

**MINUTES OF A REGULAR MEETING
OF THE ZONING BOARD OF APPEALS OF THE TOWN OF POMPEY**

July 14, 2025

7:00 PM

Pompey Town Hall

Board Members Present: David Tessier
David Hale
Donald Neugebauer
Seara Haines

Four Members of the Zoning Board of Appeals were present. Board Member Kevin Sharpe was absent. Also present were Attorney Amelia McLean-Robertson and Codes Enforcement Officer Tim Bearup.

Chairman Tessier called the meeting to order at 7:06 pm.

Allen Area Variance

An application by Charlies and Sheri Allen, located at 8931 Delphi Road, tax parcel 034.-02-05.1, requesting two Area Variances to construct a single-family dwelling in a Hamlet Residential Zoning District.

The applicants were requesting a 23-foot front yard Area Variance. The proposed plot plan indicates the dwelling is 27' feet from the right of way. The minimum setback of a primary structure in a Hamlet Residential District is 50 feet.

In addition, the applicants were requesting a 40-foot lot depth Area Variance. The minimum required lot depth in the Hamlet Residential District for a single-family dwelling is 200 feet. The parcel is approximately 160 feet in depth. Local Law: Chapter 165 Zoning, Attachment 1, Schedule Limiting Use of Buildings and Land.

There was previously a dwelling present on the parcel, but it burned down. The application fee was paid, the matter was property advertised, and neighbors within 1000 ft. were notified. The matter did not require referral to the Onondaga County Planning Board (OCPB.)

Present were the applicants, Charles and Sheri Allen. They wish to keep the house in line with the other houses that are in the neighborhood.

D. Neugebauer asked what the square footage of the home they will build will be compared to the one that was previously there. They are proposing a two bath, three-bedroom home with a garage that will be approximately 1560 sq. ft. Mr. Allen believed that the previous home was approximately 1200 sq. ft.

D. Hale asked what the code dictates as far as side setbacks go. The code dictates that there must be 30 feet of side setback.

D. Neugebauer asked if the property that was purchased is the same as the previous property that existed. Yes, it is. The driveway that shows in the middle of the lot on the survey is the original driveway.

The parcel exists in the Hamlet of Delphi. There is a small building in the back, but it will be moved. Accessory structures must be placed 5 feet from the side and 5 feet from the rear; it is approximately 12 feet high.

D. Hale asked if there would be a basement. Yes, there will be a full poured wall basement.

No further environmental review was required as this is an application for a residential area variance. A short form SEQR was included with the application.

There is an existing well present on the property; it still needs to be tested. The property is flat. There is no ditch present for runoff. They have had a perk test completed.

D. Tessier made a motion to determine that this is a residential area variance, which is a type 2 action at 7:21 am. D. Hale seconded the motion at 7:21 pm. All were in favor, none were opposed. The motion carried at 7:22 pm.

The Public Hearing was opened at 7:22 pm. No members of the public wished to speak neither for nor against the project.

D. Hale made a motion to close the Public Hearing at 7:22 pm. D. Neugebauer seconded the motion at 7:22 pm. The Public Hearing was closed at 7:22 pm.

The Board deliberated the five considerations that are required under State Law that will help them answer the question about whether the benefit to the applicant in granting the two variances outweigh any determinant to the community/neighborhood.

- 1. Whether the benefit sought by the applicant can be achieved by some other feasible method?** No, it cannot.
- 2. Whether the variance will result in an undesirable change in the character of the neighborhood?** No, it would not.

3. **Whether the requested variance is substantial?** Yes, the variance requested was substantial in nature.
4. **Whether the variance will have an adverse effect on physical or environmental conditions?** No, it would not.
5. **Whether the alleged difficulty was self-created?** Yes, the difficulty was self-created.

The garage will be closer to the road than the rest of the house. Cars will be able to be parked in the driveway with ease.

The Board decided that no conditions were needed to approve the variance.

D. Neugebauer made a motion to approve both variances as presented in the minutes at 7:28 pm. S. Haines seconded the motion at 7:28 pm. All were in favor, none were opposed. The motion carried at 7:29 pm.

Alliance Property Group, LLC

An application by Alliance Property Group LLC, located at 6941 Kassonta Drive, tax parcels 001.-06-04.0 and 001.-02-14.4, located in the Farm Zone District, who are seeking relief on a proposed subdivision. The applicant was seeking three Area Variances.

