislature is pushing it to the courts.

Crist noted that the Planning Board is serving as lead agency.

Barth made a motion, Cass seconded, to authorize and ratify the Planning Board serving as lead agency for purposes of SEQRA of the project. It passed 4-0.

Crist said that the Planning Board is holding their public hearing on June 9, 2026 at 7:00. Armstrong said that the notices were sent out yesterday. Armstrong said he wanted to have the ZBA do the same thing for next month. Liponis said that the idea is to get as much public input as possible. He said that the ZBA doing a public hearing would give additional input. If someone has an issue they can step forward at the earliest possible way.

Crist asked if the overall procedure agreed to at the January 2026 meeting was still in place, including waiver of all time periods. Liponis said yes it was.

Armstrong said this is a low impact solar project, much less than the existing solar project in town. He said that the subject proposed project is setback far from the road with natural screening. He said that it is not abutting any homes. He said he does not believe anyone can see it. He said “It is as low impact as projects come.” He said that the hilly nature of the topography protects it. He also said it is not dense. Hunt said it seems to be an ideal spot for solar as it is out of sight and not much traffic. He said his concerns as to setbacks and wetlands have been addressed.

Armstrong said that there is minimal noise from the inverters. He said that there will be 6-8 months of traffic and once it is up and running there will only be 1 trip or so per month.

Armstrong said that the Fire Chief was fine with the plans.

Hunt asked about the transmission lines. Armstrong showed the point of interconnection and now there will be five poles that will tie into the three phase power on West Road. Armstrong said it will feed the houses on the circuit.

It was discussed and agreed that the same list the Planning Board used would be used.

Armstrong agreed that the public hearing would need to be kept open if the P. Board did not make a determination.

Hunt asked CEO Cassavaugh what variances are needed: Cassavaugh said: setback, coverage and lot size are the three variances that are needed.

Cass made a motion to call for a public hearing on June 16, 2026 at 7:00 p.m. which was seconded by Barth and passed 4-0.

Armstrong said that he will send the public hearing notices which Crist said he will draft and Applicant is to bring in the certified receipts and also mail the Ag. Data letter as well.

When asked by Crist, Armstrong said that the entirety of Sweeney's property is located in an ag. district.

Crist asked if there was any further questions for the Applicant. There was none.

MOTION TO ADJOURN AT 7:45 PM

MOTION BY: CASS

SECONDED BY: BARTH

VOTES OF:

4 AYE

0 NAY

Minutes taken by Attorney Craig Crist in the absence of the ZBA Secretary.

Stephanie M. Hoffman

ZBA Secretary