

TOWN OF NORTHEAST ZONING BOARD OF APPEALS MINUTES December 11, 2025

A special meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place December 11, 2025, at 7:00 pm in the North East Millerton Library Annex, 28 Century Blvd., Millerton, NY. ZBA members present were Chairman Edith Greenwood, Julie Schroeder, Karen Pitcher, and Judith Carlson, secretary to the Board. Jeffrey Stark and Patti Lynch- VandeBogart were absent. Also present were Ibrahim Ramadan of Evolution Energy, David Berger, Sarah Rigano, Joshua Mackey Esq., and James Tanner Jr.

James Tanner Jr

**An area variance, a coverage variance and a Special Permit
6072 Route 22 in the LC District
Tax Parcel # 7171-12-999747**

7:00 pm – Chair Greenwood welcomed the audience and asked Carlson to read the public hearing notice into the record.

Chair Greenwood asked for a motion to open the public hearing. Schroeder made the motion, seconded by Pitcher and the motion passed unanimously.

Tanner described his proposal as simple. He wants to add a 40 ft by 15 ft lean-to-addition to an existing structure. It would be used to store his out-of-season landscaping equipment and will run the full length of the current garage. The floor of the lean-to will be gravel, and the exterior side wall will be closed in. The three attending ZBA members have independently seen the property.

Pitcher went through the balancing questions regarding the needed variances.

1. *Whether benefit can be achieved by other means feasible to the applicant.*

Greenwood stated Tanner could build behind without needing a back yard variance but given the retaining wall built by the Dutchess County to stabilize the Harlem Valley rail trail and the need to excavate to add a rear addition, she did not think this was a feasible option. The option of putting the addition on the north side of the building going towards his house is sloped. This would also require excavation and probably create drainage issues. Also, there is a chimney that would need to be moved on the north side of the existing structure. The requested variance to the south is on level ground with no need to move the chimney. The ZBA agreed that the answer is no.

2. *Create an undesirable change in the neighborhood character or detriment to nearby properties.*

Schroeder stated she thought the addition would be a great improvement to the neighborhood and the other ZBA member agreed enthusiastically. It was noted there had been no letters from the neighbors, but one neighbor, Lisa Cope, had verbally told Greenwood she was

supportive of the addition. Schroeder noted that the LC district does allow outdoor storage but given the proximity to Route 22 the addition would provide a vast visual improvement. The ZBA agreed that the answer is no.

3. *Whether the request is substantial.*

The ZBA agreed that the answer is yes. Greenwood stated that it is on a non-conforming lot and given the setbacks in the LC district practically nothing could be built without a variance.

4. *Whether the request will have adverse physical or environmental effects.*

The ZBA agreed that the answer is no.

5. *Whether the alleged difficulty is self-created.*

The ZBA agreed that the answer is yes.

The Board reviewed the same balancing test with respect to the requested 2% coverage variance. The only answer that differed was for #3 "Whether the request is substantial". For the coverage variance the ZBA agreed that the answer is no.

Greenwood moved on to the standards for a special permit outlined in section 180-26.

Section E relating to screening in all seasons was discussed. It was pointed out that there is an existing tall stockage fence that would provide visual protection to the immediate neighbors.

Section H regarding area and bulk requirements was discussed. Greenwood stated that the building on the lot should not be in the LC district and would not be if a more appropriate wetland map was applied.

The ZBA began SEQR and reviewed the Short Form EAF making several corrections.

Greenwood noted that this application has been submitted to Dutchess County Planning, and it has been acknowledged as having been received.

Greenwood asked for a motion to close the public hearing and to go into the regular meeting. Picher made the motion, Schroeder seconded and the motion was passed unanimously.

Schroeder made a motion to classify this application as a Type II action under Title 6 of the NY Comp Codes Rules and Regs section 617-5 c (9) and therefore not subject to further review. The motion was seconded by Pitcher and passed unanimously.

Greenwood asked for a motion to grant the applicant a side yard variance of 33 ft and a 2% coverage variance, and the special permit. The Board waives the necessity for the required soil map. It also waives the requirement for site plan approval by the Town of North East Planning Board as the application has been referred to the Planning Board who responded it had no concerns. This approval is conditioned on receiving no substantive comments from either Dutchess County Planning or NY State Parks, Recreation & Historic Preservation (SHPO). This approval is also conditioned on the applicant maintaining the existing solid fence on the south

property line in perpetuity. Lastly, this motion authorizes the Chair of the ZBA to file the decision with the Town Clerk.

