

**TOWN OF EPSOM
ZONING BOARD OF ADJUSTMENT MEETING
Old Meetinghouse, 1596 Dover Road, Epsom
April 19, 2023, 7:00PM**

PRESENT

Glenn Horner, Chair
Gary Kitson, Member
Prescott Towle, Alternate Member
Jason Johnson, Alternate Member

ALSO PRESENT

Betsy Bosiak, Acting Recording Secretary
Virginia Drew, Board of Selectman Representative
Miriam Cahill Yeaton – resident
Norman Yeaton – resident
Jeffrey Christensen, Esq.
Chris Nadeau
Roger Landry, Owner
Clarke Fenner
Rachael Chicoine

CALL TO ORDER

Chair Horner called the meeting to order at 7:05PM.

Introductions were made of the Board members present.

APPROVAL OF MINUTES

Meeting of April 5, 2023 – No edits were made. **Mr. Johnson motioned to approve. Mr. Kitson seconded. Motion passed, 3-0-1. Prescott Towle abstained**

Case 2023-03 (Caspian Epsom Solar, LLC – Var.) – Caspian Epsom Solar, LLC has applied for a variance to Article III, Section B (Pre-Existing, Non-conforming Uses), Paragraph 4 (Change and Expansion of Use) and Article II. C (Table of Uses) to allow for the construction of a 2.75-Megawatt solar farm on a pre-existing, non-conforming lot with no public road frontage. Solar farms are not included in Article II. C and are, therefore, not permitted requiring a variance to Article II. C. The property is located on Granny Howe Road within the Residential/Commercial Zoning District and is identified on Epsom Tax Map R12 as Lot 3.

Chair Horner noted they are usually a 5-member board, but only 4 were present, and asked if the applicant wanted to continue the Public Hearing or continue to another date. Attorney Christensen indicated they would like the Public Hearing to be held tonight.

Chair Horner noted all green cards were returned except Caspian Epsom Solar, LLC and Randall Ellis.

Atty Christensen presented the project for Caspian Epsom Solar, LLC. He noted the 52-acre property is undeveloped as are the surrounding properties. He clarified that the array would be 2.5-Megawatts rather than 2.7-Megawatts as noted in the application. He noted that Granny Howe Road is a class 6 road with a variance being requested for that as it is not a class 5 road. He noted there is not anything in the regulations for solar panels. He noted they are requesting a variance for that also. He discussed the uses that could be constructed on the road although it is a class 6 road. Attorney Christensen noted it would be a good location for solar panels. He noted the location would be screened from the neighbors with no noise, pollution, or a great deal of traffic with no congestion. He noted the property could be developed as a business development. He noted that if a business development occurred on the site the solar panels could be put on the roof. He noted it was a clean use of the property. He noted State law protects solar noting that towns cannot deny them. He noted that there is no danger to the public from the solar panels.

Mr. Johnson asked what the plan would be once the life of the panels expired. Attorney Christensen noted that there would be a bond set aside for their removal. He noted the panels could be recycled. Mr. Johnson asked how the bond would be updated. Attorney Christensen noted it would be updated periodically.

Mr. Towle asked the process to continue after tonight. Attorney Christensen noted the steps to be completed. Ms. Chicoine noted the utility lines would run along Granny Howe Road to Route 28. She noted that there would be a transformer on the property and poles and lines along Granny Howe Road.

Mr. Johnson asked if there would be battery storage on site, She there would not be any.

Chair Horner asked why, on the application, the name is Caspian Epsom Solar, LLC while the layout plan lists Aegis Renewable Energy. Ms. Chicoine explained the reason for the two names.

Chair Horner asked if the red line on the plan indicate the transmission line for power from the facility to Route 28, Ms. Chicoine confirmed it did.

Chair Horner asked what the right of way dimension was for Granny Howe Road and if it would be adequate for upgrading the power poles. Ms. Chicoine did not know the width of the right of way, but indicated it would accommodate the poles.

Chair Horner asked if the property was in current use and how much would be removed from current use. Mr. Landry noted the land was not in current use until last year. He stated that whomever he spoke with in the Town had indicated he would not get much tax relief putting the property in current use. Only the portion with the solar panels would come out of current use.

Chair Horner noted that per the Business ordinance, land coverage could not be more than 33.3%. Atty Christensen explained that, since it was solar panels with spaces in between, it should be considered the same as coverage by a building. Chair Horner responded that he rough calculated the panels would cover approximately 25% of the land as well satisfying the criteria. The remainder being vegetation meet the 20% requirement.

Chair Horner asked if they had obtained Fire Department comments; it was noted they would be obtained as a part of site review.

Chair Horner asked if contact information would be posted on site at the access way and also provided to the Town, it will be.

Chair Horner asked if most of the wiring would be underground. It will be except for the poles and lines along Granny Howe Road.