The applicants were requesting an area variance for both Lot 2A and Lot 2B. These lots do not conform to local law as each lot has excessive lot depth in which a 2 1/2: 1 ratio would normally be considered maximum.

The applicants were also seeking an Area Variance, as Lot 2B will need a driveway easement through Lot 2C. Local Laws: Subdivision of Land, 144-13 B (2)

The application fee was paid, the matter was property advertised, and neighbors within 1000 ft. were notified. The matter did require referral to the OCPB, and their response was received.

The owner of the property is listed as Carol Nappi/Alliance Property Group LLC. The applicant provided large maps for the Board. Present for the applicant was Jacob Grubka, who is employed by the family.

Mr. Grubka reviewed the large maps with the Board Members. There is a pending subdivision application with the Planning Board. Members of the public also viewed the maps.

The applicant has two parcels that they wish to subdivide into three parcels. There will be a shared driveway between Lot 2C and the other lots. The driveway is shared now, but there is no easement recorded. The third property is mainly cow pastures. They are looking to separate the main house from the farmland. Both Lot 2A and Lot 2B are flag lots. There are three houses present at this time, but there are only two lots present.

D. Hale made a motion to open the Public Hearing at 7:45 pm. S. Haines seconded the motion at 7:45 pm. All were in favor, none were opposed. The Public Hearing was opened at 7:45 pm.

Ruth Houghtaling, 4228 Gates Road: She questioned if more homes will be added to the existing lots. No, there will be no more homes added. This would also be impossible due to the Code.

George McGuire, 4345 City Lights Terrace: What is the purpose of adding a driveway? The driveway is already there, there just needs to be an easement added. Will there be improvements made in the future? There is no plan for improvements at this time. If there, will be three tax parcels created, will that allow for an additional home in the future? No, because there are already three homes present. If the variance is granted, all parcels will conform to Town Code. All of the homes present already have their own septic systems and wells.

Debbie Grenier-Cemetery Road: What is the lot size of the parcel? The smallest lot is 9 acres, the second is 47, and the largest lot is 89 acres.

Bill Burn, 4341 City Lights Terrace: What is the general purpose of the subdivision? It is to bring the three homes into compliance with town code because at this time there are two homes on one parcel.

D. Hale asked how old the house on Lot 2C is. It was purchased in 2005 with the home already on it; everything else around was completely vacant. They broke ground on the main house in 2005-2006. The home on Lot 2B is newer. The house further over near Gates Road is a barn that was converted into a home. The home on Lot 2C has been used as a guesthouse and an office.

D. Neugebauer made a motion to close the Public Hearing at 7:52 pm. D. Hale seconded the motion at 7:52 pm. All were in favor, none were opposed. The Public Hearing was closed at 7:52 pm.

SEQR

This is an unlisted action, so an unlisted short form SEQR was completed.

1. **Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?** No, or small impact
2. **Will the proposed action result in a change in the use or intensity of use of land?** No, or small impact
3. **Will the proposed action impair the character or quality of the existing community?** No, or small impact
4. **Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?** No, or small impact
5. **Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?** No, or small impact
6. **Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?** No, or small impact
7. **Will the proposed action impact existing: a. public / private water supplies? B. public / private wastewater treatment utilities?** No, or small impact
8. **Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?** No, or small impact
9. **Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?** No, or small impact
10. **Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?** No, or small impact
11. **Will the proposed action create a hazard to environmental resources or human health?** No, or small impact

D. Tessier made a motion that the ZBA act as the lead agency and that this is an unlisted action. The project has no significant impact on the environment and there is a negative SEQR declaration at 7:56 pm. D. Hale seconded the motion at 7:56 pm. All were in favor, none were opposed. The motion carried at 7:57 pm.

A. McLean-Robertson noted that the language of the easement would be subject to attorney approval. This what the applicant will need to show to the Town before the second lot can be approved. The Planning Board will take care of the subdivision application, and the language of the easement will need to be approved prior to the Planning Board reviewing the application.

The Board deliberated the five considerations that are required under State Law that will help them answer the question about whether the benefit to the applicant in allowing for a shared driveway outweigh any determinant to the community/neighborhood.

