

Town of Windham, Maine
Zoning Board of Appeals
FINDING OF FACT & CONCLUSIONS OF LAW

Application Number: ZBA 21-006 (variance from dimensional standards)

Date of public hearing: September 16, 2021 continuing October 7, 2021

Name and address of applicant: Green Lantern Solar
PO Box 658, Waterbury, VT 05676

Zoning District: Commercial District II/ Light- Density Residential District
(C2/ RL)

Location of property: Map 21/ Lot 3

Board Members Present: Chuck Fleck (Chair), Christopher McDonald (Vice Chair), James Cobb, and Raymond Batchelder

Green Lantern Solar are applying to obtain a variance from Chapter 140, Land Use Ordinance, Sec. 400 Zoning District, Commercial District II (C-2)/ Limited Density Residential (RL) dimensional standard requirement of 150ft of public road frontage, due to landlocked parcel, at 994 Roosevelt Trail - Map 21 Lot 3 (C-2/RL) to create an access road, solar panel array and related infrastructure.

Record: The record before the Zoning Board of Appeals consists of the following documents:

1. 994 Roosevelt Trl Abutters List and Map .pdf
2. 994 Roosevelt Trl ZBA Application Submission Packet .pdf
3. Acorn Engineering Criteria Information Solar Array .pdf
4. Acorn Engineering Additional Abutter Information Solar Array .pdf

Testimony: The following individuals presented testimony/comment at the September 16, and October 7, 2021 hearing.

1. Jonathan Rioux, Code Enforcement Director
2. Attorney Kristin Collins, representing the Board of Appeals
3. Enforcement Administrative Assistant, Kelsey Ledoux
4. Jeff Sparrow, Green Lantern Solar, applicant
5. Aubrey Strause, PE, Municipal Services Coordinator, Acorn
6. Paul Donovan, Pamela Hagney, and Howland Bickerstaff from the Public
7. Attorney Elizabeth A. Boepple, representing the applicant

Now, Therefore, based upon the testimony and evidence presented, the Board of Appeals finds as follows:

1. The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood.
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.

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2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.
3. The practical difficulty is not the result of action taken by the petitioner or a prior owner.
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.
4. No other feasible alternative to a variance is available to the petitioner
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.
5. The granting of a variance will not unreasonably adversely affect the natural environment.
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.
6. The property is not located in whole or in part within shoreland areas as described in 38 M.R.S.A. § 435.
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.
7. The dimensional standard for which the variance is granted is limited to ordinance provisions relating to lot area, lot coverage, frontage or setback requirements
 - a. All in Favor 3-0 for reasons set forth in applicant's proposed findings.

Decision

Pursuant to Section 1106 (5), the Board of Appeals has the authority to impose such conditions as it deems necessary in furtherance of the intent and purpose of this chapter.

Upon consideration of the testimony and exhibits admitted, and by a vote of 4-0, the Board of Appeals hereby finds and determines that the application meets the standard for granting a variance from the dimensional standards of the Land Use Ordinance.

Therefore, the Board of Appeals GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS.

Conditions:

Further review is required by the Planning Board for future use of this property.

NOTE: This decision is subject to appeal within forty-five (45) days of this date of decision

Voting favor:	Chuck Fleck, Christopher McDonald James Cobb, and Raymond Batchelder
Voting to deny:	None
Recused:	None

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Dated: October 27, 2021

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Chuck Fleck, Chair