

Nelson Gage, Zoning Board Chair
Dale Warner, Town Planner
Melissa Deffer, Clerk
Teresa Bakner, Board Attorney



TOWN OF DUANESBURG
SCHENECTADY COUNTY

Jonathan Lack, Vice Chairperson
Link Pettit, Board Member
Daniel Boggs, Board Member
Matthew Ganster, Board Member

Town of Duanesburg
Zoning Board Minutes
April 19th, 2022
Final Copy

RECEIVED

MAY 18 2022

TOWN OF DUANESBURG
TOWN CLERK

MEMBERS PRESENT: Nelson Gage Chairman, Jonathan Lack Vice Chairman, Daniel Boggs, Matthew Ganster, Link Pettit. Also attending Clerk Melissa Deffer.

INTRODUCTION:

Nelson Gage opened the meeting at 7:00 pm. Gage welcomed everyone to tonight's meeting.

OPEN FORUM:

Nelson Gage opened the open forum.

Lynne Bruning located at 13388 Duanesburg Rd (**Please see attachment**)

Nelson Gage closed the open forum.

PUBLIC HEARINGS:

#22-01 Catalytic Recovery Corp: SBL#67.00-3-8.1, (C-2) Located at 5469 Duanesburg Rd is seeking an Area Variance for a rear and side yard setback under section 12.6(2);12.6(4); 14.5.2(B) of the Town of Duanesburg Zoning Ordinance

John Hitchcock, Jr from ABD Engineers, LLP represent Mr. Michael Grandy gave his presentation to the public.

Gage/Lack made a motion to open the public hearing for the **#22-01 Catalytic Recovery Corp** application.

Gage aye, Lack aye, Ganster aye, Pettit aye, Boggs aye. **Approved.**

Michael Ledley located at 5431 Duanesburg Rd has concerns with the drainage and doesn't want to have the potential buildings issues become his issues like they have in the past.

Mr. Hitchcock explained that Mr. Ledleys property to the east sits at about an elevation of 682, and where the purposed building will be located the elevation is 668, so the water from Mr. Ledley's property will be flowing onto Mr. Grady's Property down the swale to Duanesburg Rd. Chairperson Gage explained that the Planning Board will be holding a meeting on Thursday April 21st, 2022, and his questions and concerns are more for the Planning Board to discuss with him as the application that is in front of the ZBA is just for a Variance only.

Martin Williams located at 5256 Duanesburg would like to know what the plans are for all the

dirt that will be taken off the property and will be going to the Planning Board Meeting as well. Mike Munoz located at 5273 Duanesburg Rd has concerns with the environmental impact of taking apart catalytic converters and extracting all the chemicals and compounds and the safety of the air and water?

Again, Chairperson Gage explained that Mr. Munoz concerns are for the Planning Board's meeting, the ZBA application is strictly for a Variance.

Gage/Pettit made a motion to close the public hearing for the **#22-01 Catalytic Recovery Corp** application.

Gage aye, Lack aye, Ganster aye, Pettit aye, Boggs aye. **Approved.**

Lack/Pettit made a motion to grant **#22-01 Catalytic Recovery Corp** located at 5469 Duanesburg Rd SBL#67.00-3-8.1 a rear yard variance of 55 feet and a 15 feet east side variance under section 12.6(2);12.6(4); 14.5.2(B) of the Town of Duanesburg Zoning Ordinance provided a building permit be obtained within 6 months.

Lack aye, Pettit aye, Boggs aye, Gage aye, Ganster aye. **Approved.**

OLD BUSINESS:

None

New Business:

#22-02 Urbano/Caschera, SBL#35.06-3-5.2, (L-1) Located at 2610 Weast Rd is seeking a side yard setback and an Area Variance under section 7.1.6(2); 7.1.5(1) of the Town of Duanesburg Zoning Ordinance. John Hitchcock, Jr from ABD Engineers, LLP represent Mr. Caschera who is also in attendance. The lot is 18,234 sqft, that is a preexisting non-conforming. The width of the lot is 60.15 ft the minimum lot width for the Town of Duanesburg is 175 ft. Mr. Caschera is looking to build a 47X60 single family home, which would need two side yard variances. With those dimensions the house will need a 9 ft east side yard variance and 6 ft west side yard variance. The house is going to be on the top half and on the bottom will be a full two car garage. There will be a staircase going to the side entrance of the house as well. The Zoning Board feels that the request is substantial and would feel more comfortable with a 40X60 home to reduce the variance request to a 30 ft reduction leaving 10 ft from the building to the property line. Mr. Caschera will need to speak to his partner but agreed to reduce the home in size to make the request less substantial.

