

**Town of Milford**  
**Zoning Board of Adjustment**  
**May 21, 2020**

Case 2020-09  
Controlled Forestry Investments LLC  
Variance

**Present:** Jason Plourde, Chairman  
Rob Costantino, Vice Chair  
Wade Campbell  
Michael Thornton  
Karin Lagro (Alternate)  
Joan Dargie (Alternate)  
Paul Dargie, BOS Representative  
Lincoln Daley, Director of Community Development  
Darlene Bouffard, Recording Secretary

**Absent:** Tracy Steel

Chairman Plourde welcomed everyone and declared a State of Emergency as a result of the COVID-19 pandemic and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, the Board of Adjustment is authorized to meet electronically. This meeting is held in accordance with the applicable New Hampshire State statutes, Town of Milford ordinances, and the Zoning Board of Adjustment Rules of Procedure. He stated that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor’s Emergency Order. However, in accordance with the Emergency Order, he confirmed that the Board is:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:
- b) Providing public notice of the necessary information for accessing the meeting:
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access.
- d) Adjourning the meeting if the public is unable to access the meeting.

Let’s start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. Jason Plourde at Town Hall alone in the room; Rob Costantino at home alone; Wade Campbell at home alone, Karin Lagro at home alone, Mike Thornton at home alone, Joan Dargie at Town Hall in her office alone.

Let us begin by seating our alternates who will hear tonight’s cases. Jason Plourde asked that Karin Lagro-Alternate, be seated on the ZBA in the absence of Tracy Steel.

**Case 2020-09**

Controlled Forestry Investments LLC, 61 North River Road, Milford Tax Map 8, Lot 50 is seeking a VARIANCE from the Milford Zoning Ordinances per Article V, Section 5.04 to allow an Auto Repair Facility use totaling approximately 2,500 square feet in an existing building in the Residential “R” Zoning District.

Attorney Paul English, representing the applicant indicated that the applicant is present with him, as is Dave Parker, who currently owns the property and can answer questions that he cannot answer. This property had an auto shop which was discontinued and now the applicant would like to open that auto repair shop again. The building was built in 1910, one residential abutter also runs a business out of their home, this is in the Residential Zone and there are other commercial businesses operating in this residential area. The proposed use is a small car repair business and will not create high volumes of traffic, it is anticipated to have 5-10 vehicles per day. The applicant

**MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-09  
CONTROLLED FORESTRY INVESTMENTS LLC - VIA ZOOM**

55 is hoping to open in the fall, the current taxes are in arrears. If this sale goes through and the ZBA approves the  
56 Variance, those back taxes would be paid. This use will not affect the surrounding properties or the tax base. Mr.  
57 English said the property was used as an auto repair garage until about five years ago. The current owner has been  
58 using the property for cutting and splitting wood. He does want to continue to sell firewood at this site. There are  
59 pallets there for sale and that is part of this Variance. The requested Variance is for: 1) allow the property to go  
60 back to the previous use; 2) continue allowing the sale of firewood; 3) expand the use (page 13 of the plan for a  
61 proposed addition to the building for a waiting room for customers. The building is currently a 3-bay garage but it  
62 will not cause significant traffic. The applicant would like to keep the same structure, and have an addition off the  
63 right side which is currently paved, he is not requesting to put another bay, it is just a waiting room for customers.  
64 This building is constructed as a commercial use with a slab floor with no basement and has commercial wiring, it  
65 is not building for residential use.

66  
67 Paul English continued that this building is not built as a residence. The grading and slope is also an issue on this  
68 property. There is an extreme slope and the grading in the rear would probably prevent use as residential. There  
69 are also wetland issues in the rear. Right now the wetlands are not a problem. The structure is in the only location  
70 on the parcel where a building could be placed. Mr. English reviewed the criteria. The abutters are all commercial  
71 except one residence. This property pre-exists the zoning ordinance. There is no gain to the public if this were  
72 denied. This use has already been there for years. This will not have substantial impact to the neighbors. There  
73 will not be a decline in the value based on this use. All of the surrounding properties are commercial; to make this  
74 property into residential would not fit. This lot is triangular and has wetlands in the rear, so any redevelopment of  
75 the site would be pretty substantial and would be in front of the ZBA for relief. This land has a hardship with it  
76 because you cannot do much on the site. The property use was established and the applicant is looking to have it  
77 used for that prior use as an auto repair shop.

