



TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

APPLICATION

OFFICE OF ZONING BOARD
(845) 566-4901

DATED: 6 July 2020

TO: THE ZONING BOARD OF APPEALS
THE TOWN OF NEWBURGH, NEW YORK 12550

Daniel Darrigo as Trustee to the Frank

I (WE) Darrigo Revokable Trust, (Owner) PRESENTLY

RESIDING AT NUMBER 86 Lakeside Road, Newburgh, New York 12550

TELEPHONE NUMBER Home: 845.566.0252. Work: 845.564.1733

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR THE FOLLOWING:

- A USE VARIANCE
- AN AREA VARIANCE
- > INTERPRETATION OF THE ~~ORDINANCE~~ **VARIANCE**
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

86-1-96 (TAX MAP DESIGNATION)

84 Lakeside Road, Newburgh, NY 12550 (STREET ADDRESS)

R-1 (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

185-83



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3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

- a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED: _____
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: _____

4. DESCRIPTION OF VARIANCE SOUGHT: _____

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

- a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:

- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:



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d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

6. IF AN AREA VARIANCE IS REQUESTED:

a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:



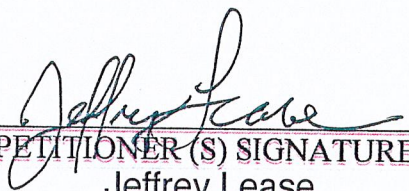
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(845) 566-4901

7. ADDITIONAL REASONS (IF PERTINENT):
Interpretation of Zoning as described in attached letter from
Planning Board Counsel, Dominick Cordisco dated March
2020



PETITIONER(S) SIGNATURE
Jeffrey Lease

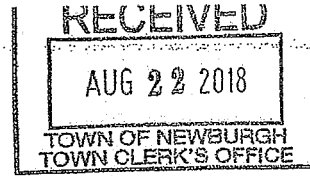
STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS _____ DAY OF July 2020

NOTARY PUBLIC

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.
(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)



Section 86, Block 1, Lot 96

TOWN OF NEWBURGH: COUNTY OF ORANGE
ZONING BOARD OF APPEALS

-----X
In the Matter of the Application of

FRANK DARRIGO REVOCABLE TRUST

For a use variance as follows:

- *Grant of a use variance allowing a ground-mounted solar array system (a Solar Farm) to be constructed on applicant's property located in the R-1 Zoning District.*
- X

DECISION

PAGES 1, 8, 9, 10 & 11
OR 11

Introduction

The applicant, the Frank Darrigo Revocable Trust, seeks a use variance as follows: (1) A use variance allowing a ground-mounted solar array system (a Solar Farm) to be constructed on property located in the R-1 Zoning District.

An application seeking this relief (the "Prior Application") was first filed with the Board on January 11, 2018. A public hearing on this initial application was duly convened on January 25, 2018 and was thereafter continued until February 22, 2018 and continued again until March 22 2018 at which time the public hearing was closed.

After the closing of the public hearing on March 22, 2018 the Board deliberated on the relative merits of the Prior Application. At the conclusion of those deliberations, a motion was made to approve the use variance being requested. The motion was duly seconded and upon a roll call vote, three members cast their vote in favor of the requested use variance and two members voted in opposition to the use variance and one member abstained. The Town of Newburgh

applicant that the alleged hardship has not been self-created.

The testimony and documentary evidence submitted to the Board indicates that the property in question has been commonly owned by the Darrigo family for many years and certainly long before the Town of Newburgh regulations regarding solar farms and solar power plants was adopted in March of 2015. Moreover, the evidence and testimony submitted to this Board indicates that the landfill activities occurring on the site were proper and legal at the time they were undertaken and were only rendered violative of DEC regulations as the result of the adoption of those regulations at a time subsequent to the utilization of the site as a landfill.

Accordingly, the Board determines that the hardship confronting the applicant is not self-created.

