

**UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
February 22, 2022**

Present: Mike DiPietro, Chairman. Kevin Stuart, Vice-Chairman. Shawn Matte, Patrick Bergeron & Jill Dross, Members. Steven Kimball, Alternate Member. Minutes recorded and prepared by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer. Christopher Roos, Eric St. Pierre of Revision Energy. William Herman, Town Administrator. John O'Neil of Manchester Water Works.

Absent: Shannon Daoust & Nick Pappas, Alternate Members.

Mr. DiPietro called the meeting to order at 7:00 p.m. At this time, Mr. DiPietro introduced the Board members to everyone present tonight and then explained the procedure for tonight's hearing. Mr. DiPietro noted that there were five (5) members present tonight and moved on to the first case on the agenda and asked Ms. Royce to read the case into the minutes.

**Case #21-31
Revision Energy
Francois De La Bruere-Terreault
193 Old Candia Road – Tax Map 13, Lot 13A
Zoned Commercial Two**

Rehearing where Applicant is requesting a Variance request to permit construction of three (3) ground mounted solar arrays between the home and side property line to be within the 30-foot side setback that was Denied on December 14, 2021 in a Commercial Two zone. (Article 4, Section 4.07(6))

Mr. Eric St. Pierre presented on behalf of Mr. De La Bruere-Terreault regarding the installation of three (3) ground mounted solar arrays to be placed within the side setback of the property located at 193 Old Candia Road. Mr. St. Pierre explained that he has read the minutes of the prior meeting and noted that there were a lot of good questions asked at that time. Mr. St. Pierre stated that he was a solar designer and figure out what the client wants to do and in which case Mr. De La Bruere-Terreault was looking to jump into the energy transition with regard to electric vehicles, heating, and cooling and again with his hot water production. Mr. St. Pierre went on to explain that they then look to see what space is usable by going to various locations on the property and find out what space is useable by code and what they found in those locations was they could not meet that balance of electricity and meet the customers goals. Mr. St. Pierre pointed out that, they looked at the roof and ruled that out due to the dormers and limited space on the roof. They looked at the backyard and the backyard was okay but there was a lot of restrictions

to the amount of sun they would receive in that location. Mr. St. Pierre went on to say that when they looked at the perimeters of that yard and started looking at the side yard and when he utilized his tool that measures the amount of sun exposure, he found that the best location was to place the solar arrays within the side yard. Mr. St. Pierre went on to say that the sun exposure in the backyard came out to be 59% and when they measured the sun exposure on the side of the house it came out to 77% exposure. Mr. St. Pierre commented that it was advantageous to have it in the side yard location. Mr. St. Pierre added it up to be about a \$20,000 difference between the locations. With that said, Mr. St. Pierre stated that he would be very happy to answer any questions that the Board may have.

Ms. Dross asked what the difference would be between having it in the backyard as opposed to the side yard. Mr. St. Pierre commented that, the difference between them was approximately 60% with it being in the backyard and 77% in the side yard because you would have some earlier sunrise exposure early on in the day as opposed to having it located in the back of the yard which essentially would have longer exposure with it being in the side setback. Mr. St. Pierre added that, it was basically to see how long you can have the panels exposed to the sun.

Mr. Stuart commented that, the location of this is dictated by the amount of sun you would be getting. Mr. St. Pierre said yes, it was basically long-term production by putting it in the side yard for a positive production of energy.

At this time, the Board members reviewed the photo presented of the solar arrays and the actual location of each array. Mr. St. Pierre showed the Board a better photo on his iPad which was much clearer to see on the iPad. Mr. St. Pierre also mentioned that, if the Board wanted to say if they could push it a little more this way then he could bring that back to the team and try to rework it. Mr. Stuart had a concern with the last one which was the closest to the property line which was 5-feet. A brief discussion ensued with regard to the three (3) arrays that totaled forty panels in all. Mr. Bergeron asked what the power production of the whole setup would be. Mr. St. Pierre commented that it would be producing about 16,000 to just under 17,000 kilowatts. Mr. Bergeron asked about a tracking system. Mr. St. Pierre commented regarding the tracking system and that due to the size of the lot would not work and the fact that he did not like tracking systems.

