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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

April 8, 2014

Special Permit for Dimensional Variation

A Special Permit for Dimensional Variation was granted to Michael Conway, 322 Flat Hill Road, Lunenburg, MA 01462, under the Lunenburg Protective Zoning By-Law, sections 4.15.4.3 and 4.15.4.7. The petitioner was seeking a Special Permit for Dimensional Variation for the purpose of installing a fifty KW ground mount solar array. The subject property is located at **322 Flat Hill Road, Lunenburg, MA 01462.**

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit for Dimensional Variation has been granted pursuant to the Protective Zoning By-Laws of the Town of Lunenburg.

Board Members present: Donald F. Bowen, Chairman, Raymond Beal, Alfred Gravelle, James Besarkarski, Hans Wentrup, David Blatt and Paul Doherty.

Special Permit for Dimensional Variation has been issued to Michael Conway, 322 Flat Hill Road, Lunenburg, MA 01462, affecting the rights of the owner with respect to land and buildings at **322 Flat Hill Road, Lunenburg, MA 01462**, Book 6840, Page 129 and dated June 7, 2013 as described in plans submitted with the petition. Assessors Map 87, Lot 26.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

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Mr. Conway was before the Board to request a Special Permit for dimensional variation for a proposed 50 KW AC ground mount solar installation in his back yard. The Lunenburg Protective Zoning by-law requires twenty acres of land and has a limit of 10 KW in the residential zoning district. Mr. Conway is proposing a 50KW system on a parcel that contains thirteen acres, and would require offsets to two property lines. This system would be located over 500 feet from the front property line and that most visual sightlines are blocked by his home, barn, septic area and seasonal vegetation. According to the submitted documentation the system design is in compliance with the National Electric Code, Section 690 and the MA Department of Energy Resources and EPA concludes that PV systems illustrate no evidence of devaluation of homes in the area; Mr. Conway felt that the installation will have no effect on neighboring residents. In addition he believes that the PV (photo voltaic) site is (as outlined in the by-law) located on an adequately sized parcel, completely non-intrusive to abutting residents and appropriately sized. He feels the site is a good fit and will be a benefit to the community.

Matthew Allison, 305 Flat Hill Road, is an abutter and proponent to the project and added that they are good neighbors.

Eric Holt, 49 Cortland Circle an abutter, spoke in favor of the application.

Raymond Beal wanted the application modified to include section 8.3.2.1 section 4, varying dimensional requirements; he added that references on the application recite the requirements for Planning Board approval. Mr. Beal indicated that he had spoken with the Building Official and was informed that the applicant must also go to the Planning Board to seek Development Plan Review. Alfred Gravelle agreed that the Planning Board approval must be obtained. Mr. Beal said that Town should address this loophole in the by-laws that places an applicant in front of two town boards. The members agreed that moving forward we hopefully can change the deficiency in the by-law by amending it at a future Town meeting.

Donald Bowen asked the applicant to explain the motivation and incentive structure for the solar field. Michael Conway replied that where the market is at with the price of the system it would be difficult to get a system built without the incentive structure. He replied that it is not appropriate to equate a system the size of what he is proposing to the other ones (Commercial size) that are on the megawatt scale. Donald Bowen asked if the motivation to do this is for financial support or grant from the government? Michael Conway indicated it is more of an investment than it is a get rich quick scheme, he defined it as "more of a slow burn". Donald Bowen asked what happens when you generate the power and how an individual does obtain the extra power; he asked "Do I buy from you in a dollar or paper transaction or as a physical electrical transaction credit". Michael Conway replied that there is a dividing line between what physically happens with the electricity and the way the electricity credits are allocated. Mr. Bowen asked "can I go on line with my power company and buy power at a discounted price?" Mr. Bowen was trying to get an understanding of the process from the applicant in order to understand what the Board is dealing with. Michael Conway replied that the agreement is between the power producer who generates the credit and the purchaser (the person who wanted to off take the power) who buys the credits, so if we entered into an agreement you would see credits from your energy provider and deductions at the end also showing the credits in parenthesis that indicates the savings that was passed on to the consumer.

Paul Doherty asked if there is a transmission fee to get the power from one house to another house. Michael Conway indicated that there is an incentive structure and a system designed known as virtual net metering, the power goes thru your house and the extra is allocated to whomever you chose. Paul Doherty asked Mr. Conway how many kW would you personally use and he replied about three kW. Mr. Conway explained that another way is to set up a new meter and not go through your house initially. However, you can virtually allocate it the same way. Mr. Doherty asked then what the benefit to you is because apparently you will have all of the extra kW so why not putting in a smaller system. Mr. Conway replied that the benefit is to everyone who is part of the agreement. Paul Doherty asked if Mr. Conway was going to pay for capital costs out of the additional power generated from the system and would it be free after a period of time? Mr. Conway replied that you are getting a buy back as with any other investment. Paul Doherty contends that the proposed system is visible from the road between the garage and house as you drive by the property.