The motion was made by Schroeder, seconded by Pitcher and approved unanimously.

Greenwood told Tanner that she would inform the Building Department that the ZBA has approved the variances, but that final approval is conditioned on receiving no significant feedback from either DC Planning or SHPO. Therefore, if he goes for a building permit before those responses have been received, he is proceeding at his own risk. Schroeder added that each agency has 30 days to respond and if they do have comments, the ZBA can override them with a super majority vote.

Tracey Altman and David A. Berger
Special Permit for a ground mounted solar array
1566 Route 83 in the A5A Zoning District
Tax Parcel # 7070-00-136686

Chair Greenwood asked for a motion to continue the public hearing for Tracey Altman and David Berger, represented by Evolution Energy that began on December 3, 2025. Schroeder made the motion, seconded by Pitcher and it was passed unanimously.

For the record, Greenwood noted that since December 3rd, David Berger had provided a soil map and the ZBA had received a letter dated December 10th from Joshua Mackey. In response to Mackey's letter, Greenwood provided documentation showing that Dutchess County Planning does not require it review applications for residential special permits. In addition, we received a letter from the North East Planning Board stating they had no concerns.

At the December 3rd meeting the SEQR form was reviewed but no action was taken. Greenwood asked for a motion to classify this application is a Type II action under Title 6 of the NY Comp Codes Rules and Regs Section 617-5 (c) 14 and therefore will need no further action. Schroeder made the motion, seconded by Pitcher and it was passed unanimously.

Greenwood summarized the points in Mackey's letter dated December 10th where he articulates the need for the ZBA to submit the application to the NYS Parks Division of Historic Preservation given the proximity to the cemetery by the road.

Berger responded to a second letter Mackey sent on December 11th where Mackey states that the ZBA should require a map of the parcel be submitted by a NYS Licensed Land Surveyor as baseless. Greenwood asked Berger if he had a survey and he responded he does not have a current survey.

Berger, who identified himself as a lawyer, went on to say that the intent here is to impose additional costs and delay on the applicant. Berger states that the only site-specific point made by Mackey is that he maintains his client has raised legitimate concerns over the visual impact that will be created by the solar array. To rebut Mackey's point that a survey be required, Berger points to North East town law section 180-35 C (1) stating that a site plan can be

prepared by a NYS licensed engineer, architect, or land surveyor. He added that his house building permit was issued based on the same site plan submitted by his engineer. He also stated that the use of solar energy is consistent with the goals of the Town of North East.

Mackey responded that the ZBA should care about the visual impact.

Sarah Rigano stated that the entire application started with a shoddy, hand drawn map without the proper siting of the house. She hired a surveyor as she is trying to figure out where this array will be. The map used for the building permit was a shoddy, faded, topographical map that does not clearly delineate the site plan. She showed Schroeder the building department document available in Town Hall on her cell phone.

Berger states that he does not see the connection between a survey and site lines.

Mackey suggested that Berger and his wife and Rigano do a walk of the site and stand where the solar array will be placed. Berger responded there is no legal requirement to do a survey. Mackey reiterated the importance of the historic importance of the cemetery.

Berger told the ZBA he would lose the 30% tax credit if the approval was not granted now so the array can be installed before year end.

The ZBA asked for a \$500 escrow so we can consult with our attorney. Berger agreed.

Schroeder made a motion that we establish an escrow account in the amount of \$500 to pay for attorney fees, and any leftover would be fully refundable. Motion seconded by Greenwood, seconded by Pitcher and passed unanimously.

Greenwood reiterated that we are only considering a 36 panel ground mounted solar array that has only a 7 ft 3 inch height, lower than any other solar array application she has ever seen. Schroeder added that the northern property line is completely screened and has a conservation easement on it that does not allow building in the future.

Greenwood asked for a motion to continue the public hearing at the regular ZBA meeting on Thursday December 18, at 7 pm at the North East Town Hall. Seconded by Schroeder, and passed unanimously.

Respectfully submitted,


Edith Greenwood
Chair

Town of North East (Approved) 1/15/2026