Mr. DiPietro asked Mr. St. Pierre if there was anything else to add to support the request for a Variance that was in addition to last time. Mr. St. Pierre commented that they are looking at this as being a bigger financial positive for him whereby if we put it in this location, it pays him back within a 10-year window whereas if he puts in the backyard, it will pay him back closer to a 13-year window.

Mr. DiPietro asked Mrs. Rouleau-Cote if she had anything to add. Mrs. Rouleau-Cote began by saying that she would agree that a tracking array in this situation would be more intrusive given the size of the lots and how close everything is and believed the stationary arrays would be a better fit. Mrs. Rouleau-Cote asked if there was a reason, they could not turn them 90 degrees. Mr. St. Pierre commented that the way they are going to install

them is perfect for solar production to maximize that production and if they turn them 90 degrees it would take about half of the production.

Mr. DiPietro wanted to add that, although these are considered structures that they are really not structures to him such as a house but thought of them as more temporary in nature. Mr. St. Pierre also wanted to point out that the entire array is recyclable and that the only thing that is permanent is the electric trench that goes to the house.

Mr. DiPietro asked the Board members if they thought they should go into deliberation. Mr. Kimball had a few questions first and commented that his concern with giving these kinds of Variance is the type of impact because people are counting on the ZBA to kind of protect the property and the neighbors and to protect the character of the town and the neighborhood. A brief discussion ensued with regard to the location of the arrays.

Mrs. Rouleau-Cote wanted to make sure that the Board knew that there were two (2) abutters that called and stated that they had no issues with what Mr. De La Bruere-Therreault was proposing. The Board so noted the note that was included in the package received by Ms. Royce. Mr. DiPietro asked Mr. De La Bruere-Therreault if he spoke with the direct abutter that this would be affecting. Mr. De La Bruere-Therreault said he did and that he gave him the thumbs up.

Mr. Bergeron made a motion to enter into deliberation. Mr. Stuart second the motion and the Board entered into deliberations at 7:32pm.

Mr. Bergeron commented that he did the calculations of his solar panels, and that Mr. St. Pierre was absolutely right that he would lose money if they were moved to a different location. Mr. Bergeron believed that this was as small as you could get to make sense.

Mr. Stuart commented that his big concern he had last time has been address which was why they were not putting it in the backyard. After tonight's explanation from Mr. St. Pierre, it was clearer to Mr. Stuart that this was a better area where the arrays are being proposed. Mr. Stuart believed that this was more modest and was not as intrusive as a shed would be and that the abutters were not in opposition and believed they met the criteria of the Variance request.

Mr. Bergeron believed they could add a condition that the arrays be no closer than 5-feet from the property line. Ms. Dross also believed it made more sense since it has been explained in more detail. Mr. Matte also pointed out the abutter's shed and driveway. Mr. Kimball commented that there was no data presented last time so that was very helpful this time and also commented that they could add a condition to be no closer than 75-feet from the front setback so that they won't go closer to the front. Mr. Bergeron was not in favor of adding a stipulation for the front setback because they are within the 50-foot front setback and not even close. Mr. Bergeron believed they are only encroaching into the side setback. Other Board members pointed out that the septic was in the front of the house anyways. Mr. Bergeron again stated that he was not in favor of adding a bigger stipulation.

Mr. DiPietro believed that 5-feet was as small as it gets, and it was not a swimming pool or a deck and did not believe it was as bad as it seems. Mr. Kimball also believed it was not something that someone would be living in and was not a permanent structure.

Mr. Stuart made a motion to exit out of deliberation. Mr. Matte seconded the motion and the Board exited out of deliberations at 7:39pm.

Mrs. Rouleau-Cote wanted to comment that, she would ask the Board to possibly entertain putting something in the motion that when these solar arrays are no longer producing electricity that the structure will be removed or a replacement in kind. A brief discussion ensued with regard to this language, and it was also noted that there was language in our ordinance with regard to cell towers. Mr. St. Pierre indicated to the Board that these solar arrays have a life expectancy of about 40-to-50-year window.

Mr. DiPietro indicated that they could make the Variance contingent upon the structures being actively conducting electricity basically utilized for their intended purposes of power production. With that said, Mr. DiPietro stated that he would entertain a motion.