1. **Whether the benefit sought by the applicant can be achieved by some other feasible method?** After some discussion, the Board decided that no, it could not.
2. **Whether the variance will result in an undesirable change in the character of the neighborhood?** No, it would not.
3. **Whether the requested variance is substantial?** Yes, the variance requested was substantial in nature. However, the driveways already exist.
4. **Whether the variance will have an adverse effect on physical or environmental conditions?** No, it would not.
5. **Whether the alleged difficulty was self-created?** Yes, the difficulty was self-created.

The benefit of the applicant outweighs the detriment to the community as it pertains to the shared driveway.

D. Neugebauer made a motion to approve the variances as presented with the condition that the easement language surrounding the shared driveway be subject to attorney approval at 8:04 pm. D. Hale seconded the motion at 8:04 pm. All were in favor, none were opposed. The motion carried at 8:04 pm.

The Board discussed the variances pertaining to the lot sizes. The road frontage does exist, so that is a positive.

D. Neugebauer made a motion to approve the variance to allow for an exception to the 2 ½ to 1 ratio as shown on the map dated 12/28/2024 at 8:09 pm. D. Hale seconded the motion at 8:09 pm. All were in favor, none were opposed. The motion carried at 8:09 pm.

Norbut Solar Farms

A Use Variance application by Norbut Solar Farm, LLC and its affiliates, NSF Pompey Site 1, LLC, NSF Pompey Site 2, LLC and Sweet Broadfield Road, LLC (collectively “Norbut Solar”) to construct and operate two 5MWac Commercial Solar Energy Systems (the “project”) on the 101.68 acre site which involves 2 parcels located at 00 Sweet Road (Tax IDs 03.-1-17.6 and 03.-1-17.17) (the property) in the Town of Pompey, County of Onondaga, State of New York.

The Norbut Solar Farms proposed project location is in a Residential Zoning District. Ground-mounted Tier 3 Solar Energy Systems are prohibited in the Residential Zoning District under The Town of Pompey Code. Local Law: Section 165-16.2 (E) (4).

The application fee was paid, the matter was properly advertised, and neighbors within 1000 ft. were notified. The matter did require referral to the OCPB, and their response was received.

Present for the applicant was Steve Saunders, developer and assistant counsel for the company. The Board noted at the last meeting that they had not had time to fully evaluate the project.

D. Hale asked to confirm that the plan for the project is 25 years. The useful life is between 25 and 30 years. At the end of life, anyone who took the project over would step into the shoes of Norbut and need to allow for proper decommissioning. If any of the panels had to be replaced, they would be taken offsite and disposed of like any other type of municipal waste. There are no hazardous materials present in the panels. There is no leeching of rainwater etc. that would cause anything to be released from the panels that would cause any harm to the environment. The DEC will regulate how the waste would need to be disposed of. The company has developed well over 40 sites that are now in various stages. They have never had any issue with their waste, although they have never decommissioned an entire site.

D. Tessier asked if they are built with a driven post, they are not concrete and are driven into the ground. This is an important issue with regard to wetlands. The US Army Corps of Engineers dictates that you can drive a post into a wetland. They are coated with an anti-reflective coating but it is not hazardous to environment.

Mr. Saunders presented the details of the project to the audience. He had previously presented the details to the Board at last month's meeting.

D. Hale made a motion to open the Public Hearing at 8:32 pm. S. Haines seconded the motion at 8:32 pm. All were in favor, none were opposed. The Public Hearing was opened at 8:32 pm.

Robert Knapp, 7355 Broadfield Road: This was his grandfather's farm, and the family farmed it for years. The land is very wet, how will a machine get on the land to drive these holes? There will also need to be trenches dug, and this will be disturbing wetlands. There is a 30-foot ravine across the Sweet Road at the location of the site, and a creek would need to be disturbed. D. Tessier noted that if the variance was approved, it will be to the Planning Board for review and they will deal with this as well.

Andy Kadah, 4397 Henneberry Road: He is adjacent to the remaining 101-acre parcel. The applicant has noted that the panels are benign at this point and should not present a leech hazard. The batteries are nasty elements, will it be lithium or acid based? An electrical fire with batteries would result in a substantial environmental impact. He lives off a well that would be about 500 to 600 feet away from the panels. This will have a very undesirable effect on Pompey.