78  
79 Jason Plourde said that five years ago, this building was used as an auto repair business, if that business was still  
80 there and was looking to expand, it would be expanding a non-conforming use, but since the building was not in  
81 use as an auto repair business for five years, the applicant has to start over. Mike Thornton agreed saying in order  
82 to pick up the grandfathered rule, it has to be done within one year. Mr. English said currently there is some  
83 equipment stored in the garage for Controlled Forestry. J. Plourde said within the ordinance, Forestry is an ac-  
84 ceptable use. J. Plourde asked what the hours are and how many employees will be at the repair shop. Mr. English  
85 responded the hours will be M-F 8:00 am – 5:00 p.m. There will be no weekend hours and there will be two em-  
86 ployees, eventually there will be a third. It is anticipated there will be 4-5 vehicles per day but it depends on the  
87 scope of work. This is not a walk-in type business, the customers will be scheduled. J Plourde said no weekend  
88 hours is good since this is next to the Transfer Station. J. Plourde asked if a retaining wall will be needed? Mr.  
89 English responded that is not anticipated, but that will be discussed with the Planning Board and also the Building  
90 Inspector. J. Plourde asked where the firewood pallets will be located? Mr. English said they will be out front,  
91 with bundled firewood, much like a farm stand. The applicant wants to make this property more appealing to its  
92 customers. J. Plourde asked about the large piles of wood that are there now, will those be moved because that area  
93 will be for parking. The lower level will have parking, will there be enough room to have parking on the upper  
94 portion? J. Plourde asked if this will go to Planning Board? Lincoln Daley responded that it will.

95  
96 M. Thornton said the ZBA is allowed to consider the financial aspects that were presented. Because the grandfa-  
97 thered period for this property has expired, J. Plourde said this applicant is before the ZBA for that same use. W.  
98 Campbell and K. Lagro, had no comments. R. Costantino said there are commercial properties abutting this one,  
99 there is a residential lot right next door, the lots further down from this one are nice residential lots that you are  
100 able to see from North River Road. His major concern is to have this property not look “dumpy”. There are auto  
101 repair shops that store junk cars and that would not look good in this area. It has been presented that this commer-  
102 cial use will not be storing cars, they will just service cars for customers and not store cars. P. English said that is  
103 correct, it is not desired, the applicant wants the property to be more appealing. M. Thornton said we do not want  
104 to give the Transfer Station a bad name, but that is an abutter. P. English said this applicant wants to fix it up and  
105 make it nice. R. Costantino does not want to gamble on this, he wants to have something that says there will be no  
106 storage of cars for parts so that it can be enforced and point out what was approved. This is for car repairs but not  
107 storage of cars that do not work. J. Plourde agreed when they are done working on the car, will they not be al-  
108 lowed to park it outside? R. Costantino said it would need to be picked up and the point is there should not be cars  
109 there that do not run and just sit out there and rust. It is tolerable if once it is fixed it gets picked up, but the intent  
110 is not to store non-working cars there, which becomes a junkyard and does not look good in a residential area.

**MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-09  
CONTROLLED FORESTRY INVESTMENTS LLC - VIA ZOOM**

111 M. Thornton said we need to put in a qualifier that no car will be stored in excess of a number of days. There are  
112 times that the car may need to be kept there to be fixed, what would be an acceptable number of days? L. Daley  
113 said Rob is trying to create parameters for the site: 1) no long term storage; 2) determine if additional parameters  
114 should be put in place; 3) no sales of cars at this site. L. Daley said some repairs end up becoming a sales oppor-  
115 tunity if the repair bill is not paid. M. Thornton said part of having an auto repair shop is they can have a mechan-  
116 ic lien and then the mechanic owns the vehicle if the repair bills are not paid, would they not have a legal ability to  
117 sell such a car? L. Daley said the use impacting the general use of the property for one sale is one thing, but to  
118 become a car dealership is not allowed in a residential zone. M. Thornton believes that limit would be three cars  
119 in one year. P. English said the mechanic lien is the only reason there might be a car stored, but often that car  
120 would be stored inside so that the owner cannot take it back. That has happened to the applicant once in ten years.  
121

