

UV02-161018

Candice Brothers
1925 St. Clair Ave, NE
Cleveland, OH 44114

Site: 9841 Fairmount Rd.

The Newbury Township Board of Zoning Appeals public hearing was called to order by Mr. Lou Tomsic Chairman, at 8:15 p.m. on October 18, 2016 with board members Mary Lee Brezina, Ed Meyers, Karen Endres and Chris Yaecker present. All in attendance who wished to speak at this hearing were duly sworn and asked when testifying to state their name and confirm being sworn in. Mr. Tomsic said the BZA procedures would be followed and that the hearing had been advertised and was being recorded. He asked the applicant to present her case.

Lou Tomsic read the Use Variance request stating that solar panels were not an approved use.

Candice Brothers requests a Use Variance to install a residential 7.02 kW Solar PV roof system (disapproved per Art. IV, Sec. 4.01 not listed as approved use) on parcel 23-273300 at 9841 Fairmount Rd. in the R-1 Residential District.

Erik Neff, owner of the property, authorized his wife Candice Brothers to speak for Yellow Lite Solar as the applicant presenting this variance request.

Candice Brothers presented a diagram of the solar panel installation on the roof, south side rear of the house, that would provide energy to the house with any extra energy reverting back through the grid. The meter would run forward during the night and backward during a sunny day.

The panels would not be visible from the road and the house is far from the side and rear property lines. The panels are anti-glare and not reflective.

Mr. Yaecker asked if this was the former dog kennel property. Mr. Neff said yes - he bought the property in 1997 and described his clean-up and repairs needed to restore the structures and grounds including the retention pond and riparian stream. He contacted the Park Board but there seems to be no protection in place for the riparian stream banks.

Candice Brothers said the solar panels are sustainable with a 25 to 30 year life cycle backed by the manufacturer's warranty. The average \$160/month electric bill (higher in winter) is expected to be cut in half.

Karen Endres asked if the panels were flush to the roof, not overhanging the roof edge – yes, roof mounted and inset from the roof edge per the roof site plan.

Mr. Yaecker noted that the inverter was located at the side of the house. No back-up generator is needed as the system is connected to the grid.

Ms. Endres asked if the system could support electric heat – yes, if adequately sized. A discussion continued regarding snow removal – using a roof rake was not recommended – the sun melt drains away naturally.

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Mr. Tomsic asked about permits – building, electrical permits plus inspection are required.

Mr. Yaecker conceded that solar panels were not permitted but questioned if a variance was even needed – it would seem that solar panels could be considered part of the building utilities similar to an external heat pump. With an anticipated return-on-investment of 24 years, solar energy doesn't seem to be a money maker given the meager credit (about 15%) for return-to-the-grid energy.

Mr. Meyers said that solar panels are subject to zoning in other jurisdictions, for instance Moreland Hills, and that it is understood that both the Zoning Commission and the Trustees are involved with current proposed changes to permit solar energy, which suggests that we should not grant variances but rather wait for them to come up with appropriate regulations.

Mr. Tomsic advised the applicant that a Use Variance was not the minimum action to afford relief. With the Zoning Commission instigating an amendment permitting solar panels, no variance would be needed. Mr. Meyers agreed that solar panels should be a permitted use. Mr. Joyce confirmed that the Newbury ZC is currently finalizing such an amendment. He agreed with Ms. Brothers that residents in Chester can meet with the zoning inspector to receive a permit for solar panel installation.

Mr. Yaecker asked the applicants what was their time line – they wish to start immediately. Mr. Neff said a generator can be used as backup if the system is not grid connected.

Mr. Joyce said the county issues a permit with the Zoning Inspector okay or variance.

Ms. Brothers said solar panels were installed at the Briar Hill in Middlefield with zoning okay and a county permit. Mr. Meyers said he thought solar panels should be a permitted use.

Ms. Brezina said it was uncertain whether all Trustees had considered the amendment proposal – the Trustees should act in a timely manner.

Mr. Tomsic advised that justification for a use variance required all questions to be answered with a yes – their first 3 were answered no. The BZA could not grant this Use Variance request.

At 8:45 Mr. Tomsic asked the board to interrupt the hearing to retire in executive session to discuss options.

At 9:00 the board returned from executive session and continued the hearing.

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Mr. Tomsic asked the board to consider the Findings of Fact:

- a) Whether there are conditions that are unique to this lot, and not ordinarily found in the same zoning district – no,
- b) Did the applicant create these conditions – no
- c) Whether the variance would adversely affect the rights of adjacent owners – no,
- d) Whether the variance would adversely affect the public health, safety or general welfare – no,
- e) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – uses not listed in the zoning manual are prohibited,
- f) Whether the requested variance is the minimum action, which would afford relief to the applicant – no –could ask for a zoning amendment,
- g) Whether other economically viable use of the lot could be made within the zoning district – lot is useful, no alternate energy is permitted in Newbury.

Mr. Tomsic called for a vote stating that a yes vote would grant the variance.

Lou Tomsic moved to approve the Use Variance as requested, Chris Yaecker seconded the motion with the vote as follows:

Karen Endres	no
Ed Meyers	no
Chris Yaecker	no
Mary Lee Brezina	no
Lou Tomsic	no

Mr. Tomsic advised the Appellants their Use Variance request had been denied.

The board agreed to hold hearings on the first and third Tuesday of the month. These minutes will be signed on November 1, 2016 at 7:30 p.m.

Mr. Tomsic adjourned this BZA hearing at 9:15 p.m.

Marge Hrabak, Secretary

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Signatures of the Newbury Board of Zoning Appeals:

Lou Tomsic, Jr., Chairman

Chris Yaecker,

Karen Endres,

Ed Meyers, V. Chairman

Mary Lee Brezina

Marge Hrabak, Sec'y BZA
Date: _____