Decision

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, and in employing the criteria set forth in Town Law 267-b (2), the Board decides and does hereby grant the use variance subject to the following:

1. Compliance with the requirements of Town Code Section 185-83 entitled "Solar Farms and Solar Power Plants," inclusive of the requirement of site plan review by the planning board with the following exceptions:
 - a. The ZBA determines that the permitted bulk area of the project site is 52.82 +/- acres;
 - b. The setbacks and other bulk area dimensions shown on that certain map prepared by Arden Consulting Engineers, PLLC,

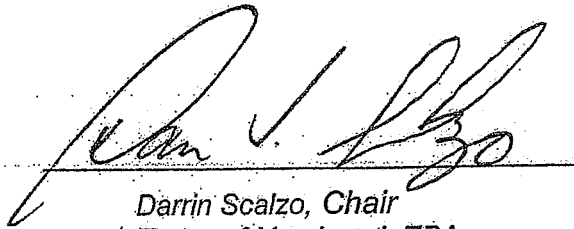
dated June 11 2018, consisting of two sheets, shall be the controlling setback and bulk area requirements subject to any appropriate landscaping and/or screening materials as may be appropriate under Section 185-83.

2. This approval is not issued in a vacuum but is rather one of two independent yet interconnected discretionary approvals (the other being within the jurisdiction of the Town of Newburgh Planning Board). As such, this grant of variance is conditioned upon approval of the application now pending before the planning board. This approval of the ZBA is intended to do no more than vary the specified strict limitation provisions of the Code identified; it is not intended to authorize construction of a particular building nor approve the footprint, size, volume or style thereof. The planning board remains possessed of all of its power and authority to review, limit, request modifications to, and to ultimately approve (absolutely or conditionally) any application in reference to this project as may come before it. Should the planning board require changes in the size, location or configuration from what is shown on the plans before the ZBA that require greater or different variances, the applicant must return to the ZBA for further review and approval.

3. Section 185-55 [Procedure; construal of provisions; conflict with state law] of the Code of Ordinances of the Town of Newburgh provides, in subdivision "D," that this grant of variance shall become null and void at the expiration of six months from issuance, unless extended by this board for one additional six-month period. As noted above, this application is not decided in a vacuum but is rather tied to a specific appli-

cation for approval pending before the Town of Newburgh Planning Board and this approval is conditioned upon the applicant diligently pursuing his application before that board. Provided that the applicant shall report to this board monthly on the progress of the application pending before the planning board, and provided that such reports demonstrate a diligent pursual of that application, the time period within which the planning board application is processed shall not be included within the initial six-month limitation of Section 185-55 D.

Dated: June 28, 2018



Darrin Scalzo, Chair
Town of Newburgh ZBA

By roll call a motion to adopt the decision was voted as follows:

AYES: Member Darrell Bell
 Member John Masten
 Member John McKelvey
 Member Anthony Marino
 Member Richard Levin
 Member Peter Olympia

NAYS: None

ABSTAIN: Chair Darrin Scalzo

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)

I, BETTY GENNARELLI, Secretary to the Zoning Board of Appeals of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Decision maintained in the office of the Town of Newburgh Zoning Board of Appeals, said resulting from a vote having been taken by the Zoning Board at a meeting of said Board held on June 28, 2018.



BETTY GENNARELLI, SECRETARY

TOWN OF NEWBURGH ZONING BOARD OF APPEALS

I, ANDREW J. ZARUTSKIE, Clerk of the Town of Newburgh, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on AUG 22 2018.



ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH

5 July 2020

Daniel Darrigo
Trustee to the Frank darrigo Revocable Trust
86 Lakeside Road
Newburgh, New York 12550

Darrin Scalzo
Town of Newburgh Zoning Board of Appeals
308 Gardnertown Road
Newburgh, New York 12550

Re: Interpretation of Zoning Variance for a Solar Array
84 Lakeside Road, Newburgh, New York 12550
S-B-L: 86-1-96

Dear Chairman Scalzo,

In response to Dominick Cordisco's Planning Board Letter of 2020 we are proposing:

1. A revised Site Plan
2. A review of the existing Farm uses which will continue on the property.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel Darrigo". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel Darrigo
Trustee to the Frank Darrigo Revocable Trust

The project as approved by the ZBA meeting of is shown on page 1.

