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Special Counsel

July 1, 2020

VIA EMAIL

Zoning Board of Appeals (ZBA)
Town of Goshen
41 Webster Avenue
PO Box 217
Goshen, NY 10924

Re: Forefront Power LLC: Area Variance Application
270 Maple Avenue, Goshen, New York

Dear Chairman Garling and Members of the Zoning Board of Appeals:

This Firm represents Forefront Power LLC (the "Applicant"), in connection with its plans to construct a proposed 5MW large-scale solar farm development (the "Project") at property located at 270 & 276 Maple Avenue in the Town of Goshen (Tax Map ID Nos. 19-1-47 and 48.1)(the "Property" or "Site").

The Applicant has submitted site plan and special use permit applications to the Planning Board and Town Board related to the Project. A copy of the site plan, site photographs and simulations from the Visual Study were previously submitted to the ZBA in conjunction with setback variance requested on or around October 25, 2019. A public hearing was held related to those variances on March 5, 2020. Subsequently, the Applicant appeared before the Planning Board on May 7, 2020. At such meeting, the Planning Board identified an additional variance related to the above-ground cable wires. At the request of the Planning Board, the Applicant seeks to amend its current setback variance requests to permit above-ground cable wires in deviation of Section 97-55(F)(10)(a) of the Town of Goshen Zoning Code (the "Zoning Code").

As the ZBA is aware, in accordance with NYS Town Law Section 267-b and Goshen Zoning Code Section 97-69(D)(2), in making its determination whether to grant area variances, the ZBA shall take into consideration the benefit to the Applicant if the variance was granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons, the requested variances will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

The Site lies within the AI zoning district and solar is an allowed use subject to special use permit and site plan approval from the Town and Planning Boards. The Project area is surrounded by undeveloped, agricultural land and a few residences. A natural vegetative buffer largely surrounds the Site to the north, east, and west. The cable trays will carry the aboveground wiring in a small portion of the site to avoid digging in an archeological sensitive area. The aboveground wiring will be installed with weatherproof conduit and situated approximately 12-18 inches off the ground in enclosed metal cable trays that run parallel with the solar panels.

Screening is proposed along the southern Property boundary along Maple Avenue. Given that the solar panels and cable trays will be adequately screened from public view, the proposed Project will not produce a detriment to nearby properties.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

Without the requested variance, the Project cannot be developed as proposed. The Applicant wishes to develop the Site with a 5 MW-AC large-scale solar development. As proposed, the Project complies with the remainder of the zoning requirements for solar siting as set forth in the Zoning Code. The solar panels are positioned on-site to avoid disturbance to the federal wetlands on-site. Similarly, the aboveground cable is proposed to avoid digging in an archeological sensitive area. Given other site constraints including additional wetlands, steep slopes and floodplains, there is no other location on Site to put the panels and accessory cable trays. Without the proposed number of solar panels, the Project is not economically viable. Simply put, the sought-after benefits cannot be achieved without the requested variance.

(c) Whether the requested area variance is substantial;

As set forth above, the Project will need an additional area variance for the aboveground, enclosed cables. 95% of the total 7,651 ft. of AC/DC wiring will be located underground in compliance with the Town Code. However, 373 ft. or 5% of the total AC/DC wiring is proposed above-ground to avoid disturbance to an archeological sensitive area. Thus, this variance request is not substantial. This is a minor request and does not cause any detriment to neighboring properties given the natural vegetative and landscaped screening which prohibits public view of the Site.

(d) Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

The Project proposes to develop only one-fifth of the 128-acre site. Development of the solar panels will avoid any disturbance to the federal wetlands and archeological sensitive areas

located on Site. In addition, there will be limited soil disturbance due to the pile-drive construction method used for installation. The Project will contain storm water management structures, as required by State and Town Code, to properly collect and treat storm water runoff from the Site. The AC/DC wires will be installed with weather-resistant conduit and protected by enclosed metal cable trays which run parallel with the panels. The solar panels and enclosed cable trays are situated low to the ground to reduce visual impacts. Furthermore, natural vegetation and landscaping around the perimeter of the Property will screen the solar panels along the southern Property boundary to screen the Site from Maple Avenue. Therefore, the requested setback variances will not adversely affect or impact the physical or environmental conditions in the neighborhood.

(e) Whether the alleged difficulty was self-created.

The request for the variance to allow for aboveground cable is necessary to avoid disturbances to archeological sensitive areas of the Site. Given other Site constraints including wetlands, steep slopes and floodplains, the Project cannot be developed without the requested variance. Without the variance, the Project is economically unviable. The development of the Site with the proposed solar facility will create a renewable energy resource, part-time construction jobs, and generate property tax revenue for the Town.

Based on the foregoing, it is clear that the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community.

Thank you kindly for your attention to this variance application. We look forward to discussing this matter further with you at the July 21 ZBA meeting.

Very truly yours,

/s/ Genevieve M. Trigg

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