

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – May 24, 2018**

A reconvened meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on May 24, 2018, commencing at 7 p.m.

Members present: Kevin Johnson, Pauline Johnson, Mary Ann Thorpe.

Also present: Nat O. Lester, III, ZBA Counsel, James D. Bell, Town Attorney.

Chairperson Thorpe called the meeting to order at 7 p.m.

Moved by Mrs. Pauline Johnson, seconded by Mr. Kevin Johnson, that the minutes of December 5, 2017, be approved.

Chairperson Mary Ann Thorpe – Aye
Member Frank Fisher – Absent
Member Kevin Johnson – Aye
Member Pauline Johnson – Aye
Member Peter Sharpe – Absent

Motion Carried.

Moved by Mrs. Pauline Johnson, seconded by Mr. Kevin Johnson, that the minutes of April 19, 2018, be approved.

Chairperson Mary Ann Thorpe – Aye
Member Frank Fisher – Absent
Member Kevin Johnson – Aye
Member Pauline Johnson – Aye
Member Peter Sharpe – Absent

Motion Carried.

Chairperson Thorpe read the legal notice.

NOTICE IS HEREBY GIVEN that the Town of Sweden Zoning Board of Appeals will hold a workshop on Thursday, May 24, 2018, at 6:30 p.m.

Also, the Zoning Board of Appeals will reconvene at 7 p.m. to render a decision regarding the public hearing held on April 19, 2018, for the area variance application of Mr. William Leonard, 1651 Covell Road, Brockport, New York, to install a solar system in the front yard of the property instead of the required side or rear yards.

The meetings will be held at the Town of Sweden Offices, 18 State Street, Brockport, New York.

Chairperson Thorpe asked if there were any additional questions, comments or concerns. Mrs. Pauline Johnson asked the Clerk if she received any communication from residents regarding the variance request. The Clerk stated there were no comments or questions.

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Chairperson Mary Ann Thorpe stated the Board has thoroughly reviewed all the material presented, and if there are no further questions, would entertain a motion.

APPLICANT: William Leonard
Location: 1651 Covell Road,
Tax Map #: 114.03-1-5
Zoning District: Residential District
Request/Benefit Sought: An area variance to install a ground mounted, 7.32kW solar system in the front yard instead of in the required side or rear portion of the property.

Mrs. Pauline Johnson offers the following resolution and moves for its adoption:

WHEREAS, this application came before the Town of Sweden Zoning Board of Appeals (the “Zoning Board of Appeals”) relative to the property at 1651 Covell Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Zoning Board of Appeals makes the following findings:

1. Upon review of the application, the Zoning Board of Appeals determines that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCCR Part 617, the “SEQRA Regulations”) (collectively, “SEQRA”), and that the application constitutes a Type II action under SEQRA.
2. According to SEQRA, Type II actions have been determined to not have a significant impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, SEQRA requires no further action relative to this application.

SECONDED BY Mr. Kevin Johnson, and duly put to a vote, which resulted as follows:

VOTE: Chairperson Mary Ann Thorpe – Aye
Member Peter Sharpe – Absent
Member Frank Fisher – Absent
Member Kevin Johnson – Aye
Member Pauline Johnson – Aye

Motion Carried.

Mrs. Pauline Johnson offers the following resolution and moves for its adoption:

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Chairperson Thorpe, regarding the application of William Leonard, 1651 Covell Road, Town of Sweden, Mr. Leonard appeared before the Zoning Board of Appeals on April 19, 2018, requesting an area variance to install a ground mounted solar system in the front yard of his property.

WHEREAS, the findings of fact are as follows:

1. Applicant's agent/representative from SunCommon, Ms. Connolly, stated no other surrounding properties have ground mounted solar panels in their front yard, and that a comparable solar system is located on Euler Road in a location as permitted by the Town of Sweden Code.
2. The applicant failed to produce written documentation from a licensed real estate appraiser regarding the economic impact upon the neighboring properties should the requested variance be granted. Ms. Connolly commented that a property owner in Rochester, New York, had sold his property for more value due to the installation of a solar system. However, no supporting documentation was submitted to support this assertion.
3. There are other feasible alternatives available for placement of the ground mounted solar system to the rear of the property. The applicant stated he could comply with Sweden Town Code by installing the system behind his house, but then he would have to look at it every day, implying it would not be visually appealing to him.
4. The variance requested is substantial. In fact, the applicant is requesting 100% relief from the Town code, by requesting that the ground mounted solar system be installed in the front yard, rather than the Town permitted side or rear yard.
5. The alleged difficulty is self-created as the applicant chooses to locate his ground mounted solar system in the front yard, which requires a variance, rather than the side or rear yard, as permitted by the Sweden Town Code.

WHEREAS, having reviewed all the testimony as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-B, and finding that the evidence presented leads this Board to determine that:

- A. The requested variance would produce an undesirable change in the character of neighborhood.
- B. The requested variance, a Type II SEQRA classification, will have an adverse physical effect on nearby properties.

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- C. There are other feasible alternatives available for the applicant to pursue to achieve the benefit sought other than the requested variance, such as, applicant admitted the ground mounted solar system could be installed in the rear yard as allowed by Sweden Town Code.
- D. The requested area variance is substantial, in that the applicant has requested a variance of 100 percent relief from the code requirement that ground mounted solar systems be located in the side or rear yard.
- E. The alleged difficulty is self-created in that the applicant is choosing not to locate the ground mounted solar system where the Town permits it, and where the applicant has sufficient land to install the system.

NOW, THEREFORE, be it RESOLVED that, the Zoning Board of Appeals adopts the within findings of fact, and in balancing the benefit to the applicant against the detriment to health, safety, and welfare of the neighborhood, I move that the applicant's request for the area variance be denied.

SECONDED BY Mr. Kevin Johnson, and duly put to a vote, which resulted as follows:

VOTE: Chairperson Mary Ann Thorpe – Aye
 Member Peter Sharpe – Absent
 Member Frank Fisher – Absent
 Member Kevin Johnson – Aye
 Member Pauline Johnson – Aye

Motion Carried.

The meeting was adjourned by motion at 7:15 p.m.

Respectfully submitted,
Phyllis Brudz
Zoning Board of Appeals Clerk