122  
123 P. English understands the concept of what Rob is asking for. The applicant does not rebuild cars, the business is  
124 to fix cars. The applicant does not want long term storage of cars. If the Board wants to have a condition on the  
125 applicant, he is not opposed to that, he agrees with it. J. Plourde asked if the cars would be brought to the lower lot  
126 once the repair is complete? P. English responded that is correct, because there will not be much parking on the  
127 top lot. This is not a high volume business. J. Plourde said it makes sense to bring the cars to the lower lot once  
128 repair is complete. W. Campbell, K. Lagro, J. Dargie had no further comments. M. Thornton would expect to see  
129 many different cars there. L. Daley asked about any discussions with abutters and what about a visual buffer be-  
130 tween this lot and the residential lot? P. English responded the current owner said the neighbors told him they are  
131 putting up a fence, they have talked to the current owner, Dave Parker, who has not talked to any other abutters.  
132 There are surveyor markings out there for the fence. L. Daley said the applicant is trying to keep the repair busi-  
133 ness close to the road and the wood cutting is on the back half of the lot, will the wood business continue? P. Eng-  
134 lish said that part of the lot is in the flood zone so things will not be put back there, there might be some pallets of  
135 wood for sale, but that is not a part of the property that the applicant will be using. M. Thornton asked if the log-  
136 ging operation will vacate this lot and the only thing that will remain is the firewood for sale? P. English said that  
137 is correct, the logging equipment will be removed, there will not be anything permanently out back there. L. Daley  
138 asked if the applicant and current owner have a defined area where the wood storage will be? P. English asked  
139 Dave Parker where the extra wood will be stored. Dave Parker responded the pallet of bundled firewood will be  
140 out front and there will be a paved area out on the back of the lot where the extra wood will be stored to dry. The  
141 farther out back on the lot you go, the wetter it gets.  
142

143 R. Costantino asked how much wood will be stored out back? P. English said there will be about ten cords that  
144 will be rotated up front as it is dry. L. Daley asked if there is any intent to do any vehicle painting? P. English  
145 responded there will be no painting or body work, this is just a mechanical repair business, the applicant just wants  
146 to expand his business. This is not a walk-in type business, it is by appointment only. W. Campbell, K. Lagro, J.  
147 Dargie and R. Costantino had no other comments, but Rob would like to have conditions on this case. J. Plourde  
148 said the applicant agrees to have conditions. L. Daley indicated the conditions should be tight so they are enforce-  
149 able, we could use a 30 day window for car storage, if it is a long term repair, like engine rebuild, the car is stored  
150 in the garage. L. Daley hopes this business is successful, asking if 4-5 customers per day is the max? P. English  
151 said 4-5 customers per day is the average. During the day, there might be employee cars parked and customer cars  
152 coming and going. Over time, L. Daley commented that existing auto repair shops seem to have an increase of  
153 cars parked on site. P. English said the parking spaces will be worked out at Site Plan review with the Planning  
154 Board and the maximum number of cars would be the maximum parking spaces. There will be one handicapped  
155 parking space in the top lot and 1-2 other parking spaces, and the lower lot number of spaces has yet to be deter-  
156 mined, but around 6-7.  
157

158 J. Dargie suggested that considering the hour, everyone should consider either ending this discussion now and ta-  
159 bling it for the vote, or have the vote and continue the next application to the next ZBA meeting. M. Thornton  
160 said the difficult questions have been addressed for this case and the conditions have been identified, he thinks it  
161 should be fairly quick to vote. J. Plourde said there is one case after this, can we dismiss that next applicant and  
162 continue them to the next ZBA meeting now? J. Dargie said that is a good idea.  
163

164 There was a brief pause on the discussion to dismiss the next applicant to the June 4 ZBA meeting. J. Plourde  
165 asked ZBA members if they want to continue with this case through the vote or continue it? R. Costantino moved  
166 to keep going, M. Thornton thinks the hard questions are done and we should keep going; K. Lagro agreed to keep

**MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-09  
CONTROLLED FORESTRY INVESTMENTS LLC - VIA ZOOM**

167 going to wrap it up tonight; W. Campbell wants to keep going. L. Daley indicated there were no e-mails received  
168 for this application. J. Plourde opened the meeting to the public for abutters first, and then general public. L. Da-  
169 ley said there were no people in the waiting room. There were no further questions for the applicant  
170