Gage/Lack made a motion that the **#22-02 Urbano/Caschera** application is and exempt Type II action pursuant to Title 6 NYCRR Section 671.5(c)(12) or (13).

No further action pursuant to SEQRA is required.

Gage aye, Lack aye, Ganster aye, Pettit aye, Boggs aye. **Approved.**

Lack/Boggs made a motion to set a public hearing for May 17th, 2022, at 7pm, or there about for the application of **#22-02 Urbano/Caschera**, SBL#35.06-3-5.2, (L-1) Located at 2610 Weast Rd seeking a 5ft east side yard setback of and a 5ft west side yard setback under section 12.6(2);12.6(4); 14.5.2(B) of the Town of Duanesburg Zoning Ordinance for the construction of a 40X60 single family home.

Lack aye, Boggs aye, Pettit aye, Ganster aye, Gage aye. **Approved.**

#22-03 Oakhill Solar 1 LLC, SBL#74.00-2-5.2 Located at 13592 Duanesburg Rd is seeking a Area Variance for a height of fence under section 5.7.(1) of the Town of Duanesburg Zoning Ordinance, and application **#22-04 Oakhill Solar 2 LLC**, SBL#74.00-2-5.1 Located at 13590 Duanesburg Rd is seeking a Area Variance for a height of fence under section 5.7.(1) of the Town of Duanesburg Zoning Ordinance. Bill Pederson a representative from AMP introduced himself and explained he is the representing both applications of Oakhill Solar 1 and 2. AMP's Attorney is also present at the meeting as well. Mr. Pederson is asking the ZBA for approval to build a NEC compliant 8 ft agricultural fence for a solar project on both parcels located at 13590 and 13592 Duanesburg Rd. Both projects were just approved by the Town of Duanesburg Planning Board on March 17th, 2022. A determination of interpretation is needed because the Town of Duanesburg Local Law No 1.1-2016, Section 3(a) states that equipment shall be enclosed with a 6 ft fence, while the National Electric Code- Section 110.31 states a fence shall not be less than 2.1 m (7ft) in height. AMP is requesting a variance for a 8 ft fence because the contractors are having a hard time locating 7 ft post. The fencing will be fixed knot farm fence with 5X5 pressure-treated Southern yellow pine posts chamfered top. The post will be drilled down approximately 3'-6' down, with a possibility of only the corners being cemented in. **(Please See Attachment for Power Point Presentation)**

For the next meeting the ZBA members would like to see the following:

1. A glare study
2. Vision analysis
3. The acreage within the fencing

Gage/Lack made a motion to declare the Town of Duanesburg Zoning Board of Appeals lead agent for the **#22-03 Oakhill Solar 1 LLC** and **#22-04 Oakhill Solar 2 LLC** applications. Gage aye, Lack aye, Ganster aye, Pettit aye, Boggs aye. **Approved.**

Boggs/Lack made a motion to set a public hearing for May 17th, 2022, at 7pm, or there about for the applications of **#22-03 Oakhill Solar 1 LLC** SBL#74.00-2-5.2 and **#22-04 Oakhill Solar 2 LLC** SBL#74.00-2-5.1 for a consideration and or a variance for a fence height of 8 feet. Boggs aye, Lack aye, Ganster aye, Pettit aye, Gage aye. **Approved.**

OTHER:

Chairperson Gage explained to the Board that Supervisor Wenzel has formed a committee to rewrite the solar law and to check Town emails for updates.

MINUTES APPROVAL:

Lack/Ganster made a motion to approve the March 15th, 2022, Zoning Board minutes with no corrections.

Lack aye, Ganster aye, Pettit aye, Boggs aye, Gage aye. **Approved.**

ADJOURNMENT:

Lack/Gage made a motion to adjourn at 8:20 pm.