Kay Wiswall, 7411 Broadfield Road: She opposes the project. She has spent the last 50 years making improvements and caring for her home and property. She finds comfort and joy sharing her property with wildlife that surrounds her home. As a lifelong resident of the Town of Pompey and the daughter of a dairy farmer, she has come to respect the land. She has learned that Norbut wants to purchase the farmland that surrounds her home and she is overwhelmed at the thought that her peace and quiet may be overrun by the project. Please do not approve a zoning change for this project and consider what this would mean for the lifelong residents for the Town of Pompey.

Charles Bertuch, 7561 Broadfield Road: Has an independent peer review for the battery documents been performed? How does this battery storage system differ from the uncontrolled fires that occurred this year in California and in other counties in New York State? Has dispersion modeling been performed to determine the impact of any fires? There are some municipalities that are requiring 3200-foot setbacks due to the issues surrounding fires, would the Town want to consider this as well?

Kathleen Bertuch, 7461 Broadfield Road: One thing that has not been addressed in the application is the fact that there is a group home located just outside of the boundary of the project. It is a no brainer that the character of the community will be changed with this project. You cannot insert such things into an active rural farming community. In terms of the decommissioning plan, if something goes wrong with the batteries, how would they reclaim that land? The Pompey ECC will be submitting their own comments if this project moves forward. They did put together a document, along with SUNY ESF, that identifies a number of sites in the Town of Pompey that would be far less objectionable than the sites that have been proposed thus far. The document was submitted to the Planning Board and the Town Supervisor.

Dan McLung, 2985 Michael Ave: Are the panels articulated or fixed? Will there be audible bird deterrents used? If so, how will that be mitigated for neighbors? What decibel level will be produced by battery cooling systems? Will there be any sort of screening added to protect the resident's viewsheds from a visibility standpoint?

Mr. Saunders asked for written comments to be submitted so that he has time to respond properly. He explained that the panels will be fixed. They are working with the DEC on the wetlands buffer; the whole site is not covered by wetlands and they cannot build a trench through wetlands without getting a permit.

They apply for grants from NYSEDA for the battery storage. The State of New York needs to sign off on the battery construction, how they operate, and what kind of fire suppression they

will have. It is not unusual for them to provide an emergency response plan to Town Boards. This would occur at site plan approval, should the project make it that far.

They do not use audible bird deterrents. There will be specific parameters set in place by the Town regarding the allowable amount of noise. They will bring the noise level to well below 45 decibels.

D. Tessier reminded the group that the ZBA is charged with determining the use variance only. The majority of the questions being asked will be addressed with the Planning Board.

Norbut has submitted as part of the application (exhibit T) why this site has been chosen.

Ashley Rothman, 4286 Sweet Road: She has heard from firefighters that homes in the country tend to burn down much more quickly than other places because there are no fire hydrants. How much research has been done on the impact of wells due to the runoff water from solar panels? How has Norbut dealt with previously decommissioned panels? Most of us run off propane and oil. What happens when these fires spread-there is oil and propane in people's homes.

Kathy Agrasto-Garofalo : She agreed with Kay Wiswall. She believed that she is a steward of the land. Farmland should come first before commercial purposes. The mission of Pompey in the master plan is to "preserve the agricultural farmland first." You cannot get farmland back. She is also concerned with the individuals whom live in the group home very close to the site. Preserving the scenery of Pompey is also part of the mission statement. It would be a nightmare for her to drive down Sweet Road and see solar panels. Who is making the panels? What country is making them? NYSEDA uses taxpayer money to pay for the grants.

D. Hale noted that legislation has recently been passed to allow solar companies to do what they want with land under the Climate Leadership and Community Protection Act. This is a big push by NYS to make this state free of any fossil fuels. To try to refuse the solar companies at this time is now very difficult.

Chris Dougherty, 7477 Broadfield Road: He provided aerial photos to the Board that show the residential nature of the land at this time. The Board needs to fight as if this project would be in their backyards. Notifying neighbors within 1000 feet is not appropriate; the entire county should be notified. There is a home near the project that is on the market for \$800,000.00-it will not be worth that much if this project is approved. If one solar project is approved, then more and more will come. Approving this would be setting a precedent.

Rob Cook, 4260 Sweet Road: Two streams on the property run into Limestone Creek. Will Manlius and Fayetteville be made aware that the runoff will be coming into their neighborhoods?

Fred Regan, 7100 Frank Long Road: Will so many micro panels affect the temperature of the surrounding properties? What is the amount of the NYSERDA grant? Does Norbut own the land? They have an option to purchase, but it is still owned privately.

