

October 21, 2021

Town of Goshen Zoning Board of Appeals
Town Hall
41 Webster Avenue
Goshen, New York 10924
Attn: Neil Halloran

Re: Request for Variances and Waivers
111 Owens Road – Major Ground Mounted Solar System
Town of Goshen, Orange County, New York

Dear Mr. Halloran:

Arico Associates, representing Borrego Solar Systems, is formally proposing a large-scale ground-mounted solar power generation facility totaling 54± acres located at 111 Owens Road (Parcel ID #10-1-10.22). The proposed community solar project will consist of three (3) 5-Megawatt AC solar system array. The three (3) lot subdivision is identified as Site 1, Site 2 and Site 3. At this time, we are requesting a formal review from the Zoning Board of Appeals for variances to proceed toward approvals.

Based on our review and understanding of Zoning Code for the Town of Goshen Chapter 97, Zoning, Article VII-Supplementary Regulations, §97-55-Wind and Solar Energy Systems, we offer the following request for variances, response to substantiate the request and subsequent proposals for mitigation.

Variance - Side Yard Setback to Solar Modules (Part E.2):

Requirement, the minimum setback for side yard is 100-feet from property lines. Based on the location of the proposed interior property lines to create individual lots for each solar array, the interior setback of 100-feet is not attainable in some locations. It is felt that relief from this requirement is appropriate given that the property setbacks will only affect the adjacent project parcel and that the zoning code setbacks are adhered to for all abutting parcels. Allowing this setback variance will allow us to lower our overall impacts on the site as we're able to utilize otherwise wasted space between the sites.

Proposed Setbacks are:

- Site 1 – 52 feet, therefore variance is requested for 48 feet
- Site 2 – 50 feet, therefore variance is requested for 50 feet
- Site 2 – 36 feet, therefore variance is requested for 64 feet
- Site 3 – 45 feet, therefore variance is requested for 55 feet
- Site 3 – 63 feet, therefore variance is requested for 27 feet

Variance - Side Yard Setback to Perimeter Fence (Part F.12.d):

Requirement, the minimum setback for side yard is 80-feet from property lines. Based on the location of the proposed interior property lines and perimeter fencing to create for each solar array, the interior setback of 80-feet is not attainable in some locations. Due to restrictions, fencing is based on a 20-foot minimum setback from a solar module. It is felt that relief from this requirement is appropriate given that the property setbacks will only affect the adjacent project parcel and that the zoning code setbacks are adhered to for all abutting parcels. Allowing this setback variance will allow us to lower our overall impacts on the site as we're able to utilize otherwise wasted space between the sites.

Proposed Setbacks are:

- Site 1 – 27 feet, therefore variance is requested for 53 feet
- Site 2 – 28 feet, therefore variance is requested for 52 feet
- Site 2 – 18 feet, therefore variance is requested for 62 feet

- Site 3 – 32 feet, therefore variance is requested for 48 feet
- Site 3 – 18 feet, therefore variance is requested for 62 feet

Waiver - Unconstrained Land Use (Part D.3.h):

Requirement, the maximum of land to be used is 50% of the unconstrained land. Based on the recent survey there is approximately 20.5± acres of constrained land (wetlands, flood plain, slopes greater than 15%) located on the parcel. The total site area of the parcel is 126.4± acre, less 20.5± acres, for a total area of 105.9± acres unconstrained acres, which would result in a maximum land area to be allowed to be utilized for solar to be 52.9± acres, as compared to the 53.4± acres which is being proposed (50.4%). As this would result in less than a 20% increase, the Planning Board can issue a waiver and no variance will be needed, and a waiver is being sought, as the slight deviation from the code allows to not disturb more sensitive areas on the site which could otherwise be utilized for solar.

Waiver - Land with slopes greater than 15% (Part F.1):

Requirement, equipment shall be outside land area exhibiting slopes greater than 15%. There is 2.98± acres of land within the fenced area that exceeds 15% slopes, but is not greater than 20%. A 20% grade is more than suitable to install the solar array as the racking system can be placed on slopes up to 30%. Therefore, since this is less than a 20% increase, the Planning Board can issue a waiver and no variance will be needed. As mentioned in the previous response allowing for this waiver allows us to utilize to avoid disturbances on the site that are more sensitive, but could be utilized for solar. Borrego always attempt to minimize our impacts to sensitive areas where possible and the alternative to building over these 15% slopes (which is well within the racking specifications) would be to grade these areas to less than 15% which would result in a large portion of the site being unnecessarily disturbed.

Based on the above information provided we offer the following additional responses to substantiate our request.

1. The character of the neighborhood will remain unchanged since to the nature of a solar community development is low impact on traffic, schools, emergency services, etc. and especially public utilities other than electric which will be adding to the existing demand. For these same reasons the project will not be detrimental to nearby properties except for a visual appearance that will be mitigated with buffers (landscaping, berms) and setbacks along the perimeter of the property.
2. The development of the solar arrays required separation of property and cannot be accomplished otherwise. In creating the interior boundary lines, one of the controlling factors are to maintain a 20-foot separation between the fence and the solar modules. The intent of the layout is to maintain setback requirements from all exterior property lines and reduce the amount of clearing within the interior limits. Therefore, in creating the interior property lines, the required setbacks could not be achieved per the town code.
3. We do not believe the variances are substantial as they reduce the amount of development area, especially tree clearing. Without the variances these areas would increase by 30-40% and may introduce other variances, such as clearing limits and unconstrained land use.
4. The impact on the physical or environmental conditions of the neighborhood will not have an adverse effect on the neighborhood. All measures are being taken to avoid all environmental sensitive areas such as wetlands, flood plains, flora and fauna. The physical features of the solar arrays will be enclosed by security fencing and include additional landscaping to enhance the existing 100-foot buffer along neighboring properties and frontage on Owen Road.
5. The hardship is not self-created and cannot be circumvented without developing a more detailed layout plan that would consist of additional land use, variances and increase of other impacts, such as setbacks and buffers.

For your review and consideration, the attached materials are submitted:

- 6 copies Application Form
- 6 copies SEQR EAF Long Form
- 6 copies Project Narrative
- 6 copies Site Use Plan Set (24"x36")
- 6 copies Zoning Variance Plan
- 6 copies Visual Site Renderings

We trust the information provided is sufficient for your acceptance of our application for a zoning area variance from the Zoning Board of Appeals and waivers from the Planning Board. We look forward to scheduling a meeting or attending the next available Town meeting. Should you have any questions, or require any additional information, please contact our office.

Truly Yours,
ARICO ASSOCIATES



Dominick F. Arico, PE

c: Steve Long, Borrego Solar
ReJean DeVaux, Borrego Solar
Town of Goshen Planning Board
Town of Goshen Town Board