Lack aye, Gage aye, Boggs aye, Ganster aye. **Approved**



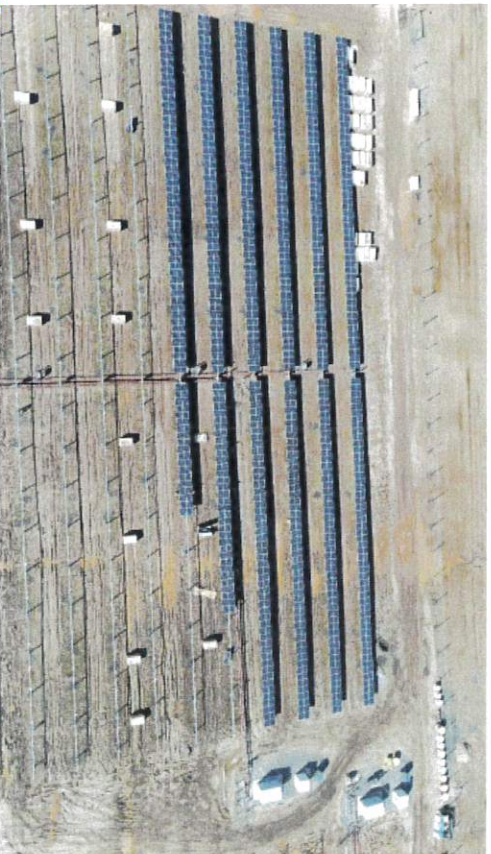
Oak Hill Solar and Battery Energy Storage Projects Area Variance – Fence Height

Zoning Board of Appeals – Town of Duaneburg, NY

April 19, 2022

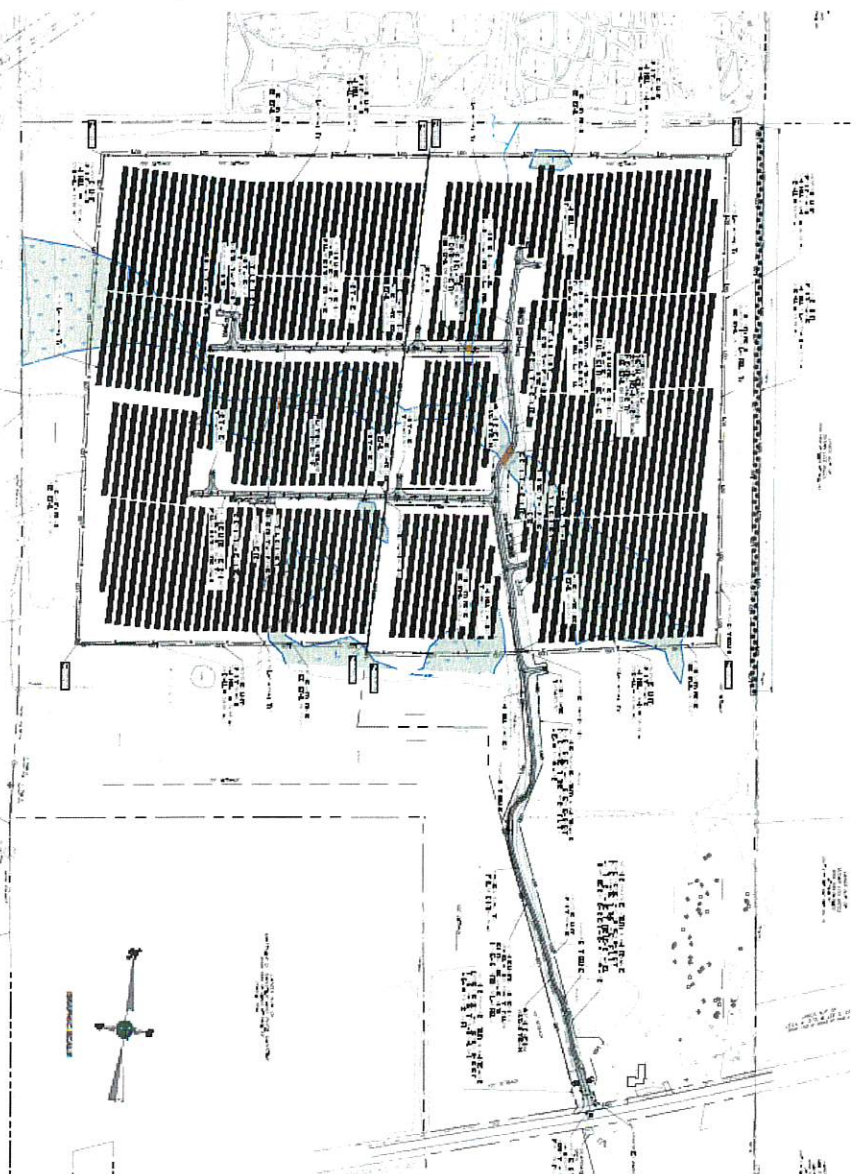
Who is Amp?