Ivan Fuller, Route 91: How many trees will be cut down for the project? A previous project on Frank Long Road would have completely changed the climate due to the amount of trees that would have been cut down. The whole purpose of Pompey is to be green. If NYS wants to sue Pompey, then let them do it-we will stand here with you.

Michael Deuel, 4268 Sweet Road: Has there been a phase one ESA completed on the site? If so, is it available to the public? Many of these questions could be answered there. Go to the CNY Land Trust, 3 Falls Woods that is just north of the site and look at the land there. Is this project going to destroy some of the work that the CNY Land Trust has done to preserve some of these forever-wild lands?

Ann Young: At one of the Town Board Meetings there was someone present from Cornell who was discussing having grants to plant trees. The two projects conflict one another.

Deborah Grenier: She does not feel that Norbut has come prepared to answer all of the technical questions that the residents are asking. He has come to represent a company that wants to put solar in Pompey but cannot answer their questions. The company has only been in existence since 2022. This is going to disturb resident's quality of life. The Town of Pompey spent money to defend a meat packing plant at Heritage Hill, why cannot the Town spend money to prevent residents from being disturbed by solar.

Robert Dems, 4358 Sweet Road: His property backs up to the North end. He is most concerned about the wildlife, specifically the Canadian Geese. How would the Town benefit from this? There is a concern about fires, and there is an issue with runoff water.

D. Neugebauer asked how the panels would make the runoff worse. The northwest corner is so saturated that it has cut chunks of the gorge out. S. Haines noted that the soil types are discussed at length in the application packet-it shows that 80% of the soils are poorly drained. Removing trees and adding panels is not going to help the runoff issue.

Deborah Grenier: Why is the meeting not being filmed? She was directed to ask the Town why the meeting was not being filmed. The ZBA members did not know the answer to her question.

Kathy Agrasto-Garofalo: All it would take would for a new administration in New York State to come in and change some of these mandates. How can the State mandate what the Town can do? To decimate the land is an issue.

Gunther Shcnoor-7371 Broadfield Road: He is not familiar with the process, but he thought that the premise of the meeting tonight was for the Board to yay or nay the project. He is an environmental engineer who is aware of many sites that are more appropriate. To put a potential fire out would require water or another method that will not work.

Ann Young: She has heard other individuals complain about glare from solar arrays. The Board has heard of these concerns as well.

D. Neugebauer asked Mr. Saunders to speak to any benefit available to local residents. There would be a discount to any local resident would want to receive some of their electricity from the project. The benefits of solar projects will benefit the state and country at large. He understands that people do not want these projects in their backyards, and this is the problem that solar faces. There will be taxes that will come back into the Town.

Jim Gosier, Pratts Falls Road: Can the Public Hearing be left open until next month since there is more information that needs to come forth by the applicant? A. McLean-Robertson clarified that the public hearing tonight was just for the use variance, and most of the questions being asked tonight are SEQR related questions related to the site plan that would be addressed with the Planning Board.

A. McLean-Robertson again clarified that the ZBA is only charged with making a decision regarding the use variance. If the Public Hearing were to be left open, then no vote could be made tonight. The applicant has brought up a case from the Third Department; Freeport Solar vs. Town of Athens. This case contained similar facts in that a solar developer requested a use variance in a residential district. The Town denied the variance, and the Third Department appellate court determined that the Public Utility standard for determining whether a use variance should be approved should be used. In the Fourth Department, the use variance standard stands but today her recommendation would be that the Board go through both the Use Variance test under New York Town Law and the Public Utility test. . The Board should apply both standards to the Application and enter those results into the record. If they deny the application on the merits, then SEQR is terminated. If the Board decides that they need more information, then she would recommend that the ZBA send the application to the Planning Board so that a combined SEQR could be performed.

Mr. Saunders felt that SEQR needed to be completed prior to a decision being made.

S. Haines made a motion to close to the Public Hearing at 9:47 pm. D. Neugebauer seconded the motion at 9:47 pm. All were in favor, none were opposed. The motion carried at 9:47 pm.

A. McLean-Robertson recommended that the Board use both the New York Town Law 267b test and the Public Utility Test to discuss the variance further.