Mr. Stuart made a motion to vote on the Variance request that the restriction that the structure (solar arrays) be no closer than 5-feet from the property line and contingent upon the systems continued use for its intended purposes of power production for Revision Energy, Francois De La Bruere-Terreault, 193 Old Candia Road, Tax Map 13, Lot 13A, seconded by Mr. Bergeron. Ms. Dross voted to grant finding all five (5) factors have been met, Mr. Matte voted to grant finding all five (5) factors have been met, Mr. Stuart voted to grant finding all five (5) factors have been met, Mr. Bergeron voted to grant finding all five (5) factors have been met, and Mr. DiPietro also voted to grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro pointed out that there was a 30-day appeal period where interested parties or abutters could appeal the ZBA decision and that there was 2 years for substantial completion, or they would have to come back before the ZBA to request an extension.

Mr. DiPietro moved on to the second case on the agenda and asked Ms. Royce to read the case into the minutes for the record.

**Case #22-02
John O'Neil
Manchester Water Works
515 Manchester Road, Tax Map 25, Lot 9 & 9BLD
Zoned Residential One**

Applicant is requesting a Variance to allow the use of the existing building to be used as a Social Facility (meeting hall) in a Residential One zone. Article 4, Section 4.06(2)

Mr. O'Neil presented on behalf of MWW and began by saying that they purchased the building back from Fairhaven Church back in 2016 and before that it was a school and before that it was a Fish & Game Club. Mr. O'Neil stated that they were hoping to renovate it as a community center for the town and we're talking about leasing it to the town for five to ten years but there is a clause if the town wanted out. Mr. O'Neil stated that MWW has a great relationship with the Town of Auburn, and they are making a substantial investment in the building to fix it up so that the town can use it as a community center. Mr. O'Neil added that, they would like to put this Variance forward so that if the town decided to vacate that they could continue to use it as a meeting hall or community center. The property is located within a residential zone but utilized as a commercial building.

At this time, Mr. O'Neil read his application into the minutes for the record. Mr. DiPietro asked the Board members if they had any questions for Mr. O'Neil. Mr. Stuart stated that it looks like the septic is approved for 70 seats with no kitchen facility and asked if there were plans to put in a kitchen. Mr. Stuart asked what type of renovations would be done. Mr. O'Neil stated that, basically they will be renovating the main hall area that was where the church members met which was a big open room. The bathrooms where they removed all the asbestos so they will be putting in new bathroom facilities in there and there would be small meeting rooms with offices off of that. Mr. O'Neil commented that, there would be no kitchen but there would be an area if they wanted to bring in crockpots and they would have a sink but no stove. Mr. O'Neil informed the Board that they put it out to bid and that PIDCOR got the bid for the renovations which is an Auburn based company. Mr. Stuart asked about changes to the parking lot. Mr. O'Neil stated that it would remain the same.

Mr. Kimball commented that the use was discontinued for more than a year and asked Mrs. Rouleau-Cote if that was why they are before the Board tonight. Mrs. Rouleau-Cote said yes that they wanted to re-establish it to a community center/meeting room. Mr. Herman stated that, on behalf of the Board of Selectmen, they support the Variance application, assuming that the budget is approved they will enter into a 10-year lease. A brief discussion ensued with regard to a meeting hall. Mr. O'Neil stated that the location was really great for a community center as it is located near the boat launch with a dock there and near the rail trail. Mr. O'Neil believed that the Town of Auburn would lease it for many many years but in the event that they wanted out and got stuck with the building where they borrowed money that MWW wanted to make sure that they could rent it out to pay it back. Mr. O'Neil added that, MWW does not allow alcohol on their property as they do not want trouble. Mr. O'Neil again reiterated that, the relationship between the Town of Auburn and MWW is a good one and that it is very important to him. Mr. Herman also commented that a large part of the renovations is to make it handicap accessible both with the bathrooms and the entrance/exit.

Mr. DiPietro asked if there were any further questions for the applicant. Mrs. Rouleau-Cote indicated that the Board may want to suggest that they go before the Planning Board for a minor site plan review with regard to lighting, hours of operation and parking are addressed so that we are covering all the bases.

