

DRAFT

WILTON ZONING BOARD OF APPEALS THURSDAY February 27, 2025

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, February 27, 2025, at Wilton Town Hall and was called to order by Acting Chairman Kingsley.

PLEDGE OF ALLEGIANCE

PRESENT: Scott Kingsley, Chris Iwinski, Jay Rifenbary, and Scott Dussault, 2nd Alternate. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Code Enforcement Officer, and Lisa Closson, Zoning Clerk.

ABSENT: Chairman O'Brien, Vice Chairman Christopher Ramsdill, Scott Duffy Nicholas Collins, and Andrew Bobbitt.

MINUTES: The minutes of the last meeting, held on January 23, 2025, were approved, as submitted, on a motion made by Mr. Rifenbary, seconded by Mr. Dussault. All board members present were in favor. The motion passed.

CORRESPONDENCE: None other than what is presented before the board.

EXTENSIONS: *SPECIAL USE PERMIT EXTENSIONS ARE NOT SUBJECT TO A PUBLIC HEARING*

SUP. No. 2023-07 Kyle Bell, 302 Wilton/Greenfield Road, Greenfield Center, New York, 12833. Request for a Special Use Permit for Agriculture with Animals pursuant to §129-175 D. (1)-(7) and §129-176 V., of the Zoning Ordinance; property located at 114 Dimmick Road, Gansevoort, New York, 12831, Tax Map No. 115.-2-9.12, zoned R-2, in the Town of Wilton, originally granted March 23, 2023 for two years conditioned on a maximum of 40 animals and subject to all requirements listed in §129-176 V, is due for review and extension on or before March 23, 2025.

Kyle Bell was present and explained he would like his Special Use Permit extended. Mr. Mykins said there are no issues with the property and that they are not up to 40 animals. Mr. Bell confirmed and said he has 8 pigs.

Mr. Rifenbary made a motion to approve the extension of SUP No. 2023-07, Kyle Bell, 302 Wilton/Greenfield Road, Greenfield Center, New York, 12833, for an additional three years. Request for an extension of a Special Use Permit, pursuant to §129-175 D. (1) – (7) and §129-

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176 V., of the Zoning Ordinance; property located at 114 Dimmick Road, Gansevoort, N.Y. 12831, Tax Map No. 115.-2-9.12, zoned R-2, in the Town of Wilton. SUP No. 2023-07 will be due for review and extension on or before March 23, 2028. Mr. Dussault seconded the motion. All Board members present were in favor. The motion passed.

OLD BUSINESS:

Appeal No. 2024-06 Quaker Springs PV I, LLC, 200 Portland Street, 5th Floor, Boston, Massachusetts, 02114. Request for a Use Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; properties located on Jones Road and Perry Road, Saratoga Springs, New York, 12866, Tax Map Nos.' 140.-2-6.12 and 140.-2-55, zoned R-2, in the Town of Wilton.

***The public hearing has been left open from the March 28, 2024, ZBA meeting.**

Appeal No. 2024-06 was heard after New Business.

NEW BUSINESS:

Appeal No. 2025-05 Douglas and Hannah Akins, 134 Ernst Road, Gansevoort, NY 12831. Request for an Area Variance pursuant to §129-157, and Schedule A, R-1 district of the Zoning Ordinance; property located at 134 Ernst Road, Gansevoort, NY 12831, Tax Map No. 127.-2-56, zoned R-1 in the Town of Wilton.

Mr. Kingsley read correspondence from David Armstrong, 136 Ernst Road, in favor of the addition, which has been placed in record.

Douglas and Hannah Akins, 134 Ernst Road, presented their project to the Board. Mr. Akins explained they are adding a 24' x 24' addition to accommodate living space for their daughter.

Mr. Rifenburg confirmed with Mr. Akins that the existing front porch is being taken off.

Mr. Kingsley opened and closed the public hearing at 7:05 p.m. due to lack of public comment.

Mr. Iwinski made a motion to approve Appeal No. 2025-05, Douglas and Hannah Akins, 134 Ernst Road, Gansevoort, NY 12831. Request for an Area Variance pursuant to §129-157, and Schedule A, R-1 district of the Zoning Ordinance; property located at 134 Ernst Road, Gansevoort, NY 12831, Tax Map No. 127.-2-56, zoned R-1 in the Town of Wilton, be granted, for relief of 15.8 ft. front yard setback for a proposed addition, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because it is right in line with the original roofline. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because of the new septic system location which prevents from

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building to rear of property. The property line to the north does not provide enough space for an addition. 3. The applicant has demonstrated that the requested Area Variance is not substantial. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district. 5. The applicant has demonstrated that the alleged difficulty was self-created.

Mr. Dussault seconded the motion. All Board members present were in favor. The motion passed.

Appeal No. 2025-06 Redbud Development, for Susan Ward and Lisa Pleban, 1 Commerce Park Drive, Gansevoort, NY 12831. Request for Area Variances pursuant to §129-157, and Schedule A, R-1 district of the Zoning Ordinance; property located at 6 Chatham Court, Gansevoort, NY 12831, Tax Map No. 115.17-2-23, zoned R-1 in the Town of Wilton.