The Board referenced Exhibit N in the application packet, in which the Applicant stated “N/A – the former test for Use Variances no longer applicable to Public Utilities Including Commercial Distributed Solar Energy Facilities such as Applicant per Freepoint Solar v. Town of Athens ZBA, 234 AD3d 127 (3d Dept 2024). See “Public Utility Zoning Standard” attached as Exhibit B and “Use Variance Factors Analysis” attached as Exhibit O to Site Plan Application which is included with this application” The applicant was asked if they wanted to provide any additional information under the Town Law use variance test as the applicant has not provided any evidence to support this test. Counsel for Norbut declined and stated that they do not feel that the Town Law Use Variance test applies to them. In evaluating the standards under the Town Law Use Variance test of Section 267(b):

1. D. Neugebauer stated that there is no economic hardship to the applicant because if they do not get the variance then they will not purchase the property in question as they currently just have an option to purchase, and therefore there would be no economic hardship.
2. S. Haines did not feel that it was unique to the situation, as a residential zone does not allow businesses to be put there.
3. It has been well established that the project will substantially affect the neighborhood. The proposed variance is for around 100 acres in a residential area surrounded by homes on Sweet Road and Broadfield Road.
4. It has been self-created, as they did not have to pursue this project at this location.

Public Utility Test:

1. In discussing public necessity Mr. Saunders said that there is excess capacity at the Southwood station and there is state policy that says that solar energy should be used when possible. They want to have a certain amount of energy generated by green sources by 2030 and 2035. D. Neugebauer felt that the service was adequate for the Pompey community. S. Haines would agree that for the purposes of this meeting she would agree that this project would not be in our Town’s interest. S. Haines would like to discuss safety and fires as it pertains to safe and adequate services. Our fire dept. here deals with a lack of volunteers and she feels that this is a major safety concern for our community.

2. We received comments from the County Planning Board that noted that the OCPB is concerned that the applicant has not adequately demonstrated that the public utility use variance standard must apply to this application. Additionally, per the Onondaga County Planning Board's resolution dated May 21, 2025, the County Planning Board stated that "if the public utility use variance standard is applied to this application, the standard is appropriate "where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced" and that "it is [the County Planning Board's] position that the applicant has not shown that the intrusion or burden on the community created by the proposal is minimal". There is a large difference in size between this project and the Freepoint project. Determining that the intrusion would be minimal would contradict what the OCPB has determined. S. Haines, D. Hale agreed with OCPB's determination that the project's disruption would not be minimal. S. Haines noted that that the Pompey Environmental Conservation Committee has said that they have a map that shows other more appropriate sites. Mr. Saunders stated that they have made reasonable efforts to find comparable sites. The only allowed zones per Town Codes that do not require a variance is in farms and in a very small number of properties that exist in a commercial district. There is no place in the Town that they can develop a project of this nature. S. Haines noted that agriculture is the first thing mentioned in the master plan. Mr. Saunders noted that the Town Code has dictated that a solar project would be okay on a farm in the Town of Pompey. The sites that they looked at exist along the path of National Grids existing utility lines. It all goes back to the fact that the state has made a legislative judgement that solar power is something that we should be looking to adopt. Solar has been determined by the State of New York to be a safe and adequate form of energy. A. McLean-Robertson suggested the Board ask the applicant if there is anything that they could submit to show that the intrusion would be minimal. Mr. Saunders stated that he did not have to provide information demonstrating that the intrusion would be minimal. Mr. Saunders stated that they believe based on exhibit T, which showed a site selection analysis, that based on the two prongs they have demonstrated that they are entitled to the variance. Mr. Saunder stated that there is 10MW of capacity at Southwood Station and they have offered to fill that void. Mr. Saunders noted that he thought they were going to be given the opportunity to respond to comments in writing. D. Tessier noted that many of the questions that were asked tonight were not for this Board. If they needed more information, they would ask for it.

A. McLean-Robertson suggested that if the Board is moving toward a denial that the Board should rely on the two tests and base any decision on the merit of the application only. D. Tessier is very comfortable with the review given by the OCPB, which seems to support some of the Board's thoughts.

The following RESOLUTION was offered by Chairman Tessier and seconded by Sarah Haines who moved for its adoption:

WHEREAS an application has been submitted by Norbut Solar Farm, LLC and its affiliates, NSF Pompey Site 1, LLC, NSF Pompey Site 2, LLC and Sweet Broadfield Road, LLC (collectively “Norbut Solar”) to the Zoning Board of Appeals for a Use Variance to construct and operate two 5MWac Commercial Solar Energy Systems (the “Project”) on the 101.68 acre site which involves 2 parcels located at 00 Sweet Road (Tax IDs 03.-1-17.6 and 03.-1-17.17) (the Property) in the Town of Pompey, County of Onondaga, State of New York.

