

Zoning Board of Appeals Meeting of October 30, 2024**Application No. ZBA 2024-011**

Applicant: Michael Miller

Location: 11380 Main Street

Requested Action: Variance to Section 15-555 of the municipal code

Existing Use: Single-Family Residential

Proposed Use: Single-Family Residential

Existing Zoning: R-1

Adjacent Zoning: North: R-1/CH (contiguous)
East: CG (across Main Street)
South: R-1 (contiguous)
West: P (across Highway 251)

Report: The applicant is requesting a variance to Section 15-555 – *Private solar energy collection systems.*, more specifically, subsection (2) – *Ground-mounted systems.* The applicant originally applied for a zoning permit for the installation of a ground-mount solar system at 11380 Main Street. The parcel is 3.72 acres in size and is zoned One Family Residential (R-1). Buildings and structures on the property are reasonably secluded from public view and the proposed ground-mount system would be well-screened from Main Street through existing vegetation.

The proposed ground-mount system is 501 square feet in area. According to the plans sent over by the applicant on August 8, 2024, the proposed height of the system is 15 feet. The applicant asserts that the height is necessary to capture the solar energy needed to make the system a net-positive investment for his property.

Subsection (2) – *Ground-mounted systems*, includes the following standards:

- a. *Location*. Ground-mounted systems shall not be located within any required setback and shall not be located within the front or corner side yard.
- b. *Fencing*. Any yard containing a ground-mounted solar energy production system shall provide a fence along adjacent properties. The fence shall comply with Article VII of this chapter.
- c. *Maximum height*. The maximum height of a ground-mounted solar energy production system, including any structural elements or energy producing elements, shall not exceed a height that is one foot less than the height of the fence provided in accordance with subsection (2)(b) of this section.

The applicant is requesting a variance to standard (b) of this subsection to allow for the installation of this ground-mount system without the inclusion of a fence as required in the standard. Subsequently, if there is no fence to base standard (c) off of, there is also no height maximum for this system, which would make the applicant's proposed system compliant with the zoning code. The justification for this variance is that the applicant's lot is considerably larger and more secluded than typical residential lots in the Village and that fencing to conceal the system is not necessary.

Section 15-781 – *VariANCES* details the process and guidelines for the Village when considering and approving variances. Standard (e) in the section describes *findings of fact* when considering the validity of a variance request. It states that, for the Zoning Board of Appeals to make an affirmative decision on any proposed variation, it must find all of the following facts are true:

- a. Because of the particular surroundings, shape, or topographical conditions of a specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;

- b. The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable, generally, to other property within the same zoning district;
- c. The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property;
- d. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity in which the property is located; and
- e. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets or increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the vicinity.

Staff does not believe that the variance requested by the applicant meets standard (a) above in the findings of fact. When variances are typically granted, it is because a property is restrictive in some way (irregular lot shape, nonconforming lot size, etc.). In this case, the applicant is requesting a variance due to their property being more expansive and *permissive*. Variances are intended to provide relief in more extenuating circumstances rather than justifying further deviations from a zoning code. Setting a precedent where property owners can request a variance to zoning district standards based on their properties *exceeding those standards* (large lot size, large existing setbacks, etc.) could be potentially risky. A better solution to this issue would be to amend the current code surrounding ground-mount solar energy collection systems to be more flexible.

Recommendation: Staff recommends denial of the variance application for a ground-mount solar energy collection system at 11380 Main Street.