The project as it now stands with the Planning Board is page 2.

The south and west buffers are all 100' as approved by the ZBA but the planning board requested the buffers on the east along amber fields and north along meadow hill road be increased to 150'.

Additionally there is a landscaped buffer blocking the view of the farm from I-84 so that the farm will not be seen from the highway.

The project has gone from 4 mw to 5 mw as NY State has changed the rules regarding maximum size.

Additional improvements as recommended by the Planning Board and its consultants include two decorative entry gates, one on Lakeside Road which will be the Farm entrance and secondary entrance to the Solar Array. A second decorative entry will be off Meadow Hill Road directly opposite Monarch Drive. This will serve as the main entry for the maintenance of the panels, lawn and Central Hudson. We anticipate 1 vehicle per week in the spring, summer and fall and 2 vehicles entry per month in the winter.

The entire array will be fenced along the tree line and three points of access are shown for maintenance, service and fire truck access.

The hillside between the two fields will be cleared of tall trees and replanted with shrubs and trees whose maximum hight shall not exceed 20 feet.

The 4 farm uses will remain the same.

1. Farm fields under cultivation
2. A supply yard supplying farm and landscape supplies such as hay, fencing and seed.
3. Farm vehicle-related storage for tractors, farm supplies and help.
4. An annual 'Halloween' event staged in the month of October and related to the Farm use with hay rides and amusements.

The use of the farm shall continue as before with some changes related to the orderliness of the farm. They shall include.

1. Some of the vehicle storage shall be moved up from the entry road.
2. Some existing containers will be removed leaving 18 containers for dry storage.
3. Miscellaneous scrap machinery has been and will continue to be cleaned from the site.
4. The building department shall inspect and receive a letter from an engineer providing that all structures are to code. Note that all of the existing structures on the property are un-heated barns or sheds except for the 1920's Darrigo family home. None are closer than 140' from the property line.

Supply Yard Description of Cleanup

84 Lakeside Road
Newburgh, New York 12550
SBL: 86-1-96
5 July 2020

The 20-acre Darrigo Brothers Supply will reorganize the yard in the following manner:

1. A tree buffer will screen the operation from I-84
2. A new decorative entry gate and signage will be placed on Lakeside Road entrance and drive will be re-shaled.
3. Supply operations on the 40 acres occupied by the solar array will be removed.
4. Yard area for supply yard will be kept in area near Barns and office
5. Review by Town of Newburgh Building Department of all structures
6. Vehicles will be parked along entry drive
7. Chip and brush piles will be kept away from Lakeside Road
8. Below is a photo description of the Supply Company, as it exists today.



The Supply Yard



he Storage Barn



The Material Storage Area



The Garage



One of two Red Storage Sheds



The Original Barn with Supplies

T



The Farm Shed



he two Red Storage Sheds

**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I, JEFFREY LEASE, being duly sworn, depose and say that I did on or before
August 13, 2020, post and will thereafter maintain at
84 Lakeside Rd 86-1-96 R-1 in the Town of Newburgh, New York, at or near the front
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which
notice was in the form attached hereto.

The applicant shall maintain and update notice(s) (with amended information if there is any change to the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The Notice must then be removed and property disposed of within ten (10) days of the close of the Public Hearing. Failure to follow the required procedure may result in the Public Hearing being held open for additional time.

Jeffrey Lease

Sworn to before me this 24
day of July, 2020.

JOSEPH P. PEDI
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PE6370913
Qualified in Orange County
Commission Expires February 12, 2022

STATE OF NEW YORK
COUNTY OF ORANGE
ON THIS 24 DAY OF July, 2020
BEFORE ME PERSONALLY APPEARED
Jeffrey Lease
TO ME PERSONALLY KNOWN TO BE THE PERSON
DESCRIBED IN AND WHO EXECUTED THE FOREGOING
DOCUMENT.
Joseph P. PEDI
NOTARY PUBLIC













DARRIGO
SERVICES
LANDSCAPING & BUILDING
SUPPLY
562-1773