WHEREAS, the Norbut Solar Farms proposed project location is in a Residential Zoning District. Ground-mounted Tier 3 Solar Energy Systems are prohibited in the Residential Zoning District under The Town of Pompey Code Section 165-16.2 (E) (4).

WHEREAS, the Property is located in the Residential Zoning District in which Tier 3 Solar Energy Systems are prohibited; and

WHEREAS, Norbut Solar is requesting a Use Variance to allow for a Tier 3 Solar Energy System in the Residential Zoning District; and

WHEREAS, the requested Use Variance affects more than 25 acres of the Residential Zoning District; and

WHEREAS, due to the impacted acreage, the Use Variance is a Type 1 action pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Zoning Board of Appeals declared its intent to serve as Lead Agency for the purposes of reviewing the Use Variance application on June 9th 2025, and

WHEREAS, the Zoning Board of Appeals sent Lead Agency Notices to involved and interested agencies on June 12, 2025; and

WHEREAS, the Zoning Board of Appeals has not received notice from any other agency disputing the Zoning Board of Appeals’ Lead Agency status for the purposes of reviewing the Use Variance application; and

WHEREAS, the Use Variance application was submitted to the Onondaga County Planning Board pursuant to General Municipal Law Section 239-m; and

WHEREAS, the Onondaga County Planning Board reviewed the Use Variance application, assigning it Case # Z-25-148, and meeting on May 21, 2025; and

WHEREAS, the Zoning Board of Appeals has reviewed the Resolution of May 21, 2025 submitted by the Onondaga County Planning Board; and

WHEREAS, the Zoning Board of Appeals has reviewed the materials provided in the Application Packet submitted by Norbut Solar; and

WHEREAS, upon proper notice, a public hearing was held on July 14, 2025 at 7:00 PM at which time members of the public were invited to speak; and

WHEREAS, after hearing all the evidence testimony and examining the exhibits, the Zoning Board of Appeals is of the opinion that pursuant to the Public Utility Use Variance Standard set forth in *Matter of Consolidated Edison Co. of N.Y. v Hoffman* (43 NY2d 598, 610 [1978]), Norbut Solar has not shown that the variance is necessary to provide safe and adequate service to the public; and

WHEREAS, Norbut Solar has not demonstrated that there is no feasible alternative location for the proposed use; and

WHEREAS, Norbut Solar has not shown that the intrusion or burden on the community created by the proposal is minimal and therefore has not evidenced that a reduced showing is required; and

WHEREAS, after hearing all evidence testimony and examining the exhibits, the Zoning Board of Appeals is also of the opinion that pursuant to the Use Variance Test under New York Town Law Section 267-b(2)(b), Norbut Solar has not demonstrated that it cannot realize a reasonable return; and

WHEREAS, Norbut Solar has not demonstrated that the hardship is unique to the property and not common to the neighborhood; and

WHEREAS, Norbut Solar has not demonstrated that the proposed use will not alter the essential character of the neighborhood; and

WHEREAS, Norbut Solar has not demonstrated that the hardship was not self-created; and

NOW, THEREFORE, BE IT RESOLVED, that the Zoning board of Appeals restates and reiterates the previous WHEREAS clauses and denies Norbut Solar's application for a Use Variance; and

BE IT FURTHER RESOLVED, that as the application was denied for reasons unrelated to SEQRA, and was denied because the application did not meet the regulatory standards for issuance pursuant to the Public Utility Use Variance Standard set forth in *Matter of*

Consolidated Edison Co. of N.Y. v Hoffman nor the Use Variance Standard codified in New York Town Law Section 267-b(2)(b), the SEQRA review is terminated.

Ayes: S. Haines, David Hale, Dave Tessier, D. Neugebauer

Noes: None

Absent: Kevin Sharpe

RESOLUTION was denied by a vote of 4 -0

D. Neugebauer made a motion to adjourn the meeting at 10:26 pm. D. Hale seconded them motion at 10:26 pm. All were in favor, none were opposed. The meeting was adjourned at 10:26pm.

Respectfully Submitted,

Sarah LoGiudice
Secretary to the Zoning Board of Appeals
Town of Pompey