Mr. Stuart asked if there were any abutters. None were noted. With that said, Mr. DiPietro believed that a motion was in order.

Mr. Stuart made a motion to vote on the Variance application as presented with the condition that they go for a minor site plan review before the Planning Board for Case #22-02, John O'Neil, Manchester Water Works, 515 Manchester Road, Tax Map 25, Lot 9 & 9BLD. Seconded by Mr. Bergeron. Ms. Dross voted to grant finding all five (5) factors have been met, Mr. Matte voted to grant finding all five (5) factors have been met, Mr. Stuart voted to grant finding all five (5) factors have been met, Mr. Bergeron voted to grant finding all five (5) factors have been met, and Mr. DiPietro also voted to grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro thanked Mr. O'Neil for his presentation and Mr. O'Neil thanked the Board members. Mr. Stuart asked what the timeline would be. Mr. O'Neil believed early summer. Mr. Stuart believed it was a great project and the discussion ended and Mr. O'Neil exited the meeting.

Case #22-03

Kristine Coruth & Jason Pinault

39 Hunting Road, Tax Map 18, Lot 38

Zoned Residential One

Applicant is requesting a Variance to allow the construction of a garage to be within the 30-foot side setback and to be within the 50-foot front setback in a Residential One zone. Article 4, Section 4.06(6)

Mr. Pinault began his presentation by saying that he has lived in town since 1992 and they have three (3) grown children of which two of his children have special needs. Mr. Pinault explained that they have a single-family home and what they are proposing to do is remove the existing garage and construct a new two-car attached garage with a handicap ramp inside to be able to exit the vehicle inside out of the weather for his handicap daughter. Mr. Pinault informed the Board that the neighbors are all for it and want to know who the builder is so they can do the same. Mr. Pinault explained to the Board that the new structure would not be any further out than the house is, and the Board so noted the location and size on the attached plan submitted to the Board. Mr. DiPietro asked Mr. Pinault to read his application into the minutes for the record. Mr. Pinault read his application into the minutes for the record. Mr. DiPietro believed that by looking at the plan submitted that they would need about 6 or 7 feet in the side 30-foot setback and would be no closer to the street than the existing front of the house. The Board so noted the location of the new structure.

Mr. Kimball wanted to bring something to the Board's attention in which he read a section of RSA 674:33(V). Mrs. Rouleau-Cote also pointed out Article 14, Section 14.10 of the Auburn Zoning Ordinance and read it aloud to the Board members. A brief discussion ensued with regard to the definition.

Mr. DiPietro asked if there were any further questions. None were noted. Mr. DiPietro double checked with Mrs. Rouleau-Cote. Mrs. Rouleau-Cote stated that, the Board received her Zoning Determination and that everything was good with regard to lot coverage. There is a fairly recent septic design for a 4-bedroom home. Mr. Stuart asked about the exact location and asked Mr. Pinault about relief. Mr. Pinault believed that if it were a few inches or so. Mrs. Rouleau-Cote believed if they said a 30 by 32 addition attached to the house as shown on the plan submitted. The Board all agreed.

Mr. Stuart asked if there were any abutters present. Ms. Peterson of 53 Hunting Road stated that she has no objections and just wanted to know what was going on. Mr. DiPietro thanked Mr. Stuart and stated that if there were no further questions that they could move to a motion.

Mr. Stuart made a motion to vote on the Variance application as presented and shown on the plan submitted to allow a structure to be no larger than 30-feet by 32-feet garage to be attached to the existing house for Case #22-03, Kristine Coruth & Jason Pinault, 39 Hunting Road, Tax Map 18, Lot 38. Seconded by Mr. Matte. Mr. Bergeron voted to grant finding all five (5) factors have been met, Ms. Dross voted to grant finding all five (5) factors have been met, Mr. Matte voted to grant finding all five (5) factors have been met, Mr. Stuart voted to grant finding all five (5) factors have been met, and Mr. DiPietro also voted to grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro thanked the applicant and informed them of the 30-day appeal period and the two (2) year time frame for substantial completion or they would need to come back before the Board to request an extension. Mr. Pinault thanked the Board for their time and had one question with regard to how he would hear back. Mrs. Rouleau-Cote informed Mr. Pinault that Ms. Royce would send out a Notice of Decision and then him and his builder would apply for a building permit from her.