Chair Horner verified the type of fencing (chain link) to be eight (8') feet high with room at the bottom for small critters to crawl through.

Chair Horner asked if the project would require DES Alteration of Terrain, Ms. Chicoine indicated it would.

Chair Horner asked what lighting would be used for the area, there will be no lighting at the area.

Chair Horner asked what sanitary facilities would be on site during construction, port-a-potties will be provided.

Mr. Johnson asked about tree removal with Chair Horner asking if there would be plantings around the panels after construction. Ms. Chicoine noted there would be remediation work to get the grass growing possibly with some wildflowers.

Chair Horner noted when he attempted to visit the site, he was not able to get there through the Epsom side, but used the Chichester side. He noted the road was being upgraded from the Chichester side. Mr. Landry noted the person owning the other side of the road does work on the road. Mr. Kitson noted permission was required from the Town to complete work on the road.

Mr. Kitson asked about tax assessment, Attorney Christensen noted he did not know the actual number for tax purposes.

Mr. Johnson asked if there would be any contingency if there was a power outage if the Town could receive emergency power. Ms. Chicoine noted that it was not part of this project. In cases where grid power is lost, the panels are automatically disconnected for safety of the utility repair personnel. Attorney Christensen also noted this project is not designed to do that.

Chair Horner opened the hearing for input from public in support of the application. None was indicated.

Chair Horner opened the hearing to input from public in opposition to the application. None was indicated.

Chair Horner noted that the Board appeared to be in favor of the project and went over some approval conditions prior to closing the public hearing seeking any additions or comment. No additions or objections were made.

Mr. Kitson motioned to close the hearing. Mr. Towle seconded the motion. Motion passed, 4-0-0.

Discussion & Variance Checklist completion

After reviewing the petition, hearing all of the evidence and taking into consideration the personal knowledge of the property in question, the general conditions of a variance are evaluated as follows:

- A. The variance will not be contrary to the public interest. YES (all)*
- B. The variance is consistent with the spirit of the ordinance. YES (all)*
- C. By granting the variance, substantial justice is done. YES (all)*
- D. The proposed use will not diminish the value of surrounding properties. YES (all)*
- E. Literal enforcement of the provisions of the ordinance would result in an unnecessary*
Either: F. (1) Owing to special conditions of the property that distinguish it from
other
properties in the area:
 - No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and*
 - The proposed use is a reasonable one. Yes (all)*
- Or: F. (2) Owing to special conditions of the property that distinguish it from other*
properties in the area, the property cannot be reasonably used in strict
conformance with the ordinance, and a variance is therefore necessary to enable
a reasonable use of it. No (all)

Chair Horner reminded the Board of the new requirement enacted the State and by Warrant Article by the Town this year that written reasons must be included in any decision by the ZBA.

Mr. Kitson motioned to approve the request for a Variance per Article III, Section B, Paragraph 4 and Article II. C. on property located on Granny Howe Road within the Residential/Commercial Zoning District identified on Epsom Tax Map R12 as Lot 3

Approval is based on verification that the written responses contained in the appeal application, and supported by testimony, satisfy the requirements for a Variance.

The Variance is approved with the following conditions:

- 1. Solar Panel wiring shall be installed underground to the maximum extent practical.**
- 2. The owner/applicant shall provide emergency response guidance including disconnect locations to the Epsom Fire Department.**
- 3. Contact information for the solar collection system owner/operator be posted on site at the access way and provided, and updated as necessary, to the town.**
- 4. Fencing will be installed and maintained surrounding the facility. Fencing details shall be determined with the Planning Board.**
- 5. Sanitary facilities will be provided on site during construction of the facility.**
- 6. Natural vegetation shall be preserved which does not hinder solar panel installation or performance or as otherwise determined by the Planning Board.**
- 7. Replanting the areas around the solar panels shall be determined by the Planning Board. It is recommended that the owner/applicant work with Epsom Conservation Commission oversight to replant with native species that are consistent with the use of the site as a solar farm such as slow growth, low ground covering pollinators.**
- 8. The Solar Farm shall be deemed to be abandoned if operations have discontinued for more than 6 months without written consent of the Epsom Select Board. The abandoned system shall be removed and the site restored within 6 months of abandonment. A bond shall be set aside for the purpose of funding this removal.**
- 9. The applicant shall proceed to the Epsom Planning Board for Non-Residential Site Plan review.**

Mr. Prescott seconded the motion. Motion passed, 4-0-0.

Mr. Horner noted the variance passed and welcomed them to Epsom.

Mr. Horner noted the cases for the next meeting on May 3.

ADJOURN

Chair Horner adjourned the meeting at 8:15 PM.

Respectfully Submitted,

Betsy Bosiak

Betsy Bosiak, Acting Recording Secretary