- Toronto-based renewable energy company - founded in 2010
 - Entered US market in 2015
- Amp is the long-term owner and operator
- Currently operating or constructing over 20 projects in New York



Oak Hill Project Benefits

- Climate and environmental benefits
- Support New York's clean energy and grid resiliency goals
- Community scholarship and education programs
- Economic: PILOT Payments, construction jobs, etc.



Planning Board Approval

Resolution approving Amended Special Use Permit and Amended Site Plan passed in March 2022

WHEREAS, the Planning Board is limited by the Solar Law to approving only a Six Foot high fence and the Applicant may, if it is otherwise required by the National Energy Code to construct a higher fence, need to obtain an area variance from the Zoning Board of Appeals; and

Designed to minimize the visual impact

- j. The Project will also not change the community character as it has been sited to not be visible to the maximum extent possible to surrounding homes and roadways, and an evergreen landscaped buffer will be created on the property containing the project as set forth above;

ZBA Application

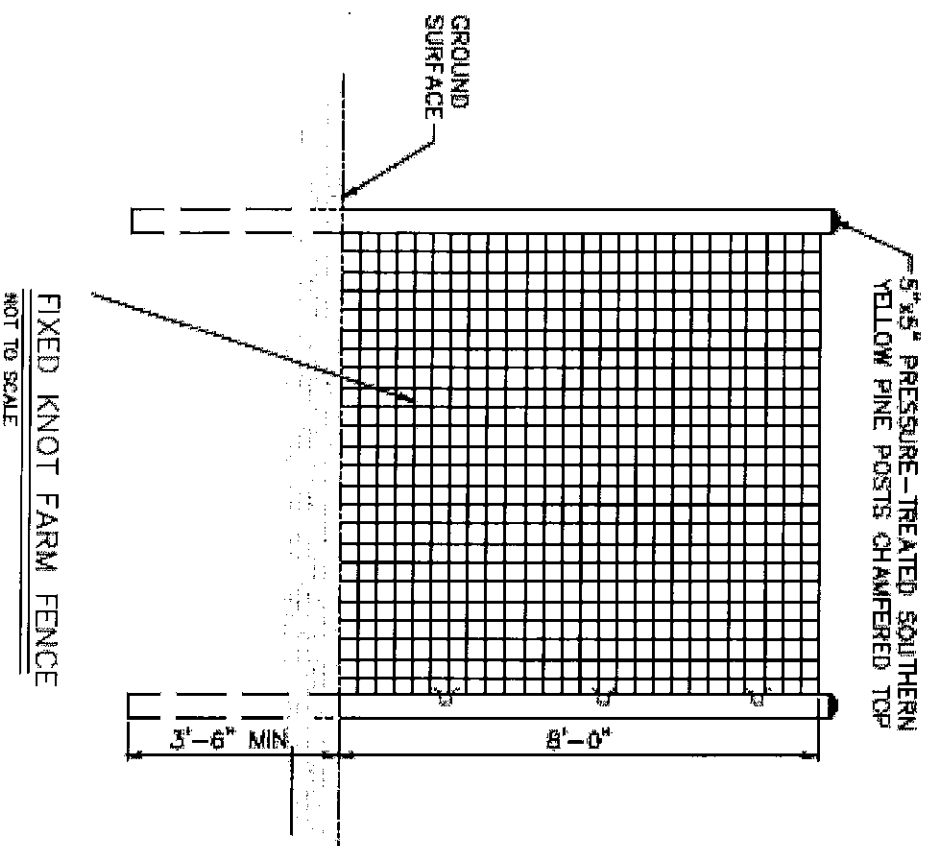
Town of Duaneburg Local Law No. 1-2016, Section 3(a)

- a. All electrical and control equipment, including any battery and storage cells, shall be labeled and secured to prevent unauthorized access. Such equipment shall be enclosed with a six foot fence.