Matt Dennis with Redbud Development was present and explained the project to the Board. He said the current condition of the existing deck...is unsafe, and are proposing to remove it and install a new deck which will be about 100 sq. ft. smaller and have less of an impact than the existing deck. They will also be installing a new brick walkway and pea gravel patio.

Mr. Rifenbary asked if there were any issues with the neighbors and Mr. Dennis said not that he is aware of.

Mr. Kingsley opened and closed the public hearing at 7:10 p.m. due to lack of public comment.

Mr. Dussault made a motion to approve Appeal No. 2025-06, Redbud Development, for Susan Ward and Lisa Pleban, 1 Commerce Park Drive, Gansevoort, NY 12831. Request for Area Variances pursuant to §129-157, and Schedule A, R-1 district of the Zoning Ordinance; property located at 6 Chatham Court, Gansevoort, NY 12831, Tax Map No. 115.17-2-23, zoned R-1 in the Town of Wilton, be granted, for relief of 7.72 ft. rear yard setback for a proposed deck and 3.92 ft. easement setback for a proposed patio, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons:

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because the tree line hides the rear of the property.
2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because the lot size and setbacks create a small buildable area.
3. The applicant has demonstrated that the requested Area Variances are not substantial because the existing tree line buffer will remain.
4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because there will be no tree removal and minimal deck size.
5. The applicant has demonstrated that the alleged difficulty was self-created.

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Mr. Rifenbary seconded the motion. All Board members present were in favor. The motion passed.

Appeal No. 2024-06 Quaker Springs PV I, LLC, 200 Portland Street, 5th Floor, Boston, Massachusetts, 02114. Request for a Use Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; properties located on Jones Road and Perry Road, Saratoga Springs, New York, 12866, Tax Map Nos.' 140.-2-6.12 and 140.-2-55, zoned R-2, in the Town of Wilton.

***The public hearing has been left open from the March 28, 2024 ZBA meeting.**

Mr. Schachner, Town Counsel, shared the statement below:

“There is a great deal of misinformation being spread about the Town’s review of this project. Some continue to claim that the ZBA cannot review the application because the proposed use is not allowed in this zoning district. Also Included in this misinformation is the idea that my colleagues and I don't know what we are doing and that we are giving erroneous advice to the ZBA by "allowing" or "requiring" it to review this application.

If a property owner or agent wishes to pursue something which is not allowed under our zoning law, they are allowed to submit a variance application to our Zoning Board of Appeals seeking variance to allow them to do so. The ZBA is OBLIGATED BY STATE LAW to review and fairly decide the application and rejecting it because what is proposed does not comply with our zoning law would not be lawful and would NEVER WITHSTAND LEGAL CHALLENGE!

ZBA review of an application does NOT NECESSARILY MEAN THAT THE APPLICATION WILL BE APPROVED, but unlawfully denying the applicant the right to seek approval or denying the application on unlawful grounds will simply be overturned in Court”.

Kyle Murphy with Quaker Springs, Lucas Faria with Galehead Development, and Alecia Legland, Attorney with Hodgson Russ, representing Galehead Development, were present.

Mr. Murphy said the only new submission is the additional correspondence from the railroad company confirming this project will not impact the quiet zone that is currently in place at the railroad crossing, and that the Board wanted more time to review the submissions from the previous meeting.

Mr. Rifenbary discussed with Mr. Murphy the ‘red lines’ for a standard template crossing agreement from the railroad company. He (Mr. Rifenbary) then discussed the quiet zone with Mr. Mykins.

Mr. Kingsley opened public comment at 7:19 p.m.

John Lant, 45 Woodard Road, stated that this (zone for solar) has puzzled him since Town Board made a resolution for no solar in a residential area. This is brought up month after month after month. Town Board, all the Boards, everybody brags about their great quality of life. These residents in Knollwood and the surrounding area, their quality of life has been

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impacted the last couple of years. This is why we are here tonight, to ask the question and to get educated. He thanked Mr. Schachner, Town Counsel, for the answer on what is going on, and hopes that people in the audience heard what he (Mr. Schachner) had to say. John McEachron, 17 Smith Bridge Road, wants to reiterate what Mr. Lant had to say and appreciates the clarification from Town Counsel as well.

Michael Bryce, 233 Loudon Road, first spoke of the applicants correspondence with the railroad, and feels it's the Boards position to make sure the exact correspondence is to the Board as well. Number two, there's 395 towns, villages, jurisdictions in New York state that have this exact law on the books as the Town. The reason they have it on the books is to protect the health, safety and well being of their residents. Nobody here is not against solar. It is welcomed in an entirely industrial, commercial setting, not in a residential area. It's highly unlikely that 395 villages, towns, and jurisdictions, are wrong on that, and it's time to really realize that and let them (the applicant) know they (the residents) are not against it...put it where it belongs, not in a residential area. The bottom line comes to greed. They (the applicant) are looking for the cheap land, put this up, build it, sell it and move on. They need to lease it in an industrial area, not a residential area. That's the residents of Wiltons wishes. They (the residents) showed their wishes to the Town Board. They (Town Board) made a rule. Think everybody should follow that.