171 J. Plourde invited abutters and members of the public to ask questions by calling in and pressing \*9 if you wish to  
172 speak. There were no people waiting to speak. L. Daley confirmed there were no people waiting to speak. J.  
173 Plourde asked if there were any further questions from the Board then took a poll of members. W. Campbell no; R.  
174 Costantino no, M. Thornton no, K. Lagro no, J. Dargie no. J. Plourde asked for a motion. K. Lagro moved to  
175 close the public meeting. M. Thornton seconded. R. Costantino yes; M. Thornton yes; K. Lagro yes; J. Dargie yes;  
176 W. Campbell yes, J. Plourde yes.  
177

178 The ZBA deliberated the application.  
179

- 180 1) Would granting the variance not be contrary to the public interest? R. Costantino yes; K. Lagro yes;  
181 W. Campbell yes; M. Thornton yes; J. Plourde yes
- 182 2) Could the variance be granted without violating the spirit of the ordinance? M. Thornton yes, this is  
183 consistent with the town's ordinance; K. Lagro yes, this is within the spirit of the ordinance; R. Cos-  
184 tantino yes; W. Campbell yes; J. Plourde said yes he agrees this proposal satisfies the criteria of the  
185 spirit of the ordinance.
- 186 3) Would granting the variance do substantial justice? K. Lagro yes substantial justice will be done and  
187 there is no gain to the public by a denial; W. Campbell yes, M. Thornton with the conditions to be put  
188 on yes, R. Costantino, yes, J. Plourde said this was the use on this property five years ago, the appli-  
189 cant is bringing the use back and improving it.
- 190 4) Could the variance be granted without diminishing the value of abutting property? W. Campbell yes;  
191 M. Thornton yes; R. Costantino yes, K. Lagro yes the intent will not diminish the value of surround-  
192 ing properties; J. Plourde the residential neighbor putting up a fence will satisfy his concern for the  
193 neighboring lot.  
194

195 J. Dargie asked if the ZBA has proof that the abutting residential neighbor will put up a fence? J.  
196 Plourde said the ZBA has not been provided with that information; J. Dargie said if the abutter does  
197 not put up that fence as discussed, the ZBA has no leverage – we might want to have that as a condi-  
198 tion; W. Campbell yes, M. Thornton yes, noting that the fence is between the two owners, R. Costan-  
199 tino yes, K. Lagro yes. L. Daley indicated that he talked with the abutter, the two parties are working  
200 out what to put up between the two properties. J. Plourde said if the abutting land owner does not put  
201 up a fence, we should have the applicant put up a fence as a condition. L. Daley said the type of bar-  
202 rier should be defined between the two parties that own the properties. R. Costantino asked if the  
203 ZBA should have a condition for the fence? L. Daley said it should be part of the decision and will be  
204 part of the Planning Board discussion and decision. This is a commercial use in a residential zone.  
205 M. Thornton would like the negotiations between the two property owners to continue and the intent  
206 is to have a visual mitigation between the two properties. The two parties are working on that togeth-  
207 er. J. Plourde said there is some type of vegetation that separate the two properties. M. Thornton said  
208 the two properties should be divided to mark the property line.  
209

- 210 5) Would denial of the variance result in unnecessary hardship? R. Costantino noted that Joan was right,  
211 this took longer than anticipated. This application will not cause unnecessary hardship, there are dif-  
212 ferent elevations and the applicant is using the existing building. K. Lagro said the structure is being  
213 used, the only place where anything can be built is where the structure is; M. Thornton; the usable  
214 land is where the existing structure is, it would be impractical to make it into a residential structure;  
215 W. Campbell agreed; J. Dargie believe there are other residential things that could be there, it is the  
216 land that has the hardship, she can see other things located on the property; R. Costantino said the el-  
217 evation difference make is not practical, the existing building would need to be taken down and re-  
218 built. M. Thornton said if the lot were desirable, it might be practical, but he believes it is a hardship  
219 to change it from what it is now. M. Thornton sees that this repair facility would be a good fit. He  
220 sees a hardship with it going back to residential. J. Plourde said the grade difference from the front  
221 and the rear is a hardship, the rear lot is very wet. The lot is very limited, this use was already there  
222 but not in use for five years. They want to do a minor expansion. J. Plourde feels the intent of the

**MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-09  
CONTROLLED FORESTRY INVESTMENTS LLC - VIA ZOOM**

223 ordinance is to provide for low density land use that is sensitive to what is existing in the district.  
224 This use fits in with the rural character, there is not a lot of high turnover with lots of traffic being  
225 added and with the environmental constraints that will be followed for operations being conducted in  
226 the facility. This type of use takes care of the hardship.  
227

228 J. Dargie said the nonconforming use grace period is to limit the non-conforming uses, that is the rea-  
229 son why it is there. J. Plourde thanked Joan for bringing that up, these nonconforming uses stop and  
230 that is the opportunity to change the use. But is a single family home going to be built across the  
231 street from the Transfer Station? It would not be desirable. R. Costantino said Joan is right, seeing  
232 the scale of this business has changed his thinking, the lot could be a residence if it were flat, but it is  
233 not, it is a hardship and he is glad we can revisit this in this location, R. Costantino feels it is fine.  
234 He asked which criteria the conditions will go with? J. Plourde answered we will review the criteria  
235 and vote and after that we can talk about the conditions. Joan said in the past the ZBA has said the  
236 conditions should be talked about first because that could sway the decision. J. Plourde reviewed the  
237 conditions: 1) no more than 10 vehicles stored overnight 2) no long term storage; 3) no sales other  
238 than a mechanics lien; 4) buffer between this lot and the residential lot. M. Thornton thinks the  
239 Board should have the conditions identified before any vote. J. Plourde asked for the abutting proper-  
240 ty to be identified in the motion as 51 North River Road. R. Costantino moved to accept the following  
241 conditions: 1) no more than ten vehicles stored on the property; 2) no long term storage or parts stor-  
242 age outside of the facility for more than 3 days; 3) no vehicle sales other than for a mechanic's lien;  
243 4) an uninterrupted visual buffer be put between this property and the 51 North River Road residential  
244 property. K. Lagro seconded. R. Costantino yes; W. Campbell yes; M. Thornton yes; K. Lagro yes  
245 and J. Plourde yes.  
246

247 Voting on application:

- 248 1) K. Lagro yes; M. Thornton yes, W. Campbell yes, R. Costantino yes, J. Plourde yes.
- 249 2) R. Costantino yes; W. Campbell yes; K. Lagro yes; M. Thornton yes; J. Plourde yes.
- 250 3) W. Campbell yes; K. Lagro yes; R. Costantino yes, M. Thornton yes; J. Plourde yes.
- 251 4) M. Thornton yes; W. Campbell yes; R. Costantino yes; K. Lagro yes; J. Plourde yes.
- 252 5) R. Costantino yes; K. Lagro yes; R. Costantino yes; M. Thornton yes; J. Plourde yes.

253  
254 M. Thornton moved to approve with the conditions as follows: 1) no more than 10 vehicles stored  
255 overnight 2) no long term storage; 3) no sales other than a mechanics lien; 4) buffer between this lot  
256 and the residential lot. R. Costantino seconded. M. Thornton yes; R. Costantino yes; W. Campbell  
257 yes; K. Lagro yes; J. Plourde yes. The Zoning application has been approved, there is a 30 day appeal  
258 period to appeal the ZBA decision.  
259

260 M. Thornton moved to adjourn at 10:40 p.m. R. Costantino seconded. All were in favor. R. Costantino yes; M.  
261 Thornton yes; K. Lagro yes; W. Campbell yes, J. Plourde yes.  
262

263  
264 Motion to Approve: \_\_\_\_\_

265  
266 Seconded: \_\_\_\_\_

267  
268 Signed: \_\_\_\_\_

269  
270 Date: \_\_\_\_\_

**Town of Milford**  
**Zoning Board of Adjustment**  
**May 21, 2020**  
Case 2020-10  
Marmon Utility LLC  
Variance

- Present:** Jason Plourde, Chairman  
Rob Costantino, Vice Chair  
Wade Campbell  
Michael Thornton  
Karin Lagro (Alternate)  
Joan Dargie (Alternate)  
Paul Dargie, BOS Representative
- Lincoln Daley, Director of Community Development  
Darlene Bouffard, Recording Secretary
- Absent:** Tracy Steel