National Electric Code – Section 110.31

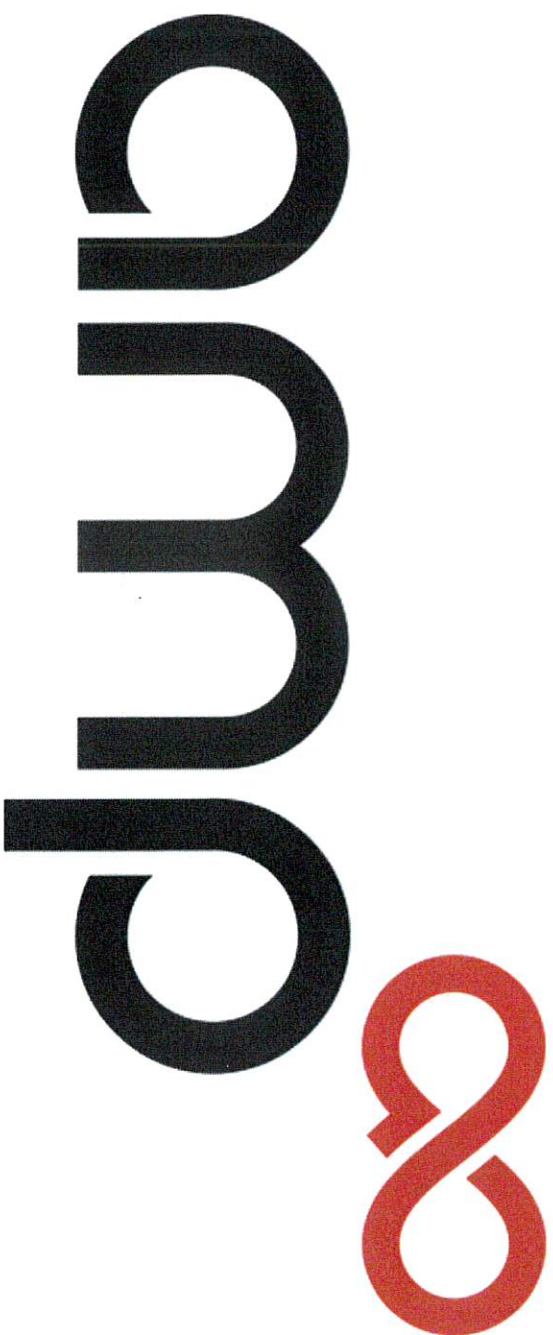
are not qualified. A fence shall not be less than 2.1 m (7 ft) in height or a combination of 1.8 m (6 ft) or more of fence fabric and a 300 mm (1 ft) or more extension utilizing three or more strands of barbed wire or equivalent. The distance from the

Fence Details – 8'



Conclusion

- Asking for approval to build a NEC compliant 8' agricultural fence
- Thank you



Contacts

Kevin Foster

Director, US Projects
kfoster@amp.energy

Nicole LeBlanc

Director, US Transactions
nleblanc@amp.energy

Bill Pedersen

Senior Manager, Execution
bpedersen@amp.energy

PO Box 160
Quaker Street, NY 12141

Nelson Gage, Chair
Zoning Board
Town of Duanesburg
5853 Western Turnpike
Duanesburg, NY 12056

April 19, 2022

Re: Privilege of the Floor

Dear Nelson Gage and the Zoning Board,

Lynne Bruning 13388 Duanesburg Road, Delanson, NY 12053.

In September 2021 the town adopted a six month moratorium on solar. In January 2022 the town board extended the moratorium an additional 6 months. The moratorium expires September 2022. To date I have not seen an announcement for a meeting to review the solar law.

I believe that zoning has an important role to determine where solar development may be permitted. And where it may not. My research shows that wealthy towns have zoning laws limiting the location of solar power plants and battery energy storage. The Presidential Special Envoy on the Climate, John Kerry, lives in Chilmark, Massachusetts.

Chilmark's local law "Section 15.1 The Large-Scale Ground-Mounted Solar Photovoltaic Installation District shall be described as follows: Assessors Map 13, parcel 28." For those unfamiliar with Chilmark, this is the 10 acre town dump. https://www.chilmarkma.gov/sites/g/files/vyhlif2951/f/uploads/chilmark_zoning_bylaws_article_15.pdf

If Chilmark can limit solar development to designated districts then I think this approach would work for Duanesburg.

I hope a zoning board member will be active in reviewing the solar law and upholding the town's Comprehensive Plan to maintain a rural residential community and protect our natural resources. As grandmother said: there's a place for everything and everything in its place.

Thank you for your time and consideration.

Respectfully,

Lynne Bruning
720-272-0956
lynnebruning@gmail.com