

Town of Athens Zoning Board of Appeals
2 First Street, Athens, NY 12015
Meeting Minutes: January 11, 2023

The Town of Athens Zoning Board of Appeals was called to order at 7:00 pm at the EJ Arthur Elementary School, 51 3rd Street, Athens. The meeting began with the Pledge of Allegiance.

Board Members present: Chairman Eric Nelson, Member Christian Ames, Member Helen Ihde, Member James Morabito and Member Christian Pfister. Also present: George McHugh - Town Attorney, Annmarie Krause - ZBA Secretary.

Also in attendance: Caryn Mlodzianowski - Bohler Engineering, Brent Frary - Attorney, Murray Law Firm, Dave Swanson - SunEast Power, Joshua Lazarus - TRC Companies, John Parise, Mellissa Beck Grosso.

Project: Albert Gjonbalaj - Stay at Lina's, 9071 US Route 9W, Athens, NY 12015, Tax Map# 121.00-2-14, Area Variance

Caryn Mlodzianowski, project manager from Bohler Engineering, explained that the project is the restoration of the existing buildings with the addition of two single family, residential houses as well as two new septic systems. The applicant had one meeting with the Planning Board before referring the application to Zoning for a variances. The Planning Board is seeking lead agency for SEQR and Ms. Mlodzianowski believes the Planning Board will have to vote on SEQR before Zoning can vote on the project. Chairman Nelson is going to confirm this with the Planning Board.

Ms. Mlodzianowski showed that the plan has an existing curb cut and driveway as well as a proposed driveway that would serve the two houses. The lot has many topographical changes and so the applicant is seeking relief from code section §180-32: Development on Steep Slopes. The code requires that *“no development, grading of the land or stripping of vegetation shall be permitted on slopes of 25% or greater”* and *“No driveway, may be constructed that exceeds a slope of 10% for more than 5% of its total length”*.

The development areas in need of variances are:

1. Two proposed houses where the topography is higher at the front of the houses and drops off at the back.
2. Part of the proposed driveway.
3. Two proposed septic systems.

The portion of the proposed driveway separating the houses from the septic systems are in a flat area and Ms. Mlodzianowski feels this placement makes the most sense and will present well.

Chairman Nelson asked if the dark, dashed lines on the plan are wetlands. Ms. Mlodzianowski replied that they are and that the topography slopes down toward the wetlands.

Member Ames asked how much relief is needed? Ms. Mlodzianowski answered that the amount of relief varies. The areas that exceed 25% are the development for the houses at 1760 sq ft for one and 1380 sq ft for the other and the septic fields at 3000 sq ft each. The portion of the driveway that exceeds 10% is 2000 sq ft.

Member Ames asked what the highest percentage of relief will be and Attorney McHugh asked what percentage the driveway exceeds the 10%. Ms. Mlodzianowski said that these figures will be addressed at the next meeting.

Chairman Nelson asked how the septic will work and if they need to import materials to build up the field. Ms. Mlodzianowski replied that some may be needed, but hoped it would not. She also said that they are going to run parallel to the contours and it will be stepped down at an equal distance. The full design of how the steep slope will be built up is not complete because the applicant wanted to secure the variances first.

Member Pfister asked if blasting would be required and they do not anticipate the need for blasting.

Attorney McHugh asked what the applicant is seeking from the planning board? Ms. Mlodzianowski stated site plan, a special use permit as well as the subdivision.

Chairman Nelson asked about the use of the existing buildings? Ms. Mlodzianowski said the use will be shorter term rental, but not necessarily a nightly motel. They are rehabbing the existing buildings with a new septic system and the pool will be renovated. The rehabilitation portion of project does not need any variances.

Chairman Nelson explained that the zone is Mixed Use Commercial and that the plan fits inside the setbacks. The subdivision has not occurred yet and so the project is being treated as one 18.4 acre lot.