Chairman Plourde welcomed everyone and declared a State of Emergency as a result of the COVID-19 pandemic and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, the Board of Adjustment is authorized to meet electronically. This meeting is held in accordance with the applicable New Hampshire State statutes, Town of Milford ordinances, and the Zoning Board of Adjustment Rules of Procedure. He stated that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor’s Emergency Order. However, in accordance with the Emergency Order, he confirmed that the Board is:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;
- b) Providing public notice of the necessary information for accessing the meeting;
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access.
- d) Adjourning the meeting if the public is unable to access the meeting.

Let’s start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. Jason Plourde at Town Hall alone in the room; Rob Costantino at home alone; Wade Campbell at home alone, Karin Lagro at home alone, Mike Thornton at home alone, Joan Dargie at Town Hall in her office alone.

Let us begin by seating our alternates who will hear tonight’s cases. Jason Plourde asked that Karin Lagro-Alternate, be seated on the ZBA in the absence of Tracy Steel.

Case 2020-10

Marmon Utility LLC, 53 Old Wilton Road, Milford Tax Map 14, Lots 8 and 9 is seeking a VARIANCE from the Milford Zoning Ordinance, Article V, Section 5.06.6 to reduce the existing total lot area open space from the minimum required 30% to 27% for the purpose of constructing a 32,924 square foot concrete storage area within the Industrial “I” Zoning District.

**MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-10  
MARMON UTILITY LLC - VIA ZOOM**

55 With the hour getting late R. Costantino moved to continue this application to the June 4, 2020 ZBA meeting. M.  
56 Thornton seconded. R. Costantino yes, M. Thornton yes, K. Lagro yes, W. Campbell yes, J. Plourde yes.

57  
58 J. Plourde thanked the applicant's team and summarized that the ZBA wants to go through these applications as  
59 thoroughly as it can.

60  
61

62 Motion to Approve: \_\_\_\_\_

63

64 Seconded: \_\_\_\_\_

65

66 Signed: \_\_\_\_\_

67

68 Date: \_\_\_\_\_

**Town of Milford**  
**Zoning Board of Adjustment**  
**May 21, 2020**

Case 2020-08  
Milford Spartan Solar LLC / Not Too Dusty LLC  
Variance

**Present:** Jason Plourde, Chairman  
Rob Costantino, Vice Chair  
Wade Campbell  
Michael Thornton  
Karin Lagro (Alternate)  
Joan Dargie (Alternate)  
Paul Dargie, BOS Representative

Lincoln Daley, Director of Community Development  
Darlene Bouffard, Recording Secretary

**Absent:** Tracy Steel

Chairman Plourde welcomed everyone and declared a State of Emergency as a result of the COVID-19 pandemic and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, the Board of Adjustment is authorized to meet electronically. This meeting is held in accordance with the applicable New Hampshire State statutes, Town of Milford ordinances, and the Zoning Board of Adjustment Rules of Procedure. He stated that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor’s Emergency Order. However, in accordance with the Emergency Order, he confirmed that the Board is:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;
- b) Providing public notice of the necessary information for accessing the meeting;
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access.
- d) Adjourning the meeting if the public is unable to access the meeting.

Let’s start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. Jason Plourde at Town Hall alone in the room; Rob Costantino at home alone; Wade Campbell at home alone, Karin Lagro at home alone, Mike Thornton at home alone, Joan Dargie at Town Hall in her office alone.

Let us begin by seating our alternates who will hear tonight’s cases. Jason Plourde asked that Karin Lagro-Alternate, be seated on the ZBA in the absence of Tracy Steel.

Case 2020-08

Milford Spartan Solar, LLC / Not Too Dusty, LLC, Milford Tax Map 39, Lot 74, is seeking a VARIANCE from the Milford Zoning Ordinance, Article VII, Section 7.11.4 to permit a portion of the 16 Megawatt Utility scale solar collection system be constructed on a parcel located in the Residential “R” Zoning District.