Donald Bowen asked if the only issue in front of the Board is regarding the lack of the acreage requirement. Michael Conway indicated that there is also a request for dimensional relief regarding the setback requirement. Paul Doherty the applicant why he chose a 50 KW system. Mr. Conway said that he selected a size that fit his property well but not take up the whole yard; he added that the system works well with Unitil's existing equipment in the area. Alfred Gravelle is not concerned with the financial incentive; he is specifically concerned with the dimensional aspects of the request and asked Mr. Conway to explain. Michael Conway explained the footprint: the (modules/panels) are in the back of the yard, seventy-six (76) feet from one side to another, four hundred eighty-five (485) feet back from Flat Hill Road, twenty five feet from the north side. The highest point is nine feet. He added that the only line of sight is between house and barn from the street, and when the trees have growth on them, they wouldn't be seen at all.

Ray Beal said that after speaking with the Building Commissioner, Michael Sauvageau, his recommendation was that the applicants go before the Zoning Board for three things, lot size, setback and size of system/unit. If the ZBA approved the proposal it then moves forward to the Planning Board. Alfred Gravelle agreed with Mr. Beal's assessment. David Blatt said that the size of the system is requiring Mr. Conway to come before the Zoning Board and feels that it is clearly a deficiency in the bylaw. Hans Wentrup said that he visited the property and felt Mr. Conway clearly has enough space to put the system where it is proposed and from a neighbor's perspective, there was no one present in opposition to the project. Mr. Wentrup does not see a problem with it and thinks that the Board needs to weigh pros and cons. This by-law was put in place for large scale commercial solar farms. David Blatt asked how much area this would encompass. Mr. Conway indicated about on quarter of an acre ($\frac{1}{4}$). He doesn't want to cut any trees if possible which is why he located it in this area: the property is a narrow long lot. Donald Bowen asked the applicant if there any time constraints. Michael Conway said that he is not seeking grant money; the project would be privately funded. He did however want to move forward in a timely fashion.

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MOTION

After due deliberation Alfred Gravelle made a motion to grant the Special Permit for Dimensional Variation as requested to allow the ground mount pv system be located on a parcel that contains thirteen acres and two setback variations required on the north and south sides of the property as shown on the submitted plan. This Special Permit for Dimension variation is granted conditionally that the applicant complete a Development Plan Review with the Lunenburg Planning Board. The motion was based on the finding that it would not be more substantially detrimental to the neighborhood and specifically Section 8.3.2.1.b) 4. as outlined below and in accordance with the plans submitted and subsequently on file with the Zoning Board of Appeals. Raymond Bead seconded the motion.

FINDINGS

In granting a Special Permit for Dimensional Variation the Board of Appeals specifically found:

- a. The specific site is an appropriate location for such building or alteration.
- b. The proposed building or alteration is compatible with the existing neighborhood with regard to size, location and architecture.
- c. The granting of the special permit for dimensional variation will not adversely affect the neighborhood.
- d. The granting of the special permit for dimensional variation will not unreasonably diminish the available light, air, sunlight and other amenities: and there will be no nuisance or serious hazard to vehicles or pedestrians as outlined in Section 8.3.2.1.
- e. The Board also determined that relief is granted per the large scale ground mount PV by-law.

The Special Authorization is granted with the contingency that Michael Conway comply with all licenses, regulations, statues and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit Dimensional Variation with the above members present and voting as follows with respect to the issuance of the Special Permit.

VOTE

Donald Bowen voted in favor of granting the Special Permit for Dimensional Variation.

Alfred Gravelle voted in favor of granting the Special Permit for Dimensional Variation.

Raymond Beal voted in favor of granting the Special Permit for Dimensional Variation.

James Besarkarski voted in favor of granting the Special Permit for Dimensional Variation.

Paul Doherty voted to deny the Special Permit for Dimensional Variation.

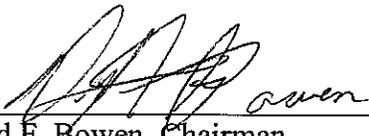
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In making this determination, the Board specifically found that the granting of this Special Permit and Dimensional Variation would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed,


Donald F. Bowen, Chairman Date 4/9/2014

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

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