

**ZONING BOARD OF APPEALS
TOWN OF CHESTER**

1786 Kings Highway
Chester, New York 10918
September 9, 2021

PRESENT: Gregg FEIGELSON, Chairman
Walter POPAILO, Member
Dan DOELLINGER, Member
Tom ATKIN, Member
Giuseppe CASSARA, Alternate Member

ABSENT: Julie BELL, Member

ALSO PRESENT: Melissa Foote, Secretary
Rob DICKOVER, Counsel

Chairman FEIGELSON called the meeting to order at 7:00 PM and opened with the Pledge of Allegiance

Chairman FEIGELSON: Hello everyone, the June 10th, 2021, and the July 8th, 2021 Minutes need to be adopted. If there are no major concerns, I'll make a motion to adopt the minutes. Can I get a 2nd?

Member POPAILO: I'll 2nd that.

Chairman FEIGELSON: Now we'll do a roll Call Vote.

Member DOELLINGER: Yes

Member POPAILO: Yes

Member ATKINS: Yes

Chairman FEIGELSON: And I say yes, so the June 10th & July 8th minutes are adopted.

Chairman FEIGELSON: We're waiting on the first applicant. We'll move onto to the second applicant, and then we'll come back to them if he gets here. The second application, as I mentioned is for **ARTHUR ALZAMORA, AT 26 NEAL DRIVE**. What we typically do Pam is let the applicants tell us what they are looking to do.

**Sharing the screen with Board Members of the plan.*

Before we go any further, I want to mention that this was a referral from the Planning Board, a letter dated August 10, 2021. The letter indicated that there were 2 items that we needed. An Interpretation as to what the Front Yard was on this property, and also if we determine that the proposed Solar Array is going to be in the Front Yard, that a Variance would be required for that. Pam please tell us a little bit about the project.

Pamela Ziolkowski: We, like you also, do realize it's considered his Front Yard. We're not arguing that it's not. It's quite obvious. It was previously approved to the Back Yard of the left side. However, when our trenchers were there ready to start digging they realized it would be basically the view from their kitchen window. So they wanted to move the ground mount

somewhere where it would be less visible. Arthur wants to put it (referring to the map pointing to the red arrow by where it's labeled Front Yard) in that little grouping of trees right there.

Chairman FEIGELSON: So I noticed that on the other map, there were two locations, which one is it?

Pamela Ziolkowski: It's the little red one. Arthur wants it moved up because of some rocks and stuff in the soil. Trenching would be slightly easier.

Chairman FEIGELSON: So, you're not asking for an interpretation of the Front Yard your conceding that this is the Front Yard?

Pamela Ziolkowski: Yes, we're not going to argue this. It's visually the Front Yard.

Chairman FEIGELSON: OK so Rob, do we still need to render a decision because it was part of the referral letter from the Planning Department?

Counsel DICKOVER: I think what we would do here is make part of the decision, the applicants concession that it is in the Front yard and make that part of our findings.

Chairmen FEIGELSON: So that would have been part 2, if that was in dispute that would have been part one of the discussion for the Board, but I think as you mentioned Pam it's from the definitions within the Code. It's pretty obvious it's the Front Yard.

**Referring to code 98.40-d 1b, it explicitly mentions that the small scale solar arrays are not to be in the Front Yard, so hence the need for the Variance. I'll open up the floor to the Board to ask questions.*

Member ATKINS: What's wrong with the backyard? There looks like there is a lot of room back there.

Pamela Ziolkowski: There is a lot of room, and the original location that was already approved by the Planning Board. However, they want it more concealed and it would be out in the open in the back.

Chairman FEIGELSON: So its esthetics is what you're saying?

Pamela Ziolkowski: Yes.

Chairman FEIGELSON: OK.

Member POPAILO: Who are we concealing it from?

Chairman FEIGELSON: The code was written with the idea that solar arrays in the Front Yard probably would not have the aesthetic that would generally be appreciated by the Town at large.

Member POPAILO: I understand that, but we're putting it in the back and the explanation for it not going in the back because it has to be more concealed...

Pamela: From the Home Owner. It would be the view from all of their back windows.

Chairman FEIGELSON: They don't want to look at it, so they're putting it in the Front Yard. I just want to talk a little bit about that, because numerous times in the application it notes screening. I'm assuming your referring to the pre-existing vegetation there?

Pamela Ziolkowski: Yes, there were some photos in the application. Basically, the trees would almost completely block the view from the street of it, just because of how they're situated. You can't tell here, but there is a little hill.

Chairman FEIGELSON: Did this application not include permission to visit the property?

Pamela Ziolkowski: We sent that in after the fact. He forgot to sign it, we mailed it in.

