

Town of Johnsburg  
Zoning Board of Appeals  
Tannery Pond Community Center  
October 1, 2012

Attendance:

**ZBA Members:** Cathy Allen, Philip Goodman and James Jones

**ZEO:** Danae Tucker

**Applicants:** Linda and Michael Quintavalle

Public Hearing called to order at 7:05

Pertaining to: Variance Application #05-2012 submitted by Linda & Michael Quintavalle seeking relief of sideline setbacks for the installation of a utility pole for solar units on parcel #135.-1-26 located at 192 Harrington Road in Wevertown.

The applicants are requesting 10' of relief to place a metal utility pole 5' from their sideline. Documentation indicated that the pole would be schedule 80 steel pipe 8 Inches in diameter and 30 feet high incased in a 5 feet deep x 5 feet wide cone shaped concrete foundation.

It was discussed that the purpose of the utility pole was to hold a solar array to produce electricity for the use of a residence on the site. The placement of the pole at that location is necessitated due to the direction of the sun's rays and the obstruction of the roof line of the house. The question was asked if the array would infringe any closer to the property line than the pole itself and the answer was no. Visibility issues were also discussed. The only neighbors who might be able to see the pole and array had signed off and had no negative comment. The county rail road across the road had not signed off, but the pole and array would not be visible to the train when it passed.

Public Hearing called to a close at 7:15

Motion by Jim Jones, seconded by Phil Goodman, Passed 3-0

Regular meeting called to order at 7:15

The board went right into discussion of Variance application #05-2012

The board had no objections to the pole and array. It was discussed that the placement was necessitated by the angle and direction of the suns rays throughout the day. The size of the lot and the placement of the residence made an alternate placement unavailable. Although the residence is a man made structure and a potential self-created hardship, the board believed that at the time of residential construction the feasibility of home generated solar power would not have been considered due to technological limitations. Also, self-created hardship does not by statute or legal precedence preclude an area variance. The pole does not substantially alter the character of the neighborhood; utility poles (many with

transformers) are regularly placed along lot lines in this neighborhood, and in most neighborhoods in town. The pole might only be seen by one neighboring residence and they have no objections to the project. The only objection expressed by the board was that the railroad property owners on the opposite side of the road had not been notified of the project. The specifics of who exactly constitutes an adjacent land owner seems to have been inadvertently left out of the towns new zoning ordinance and the railroad across the street was not sent a notification.

Using the aforementioned discussion as rationale a motion was made to Grant variance application #05-2012 to grant 10 feet of relief to place a utility pole 5 feet from a sideline. This motion is contingent upon the notification of railroad landowners (Warren County) concerning the project, and the receipt of their absence of objection.

Motion made by Phil Goodman, Seconded by Jim Jones. Passed 3-0

Further discussion was made to request the Town Board for clarification concerning what constitutes an adjacent landowner for the purposes of notification. The Town Board could amend the ordinance to bring it in line with the previous ordinance and past practice. If that process were to prove too cumbersome and/or time consuming, the Zoning Board of Appeals could use its legal power of zoning interpretation to pass a resolution to bring the current ordinance back in line with the previous one. Although within its power the members of the ZBA would prefer to act on this only with the guidance of the Town Board.

The ZBA decided that official correspondence of the aforementioned was not necessary. The inclusion of the discussion in the minutes of the meeting should be sufficient.

Regular meeting closed at 7:35

Motion made by Jim Jones, Seconded by Phil Goodman. Passed 3-0.