Mr. DiPietro asked Ms. Royce to read the last case into the minutes for the record.

**Case #22-04
Christopher Roos
9 Cedar Crest Lane, Tax Map 9, Lot 28-1-2
Zoned Residential One**

Applicant is requesting a Variance to allow an inground pool to be built within the setback in the rear of the property in a Residential One zone. Article 4, Section 4.06(6)

Mr. Roos began by reading his application into the minutes for the record. Mr. DiPietro thanked Mr. Roos and asked if there were any questions from the Board for the applicant. Ms. Dross asked how much it would be encroaching into the setback. Mr. Roos believed it would be 20-feet. At this time, the Board reviewed the plan submitted and found the closest point to be 34.3-feet. Mr. DiPietro pointed out that the patio was within the setback. Mrs. Rouleau-Cote informed the Board that patios can be within the setback. A brief discussion ensued with regard to the closest point that the pool will be. It was noted by the Board members that this property was a corner lot with 50-foot setbacks all around. Mr. DiPietro did not believe there were a lot of choices on where to put the pool. The Board agreed.

Mr. DiPietro asked Mrs. Rouleau-Cote for input. Mrs. Rouleau-Cote explained that she has been out to the property for another project that he was doing and he pointed out that he was hoping to do a pool this summer and given the limitations with the septic system to the side yard and topography and the closest neighbor who is actually on Harvard Avenue, their backyard portion that they don't utilize abuts the location of where this pool will go.

Mr. DiPietro asked if there were any further questions. Mr. Bergeron asked how big the pool would be. Mr. Roos commented that it's a funky shape, but the the widest point was 25-feet by 45-feet long. Mr. Stuart asked what relief he would be looking at. Mr. Kimball thought 30-feet to give him some leeway and given that the property is unique. Mr. DiPietro agreed.

Mr. Stuart made a motion to vote on the Variance application as presented with the condition that the closest point of the pool will be no closer than 30-feet from the property line for Case #22-04, Christopher Roos, 9 Cedar Crest Lane, Tax Map 9, Lot 28-1-2. Seconded by Mr. Bergeron. Ms. Dross voted to grant finding all five (5) factors have been met, Mr. Matte voted to grant finding all five (5) factors have been met, Mr. Stuart voted to grant finding all five (5) factors have been met, Mr. Bergeron voted to grant finding all five (5) factors have been met, and Mr. DiPietro also voted to grant finding all five (5) factors have been met. A vote was taken and, all were in favor and the motion passed.

Mr. DiPietro thanked the applicant and informed him of the 30-day appeal period and the two (2) year time frame for substantial completion or they would need to come back before the Board to request an extension. Mr. Roos thanked the Board members for their time and the discussion ended.

Minutes

Mr. Stuart moved on to the approval of the minutes of January 25, 2022.

Mr. Bergeron made a motion to approve the minutes of January 25, 2022, seconded by Mr. Stuart. Ms. Dross voted to approve the minutes, Mr. Matte voted to approve the minutes, Mr. Stuart voted to approve the minutes, Mr. Bergeron voted to approve the minutes, and Mr. DiPietro also voted to approve the minutes. A vote was taken and, all were in favor and the motion passed.

New Business/Other Business

Mr. DiPietro asked if there was any new business. Ms. Royce informed the Board that the cutoff date for the ZBA Applications was Tuesday, March 1st, and that currently there were no applications submitted but possibly would have one or two. Ms. Royce stated that the March meeting is scheduled for Tuesday, March 29th at 7:00pm here at town hall. Mr. Stuart informed the Board that he would not be available for the March 29th hearing.

Mr. DiPietro thanked the Board members for tonight's meeting and asked for a motion to adjourn as this concluded tonight's hearing on an early note.

Adjourn

Mr. Bergeron made a motion to adjourn, seconded by Ms. Dross. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 8:33 p.m.

The next scheduled meeting is scheduled for Tuesday, March 29th, 2022 at 7:00pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.