Chairman FEIGELSON: We will need that on file. That's an important part of the consideration for the board to see this site. That's a private road right?

Pamela Ziolkowski: We welcome you on the property.

Member POPAILO: I have another question... Why are we not putting them on the roof?

Pamela Ziolkowski: He wants Ground Mounts. He's very much into the Ground Mounts. The topic was brought up to him, but he's been gung ho with Ground Mounts from the beginning.

Chairman FEIGELSON: It looks like he has a pretty complex roof line to get that area of Solar.

Pamela Ziolkowski: Yes, how much he would produce would be effected.

Member POPAILO: Do the other people want to see this Solar Panels, but do they have a legal right to do that:

12:41 **Chairman FEIGELSON** Well they don't until we grant a variance for it.

Member POPAILO: If we grant them a variance, then it's going to go in the front and there's going to be no problem, but if we don't grant the variance and it has to go in the back, what legal ramifications do these other people who don't ever see them have.

Chairman FEIGELSON: That's why I brought up the ability to visit the lot. Pam, is it staked? If you were to drive up would you know where the Panels are going to be located?

Pamela: Right now it's not staked but I could get it staked for you.

Chairman FEIGELSON: Yes, that might be helpful to understand the impact.

Pamela Ziolkowski: It's actually, compared to the original location which is basically the middle of that field in the back of the house. This is actually the most concealed location on the entire property just because of the trees.

Chairman FEIGELSON: OK, that's fair.

Pamela Ziolkowski: The ones in the back, those people, the original system was already approved and we already had permits to put it in the back. Those people didn't go to the meeting opposing it.

Member POPAILO: So how do we know they're going to say something now?

Pamela: As far as we know there are no objections from the neighbors.

Chairman FEIGELSON: The next step would be a public hearing, the neighbors would be notified, they would have the opportunity to come and speak for or against or not at all.

Member POPAILO: I agree.

Chairman FEIGELSON: The reason I asked about having access to visit the property is because I think it's an important part in making this decision and seeing what the impact would be first hand.

Member ATKINS: I'll go there, it's hard to see it here (referring to the plans).

Chairman FEIGELSON: Dan any comments, any concerns?

Member DOELINGER: No, I'd like a site visit I think I understand the explanation of the terrain and trees, but I think it would be best to see that in person.

Pamela: I can get you guys a day by tomorrow of when it would be staked. It would be done very quickly.

Chairman FEIGELSON: OK, that's perfect. That would be very helpful.

Just by way of reviewing the application, I think we can do a 15:18 determination that this is a Type 2 Action, so no further action on the boards part is necessary because this pertains to an Area Variance for a 1, 2 or 3 family dwelling. Based on my assessment, it doesn't need a count referral, 239M. So, I'm assuming Pam that you want to move ahead with the Public Hearing?

Pamela Ziolkowski: Yes.

Chairman FEIGELSON: Would someone on the board like to make a motion to set a public hearing for Thursday, October 14th, 2021 or soon thereafter the matter can be heard at.

Member POPAILO: I'll make the motion to set the Public Hearing for October 14, 2021.

Member ATKINS: I'll 2nd that.

Chairman FEIGELSON: We've set the Public Hearing for October 14, 2021. Pam, Melissa will provide you with the Mailing list, and you'll have to do a publication. There are certain time constraints associated with those. Once you do those we can do the Public Hearing at the next meeting, October 14th, 2021 and we'll take it from there. Hopefully we'll have time to visit the site and see what the visual impact will be.

Pamela Ziolkowski: OK, I'll give Melissa a date for the staking tomorrow.

Chairman FEIGELSON: Let's vote on the Public Hearing

Member DOELINGER: Yes

Member POPAILO: Yes

Member ATKINS: Yes

Member CASSARA: Yes

Chairman FEIGELSON: Yes

Chairman FEIGELSON: The other applicant, Qemal Xharo hasn't shown. Rob, I have a question for you. This is turning out to be a stale application. The Building Permit Denial was on April 8, 2021, and the Application to the Zoning Board was on April 27, 2021. This is now 2 no shows.

Counsel DICKOVER: My records show that they failed to show on May 13, 2021. My suggestion is that a letter be sent to them by the Board Secretary advising them that the matter will again be on the board's agenda for the next meeting on October 14, 2021 @ 7:00pm. If they fail to show, the board will make the determination based upon the application as we have it. Since no proof has been presented, the Board has no option but to deny the application.

Chairman FEIGELSON: You got that Melissa?

Melissa Foote: Yes.

Meeting adjourned at 7:21 pm

Respectfully submitted,

Melissa Foote
Zoning Board of Appeals Secretary