Tom Hildreth, consultant, Dom LeBel, Ben Chamberlain and Andrew \_\_\_\_ were in attendance on Zoom. Tonight we will have an abbreviated version of the presentation done on May 19 at the joint ZBA and Planning Board meeting. D. LeBel explained that this is a 16 Megawatt solar farm on a mix of private and town land, this will be constructed on 83 acres (36 acres of town owned land and 46 acres of privately owned land). This solar farm will service 8800 people; these farms are being developed across New England, and we are looking for a service date in



**MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-08  
MILFORD SPARTAN SOLAR / NOT TOO DUSTY - VIA ZOOM**

55 2022. New infrastructure is not required for this project, rent will be paid to the town for all of the land but not all  
56 of the land will be used for this project.

57  
58 D. LeBel described the plan and the different sections of acreage for town and private land. There are some wet-  
59 land delineations being done that should be completed by the end of May. J. Plourde asked if any Board members  
60 have any questions? R. Costantino said at the Tuesday May 19 meeting, he mentioned there is a road that connects  
61 (Perry Road) to a gravel pit, will that remain open? D. LeBel understands the town wants to maintain the road  
62 access to the gravel pit, what it looks like will be determined when civil engineering work is completed, it is the  
63 intention that the access road will be continued. R. Costantino also pointed out the trails that are used and under-  
64 stood the solar panels will not be on the trails at all. R. Costantino asked how many panels are estimated for the  
65 project. Ben Chamberlain expects approximately 50,000 modules to be used. R. Costantino asked how far off the  
66 ground are the panels? B. Chamberlain responded the panels are about 3 feet off the ground. R. Costantino asked  
67 how many hours of sunshine are estimated for this project? D. LeBel responded we have done solar models for  
68 that data. B. Chamberlain did not have the exact number but we have run robust simulations for the area that  
69 shows us how much power can be generated. We are hoping to use bi-facial panels that will pick up reflective sun  
70 light off the ground.

71  
72 M. Thornton asked how does the snow get removed from the panels? D. LeBel responded the panels are tilted up-  
73 ward so the snow will slide off naturally but there are times that it will require snow removal at which time people  
74 will go out to do that. R. Costantino said asked about the several areas of panels that are connected to transmitters.  
75 D. LeBel said no transmission panels will be seen from the roadside. There will be some form of buried lines con-  
76 necting the panels. R. Costantino said 11 Megawatt panels are allowed, but you want to go with 16 Megawatt, why  
77 do you want that extra 5 Megawatts? D. LeBel said 16 Megawatts has been the plan for some time now due to the  
78 capacity and being sensitive to the area, we are seeking the variance because the private residence portion will put  
79 it above the 11 Megawatts, but this is a good site for a project of this scale. The closest home is 700' from the pan-  
80 els. There are no primary residences that are direct abutters.

81  
82 J. Plourde asked if there were questions from the Board. Wade, no questions; Karin no questions; Paul Dargie no  
83 questions; Mike Thornton no questions. Rob no questions. Tom Hildreth said there are unique features including  
84 the private lot, the Not Too Dusty parcel is on the edge of the zoning border. If the private parcel was not used, the  
85 use would be permitted by right. The spirit of the ordinance is being upheld, the town has been supportive, there  
86 will be substantial benefits to the public, this will not diminish the neighboring properties. The total acreage is 220  
87 including the private parcel, but the percentage to be used is 37.6%, the ordinance allows up to 70%.

88  
89 J. Plourde said the residential lot (total) is 101 acres and if it was subdivided into two lots, you could put in 50  
90 acres of solar on one of the lots. Tom Hildreth agreed that would be a large commercial solar farm requiring a  
91 Conditional Use Permit in the Residential zone. J. Plourde asked if the panels can be seen from Route 101? T.  
92 Hildreth said it is possible. T. Hildreth stated this ZBA hearing is the first step in the permitting process, if we get  
93 the variance tonight, we can then go to the Planning Board for a Conditional Use Permit (CUP). The standards for  
94 the CUP requires an analysis including a security fence. Ben Chamberlain said there is 150' of forested land be-  
95 tween the first panel and the highway, we will look at any possible visibility.

