



TOWN OF AMENIA

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TOWN OF AMENIA ZONING BOARD OF APPEALS

Resolution # 1 for 2024

Resolution Granting an Area Variance from Setbacks for a Ground Mounted Solar at 390 Old Rte 22

December 16, 2024

WHEREAS, by Application dated July 9, 2024, Douglas Broughton (the "Applicant") applied for an area variance from setbacks related to the proposed installation of a ground mounted solar system in the backyard of his residential property located at 390 Old Rte 22, Tax Parcel ID: 132000-7166-00-194282-0000 (the "Property"); and

WHEREAS, the proposed 39.725' X 14.52' ground mounted solar is proposed to be 15 feet from the rear property line;

WHEREAS, the Property is located in the Town's Suburban Residential (SR) Zoning District where ground mounted systems are permitted as an accessory structure; and

WHEREAS, pursuant to the Town of Amenia Zoning Law Section 121-62.1H(1), ground mounted systems must meet the setbacks of the principal structure within the Zoning District as established in the Dimensional Table, 121 Attachment 2;

WHEREAS, the Applicant sought a 15 foot rear yard setback where 50 feet is required, necessitating a 35 foot rear yard setback variance; and

WHEREAS, the Application is a Type II Action for SEQRA purposes in accordance with 6 NYCRR 617.5 (c)(16) for the "granting of individual setback and lot line variances"; and

WHEREAS, pursuant to General Municipal Law 239-m the Application was submitted to the Dutchess County Department of Planning and Development due to the Property's proximity to Route 22. The County responded that the Application is exempt from County review per an Intermunicipal Agreement exempting area variances for residential uses; and

WHEREAS, a public hearing was held on the Application on December 16, 2024, and the public was invited to comment on the Application at the hearing or submit comments prior to the hearing for consideration by the Board; and

WHEREAS, the Board reminded Applicant of his obligation to obtain a building permit prior to proceeding with the installation of the ground mounted system and to make the site

available to the Code Enforcement Officer for regulation inspections; and

WHEREAS, at its December 16, 2024 meeting, the Board made the findings below, which are being memorialized by this Resolution; and

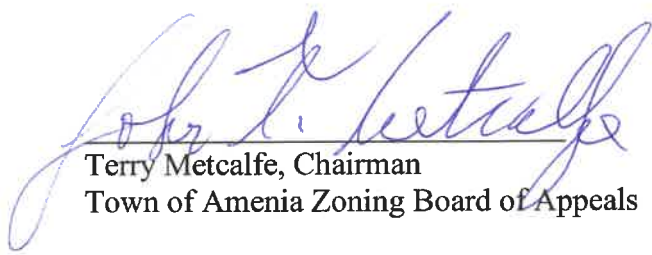
NOW THEREFORE, BE IT RESOLVED, the Board finds that the granting of the requested area variance will not result in a detriment to the health, safety, or welfare of the neighborhood or community. In so finding, the Board notes that granting of the variance will not create an undesirable change in the character of the neighborhood, nor will there be a detriment to nearby properties; that the proposed ground mounted solar facility will be adjacent to a utility easement and by planting trees near the west side property line to screen the view from the nearby scenic view area on DeLavernge Hill the Solar Panels would not be seen; that the rear yard setback variance is substantial, but that the size of the variance alone in this instance should not be determinative given the character of the property; that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and that the difficulty is self-created, by virtue of the Applicant's desire to install the proposed ground mounted system within the setbacks. The Board finds that on balance, the Applicant's request for an area variance shall be granted; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of Amenia Town Clerk within five (5) days of the date of this Resolution and shall be mailed to the Applicant within the same five (5) day period.

The foregoing resolution was voted upon with all members of the Zoning Board of Appeals voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Terry Metcalfe, Chairman	✓			
David Menegat				✓
Paula Pelosi				✓
Jim Wright	✓			
Tracy Salladay	✓			
George Bistransin	✓			
Craig Meili	✓			

Dated: December 16, 2024
Amenia, New York

A handwritten signature in blue ink, appearing to read "Terry Metcalfe", is written over a horizontal line.

Terry Metcalfe, Chairman
Town of Amenia Zoning Board of Appeals

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The Property is located in a residential neighborhood and zoning district, and the ground mounted solar system proposed by the Applicant is accessory to the single-family home on the property and residential in nature. The requested rear setback variance places the system at the back of the Property, not visible from the roadway, and adjacent to a utility easement. By planting trees near the west side property line the Applicant will screen the view from the nearby scenic view area on DeLavernne Hill.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method because connecting to the utility would require trenching through existing structures including the driveway, a septic system and other residential structures.

(c) Whether the requested area variance is substantial;

The area variance from rear yard setbacks is substantial, 70%, to allow a 35-foot reduction in the rear yard setback requirement.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The proposed ground mounted system is a typical accessory structure for a residential property that will add to the value of Applicant's Property. The Applicant proposes planting some trees near the west side property line to screen the view from the nearby scenic view area on DeLavernne Hill.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The alleged difficulty is self-created but does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.