Ed Kokoski, 7 Knollwood Drive, presented the Board with an editorial titled "A Solar Tug-of-War" from the January 30, 2025 publication of the Albany Times Union which has been placed in record, and asked that the Board read it due to its pertinence in this matter. He paraphrased the article, in his own words: that even though New York State has solar power goals to meet, the towns must have the ability to shape the look of our towns and the landscapes they love in order to maintain the quality of life for its citizens. Local opinions matter, and must be heard. He continued to say there's a lot in there about other similar things going on in the state, and thinks it has a lot of bearing on this, and it's brand new information.

Quaker springs harmed our Town. We talk about quality of life, this violates our landscapes and degrades our quality of life. It is a dangerous solar farm in the middle of one of the highly populated areas of Wilton. They couldn't have chose a worse place in Wilton...right next to Dorothy Nolan school, and Knollwood Drive homes. Our local community doesn't want it here, and it should not be built here. The application for Quicker Springs does not comply with our solar law...That means, fundamentally, as if the solar law was thrown out the window. This law was written by a committee that was set up and one of the members of the committee was the town engineer himself. It was given as a guide to protect the citizens of Wilton.

Jeanne-Marie Breen, 37 Knollwood Drive, shared that their property is not zoned industrial. It is not zoned agricultural, nor even rural residential. Their property is zoned residential. The wells that provide drinking water are facing this proposed solar industrial plant and are approximately 100 ft. from the proposed site. There is a great deal of documentation on runoff water, erosion, sludge, and contamination of water from solar arrays. This is a huge concern to the neighbors of Knollwood Drive. In reference to property devaluation, she read a sentence from an extensive study done by professionals on solar arrays and their impact on housing values: "...the evidence presented by these case studies indicate that solar

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(arrays) damage property values by at least 6% to 30%” which has recently been suggested up to 50% according to the proximity to the solar industrial plant, which is proposed to be about 200 ft. from my back door. We are Wilton taxpayers, we are Saratoga School taxpayers, and we are New York state taxpayers. Why should a Massachusetts company be allowed to profit from our loss simply because they do not wish to pay more for other available and more appropriate site locations.

Cindy McCabe, 27 Knollwood Drive, feels the solar project is going to be hideous to look at 24/7. There are very young children in the development that are notorious for climbing fences. This concerns her with the proposed array in her backyard. When the freight trains go by, they literally shake a 3000 square foot house. What is that going to do to the solar panels? Did that engineer measure the impact on those solar panels?

Bob Marchillo, 39 Knollwood Drive, asked if the questions from an Area Variance are the same as from a Use Variance. Mr. Mykins said they are two completely different types of criteria. Mr. Marchillo wondered what would happen to property values if they're adjacent to solar. Is it salable? He went down to the King Road solar array and it could be seen right in these people's backyards. He thought it was a junkyard. The woods are overgrown out there. Here, a high canopy with not a lot of coverage. It was suggested to them from the solar company that they sell in the summer when there are more leaves. It is intrusive, obnoxious and invasive.

Mr. McEachron asked if they could get the questions answered about the vibrations from the train.

Mr. Murphy commented, with regards to the shaking caused by the trains, are your homes still standing?

Mr. Faria said one thing that's important to consider is they are seeking this variance approval, and if it were to get to a point where construction drawings are issued, they would have electrical engineers, structural engineers, all the required boxes that need to be checked before submitting for a building permit, and all those engineers take into account those calculations. There are solar projects that are built in areas where there's quite a lot of active earthquake activity, such as California, where it's one of the states that most has solar installations in the US, so that is taken into account, and that does withstand the test of time as well, which for this project would be roughly 20 years.

Mr. Bryce contradicted Mr. Faria. The solar in California and Arizona are not in residential areas. They are in giant deserts where they absorb all that sun. There isn't a train running through that desert.

Mr. Kingsley closed the public comment at 7:34 p.m. The public hearing has been left open.

Mr. Rifenbary said this has been a process for the Board, and by law, are required to hear everything that the applicant has to share. The Board is taking into consideration all of the concerns.

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Mr. Kingsley said they do not have a full Board compliment and they still have to do SEQRA (State Environmental Quality Review Act) that is required, but should have a full Board before they start SEQRA.

Mr. Faria asked if the Board would be able to close the public hearing and have roughly 60 days to deliberate and make a decision.

Mr. Kingsley said they have not done SEQRA yet and the public has a right to address concerns that are brought up during the SEQRA process.

Mr. Rifensbary asked Mr. Schachner to share what SEQRA is. Mr. Schachner explained the SEQRA process, including the requirement to review potential environmental impacts and the possibility of preparing an Environmental Impact Statement.

Mr. Marchillo wondered if they, Knollwood residents, were part of the environment.

Adjournment:

Mr. Dussault made a motion to adjourn. Mr. Rifensbary seconded the motion. All Board members present were in favor. The meeting was adjourned at 7:47 p.m.

Dated: February 28, 2025

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Scott Kingsley, Acting Chairman