96  
97 L. Daley said this is a conceptual layout on the private property, this concept is subject to change, asking could  
98 there be changes required as it applies to the visibility impact to Route 101? D. LeBel said yes there is a slight  
99 possibility of panels being moved but they will still be 100-150' from Route 101 with very little visibility. J.  
100 Plourde said if there were changes to this plan, could there be other town land that could be utilized? D. LeBel  
101 said it will be the amount of acreage as presented tonight. There were no further questions from the Board.

102  
103 J. Plourde invited abutters and members of the public to ask questions by calling in and pressing \*9 if you wish to  
104 speak. There were no people waiting to speak. L. Daley confirmed there were no people waiting to speak. J.  
105 Plourde asked if there were any further questions from the Board then took a poll of members. W. Campbell no; R.  
106 Costantino no, M. Thornton no, K. Lagro no, J. Dargie no. J. Plourde asked for a motion. R. Costantino moved to  
107 close the public meeting. M. Thornton seconded. R. Costantino yes; M. Thornton yes; K. Lagro yes; J. Dargie yes;  
108 W. Campbell yes.

109  
110 The ZBA deliberated the application.

MINUTES OF THE ZBA MEETING MAY 21, 2020 VARIANCE CASE #2020-08  
MILFORD SPARTAN SOLAR / NOT TOO DUSTY - VIA ZOOM

111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161

- 1) Would granting the variance not be contrary to the public interest? R. Costantino yes; K. Lagro yes; W. Campbell yes; M. Thornton yes; J. Dargie yes
- 2) Could the variance be granted without violating the spirit of the ordinance? M. Thornton yes; K. Lagro yes; R. Costantino yes; W. Campbell yes; J. Dargie yes
- 3) Would granting the variance do substantial justice? K. Lagro yes; W. Campbell yes, M. Thornton yes, R. Costantino, yes, J. Dargie yes
- 4) Could the variance be granted without diminishing the value of abutting property? M. Thornton yes; R. Costantino yes, K. Lagro yes, W. Campbell yes, J. Dargie yes
- 5) Would denial of the variance result in unnecessary hardship? W. Campbell yes, M. Thornton yes, R. Costantino yes, K. Lagro yes, J. Dargie yes

R. Costantino said this is still in violation of the ordinance, no matter what is done to the land it cannot go above five megawatts. J. Dargie interprets the ordinance differently than Rob. M. Thornton agrees with Rob. He is not sure of how the hardship should be interpreted. J. Dargie said that is one of the hardships, it were reallocated it would be allowed. It is the way the ordinance is enforced. M. Thornton said he finds a quandry in the way the courts handle these types of situations. M. Thornton feels this goes against what the State teaches ZBAs. M. Thornton does not believe this is a characteristic of the land, what is the hardship? How does that apply to this instance?

K. Lagro looked at the State interpretation of the questions and it seems that it is a hardship of the land in which case the variance can be applied. M. Thornton disagreed and said if it was a use that complied with the regulations he does not think we can make an argument and is trying to apply the question to apartment buildings. J. Plourde reminded everyone that solar systems are allowed and this variance is because they are asking for more wattage than what is in the ordinance. If this property was subdivided this would not even be in front of the ZBA because it would meet the ordinance but because it is not subdivided it does not meet the hardship.

R. Costantino asked if this should be tabled and the ZBA could talk with the Planning Board to get it re-zoned or maybe Tom Lorden would want to subdivide his land to solve this or we could vote and see where it lands? M. Thornton agrees with Rob, he would like to table this request and get interpretation from the Town Attorney and then come back to the ZBA. J. Plourde checked in the 2019 zoning handbook for unnecessary hardship. M. Thornton feels that Attorney Drescher should be consulted before going to a vote. All members agreed. The application was continued to the June 4 or 18 meeting. J. Plourde asked L. Daley when he feels an answer can be gotten from the town attorney? L. Daley said to continue to June 18. M. Thornton moved to continue this discussion to June 18 after seeking advice from the Town Attorney to find what is the definition of hardship pursuant to the application 2020-08. R. Costantino seconded. The Board was polled: R. Costantino yes; J. Plourde yes; M. Thornton yes; K. Lagro yes; J. Dargie yes.

J. Plourde thanked the applicant's team and summarized that the ZBA wants to go through these applications as thoroughly as it can. Dom LeBel thanked the ZBA for their time.

J. Pourde moved to the next application.

Motion to Approve: \_\_\_\_\_

Seconded: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_