Member Morabito asked if there has been any feedback from the community. Ms. Mlodzianowski responded that there has not, but that a public hearing has not occurred yet.

A motion was made to schedule a Public Hearing for February 8, 2023.

Motion: Member Pfister

Second: Member Ames.

Vote: All in Favor - Nelson, Pfister, Ames, Morabito, Ihde

Chairman Nelson explained there would be a public hearing scheduled for the February meeting. The planning board will be informed of this. He also requested that the applicant work with the Building Inspector and the Town Assessor to obtain a list of property owners within the 500 foot buffer around the property.

Project: Freepoint Solar, Potic Mountain Road / Center Road, Athens, NY 12015
Tax Map: 103.00-3-17, 103.00-6-1, 103.00-6-2, 103.00-6-4, Public Utility Solar Project

Chairman Nelson explained that he had contacted Jacqueline Phillips at Murray Law Firm about any feedback on the Delaware Engineering memo discussed at the previous meeting. Ms. Phillips replied that she is working with the team to create a timeline.

Brent Frary, Murray Law Firm, said they are working on the timeline and on answers for section 5A on page 7 of the Delaware memo concerning the visual impact assessment. The team is hopeful in having that information to the board by the February meeting. Delaware engineering and the Zoning Board will get the opportunity to review the information. Mr. Frary believes that they should have many of the other answers by March. Josh Lazarus of TRC Companies said the View Shed Map should be completed by the February meeting.

Chairman Nelson asked the Freepoint representatives to review the document list and be sure the submission is complete. Mr. Frary explained that all documents will be submitted and uploaded as they are received.

Chairman Nelson will have Attorney Dowd send a letter asking for a cost analysis to date to understand the investment so far.

Chairman Nelson stated that at the November meeting, the Zoning Board requested to be lead agency for SEQR review. Feedback was received from DEC, Athens Highway Department and Greene IDA with no objections. The 30 day notification has elapsed and now a vote is needed to declare the ZBA lead agency.

A motion was made for Town of Athens Zoning Board of Appeals to be lead agency for SEQR.

Motion: Member Pfister

Second: Member Ames.

Vote: 4- Ayes (Nelson; Pfister; Ames; Ihde) 1- Abstention (Morabito)

Motion carried

Chairman Nelson explained that there have been no new submissions since the December 12th meeting. Freepoint Solar will be on the agenda each month and the meetings will be at Arthur Elementary for February, March and April. As information comes in it will be reviewed by Delaware Engineering and added to the website when complete. If Delaware has new questions, those will be submitted to Freepoint Solar. A hearing can not be set until all questions put forward by Delaware are answered and the Zoning Board deems the application complete.

Attorney McHugh explained that after the application is complete the board will need to declare the project as a SEQR action Type I or Type II. He also explained a question from John Parise about abstaining, explaining that an abstention is declining to vote and for this board you need three Aye votes to carry a motion.

Member Pfister inquired about the time to review all material. Chairman Nelson explained that everyone will be given the time needed to understand all information. The board will also have help from Delaware Engineering, especially for the technical information. Attorney McHugh added that Delaware Engineering could hold a workshop to go over the application for the board as well as the public. This could happen outside of the regular meeting, but notice to the public would be needed.

Meeting Minutes: December 14, 2022

A motion was made to approve the Minutes of December 14, 2022 as written.

Motion: Member Ames

Second: Member Pfister

Vote: All were in favor - Nelson, Pfister, Ames, Morabito, Ihde

Further Business:

A booklet was distributed for the applicant, ARX Wireless Infrastructure LLC/Verizon Wireless. This application will be coming in front of the board in February.

With nothing further to come before the Board, a motion was made to adjourn the meeting

Motion: Member Ames

Second: Member Pfister

Vote: All were in favor - Nelson, Pfister, Ames, Morabito, Ihde

Meeting Adjourned 7:35 p.m.

Respectfully Submitted,
Annmarie Krause, ZBA Secretary