



City of Rochester, New Hampshire

Zoning Board of Adjustment

Variance Application

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2-23-10

DATE FILED 3/15/23

C91
ZONING BOARD CLERK

Applicant:

GNM Solar 17, LLC

E-mail: C/O Francis X. Bruton, Esq. fx@brutonlaw.com

Phone: 603-749-4529

Applicant Address: 60 Shaw Drive, Rochester, NH 03868

Property Owner (if different): GNM Solar 17, LLC

Property Owner Address: 60 Shaw Drive, Rochester, NH 03868

Variance Address: 60 Shaw Drive, Rochester, NH 03868

Map Lot and Block No: 0240/ 0049/ 0000

Description of Property: Please see attached.

Proposed use or existing use affected: To add an additional ten (10) solar trackers.

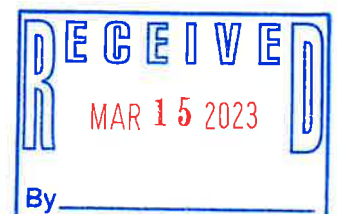
The undersigned hereby requests a variance to the terms of the Rochester Zoning Ordinance, Ch. 275, Section Table 18-D

and asks that said terms be waived to permit Power Generation Utility in the Agricultural District

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance. **I understand that while presenting my case the testimony should be confined to the 5 criteria and how they pertain to my case.**

Signed: _____

Date: _____





City of Rochester, New Hampshire

Zoning Board of Adjustment

Variance Criteria

1) Granting the variance would not be contrary to the public interest because:

Please see attached.

2) If the variance were granted, the spirit of the ordinance would be observed because:

Please see attached.

3) Granting the variance would do substantial justice because:

Please see attached.

4.) If the variance were granted, the values of the surrounding properties would not be diminished because:

Please see attached.

5.) Unnecessary Hardship:

a. Owing to special **conditions of the property that distinguish it from other properties in the area**, denial of the variance would result in an unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

Please see attached.

And:

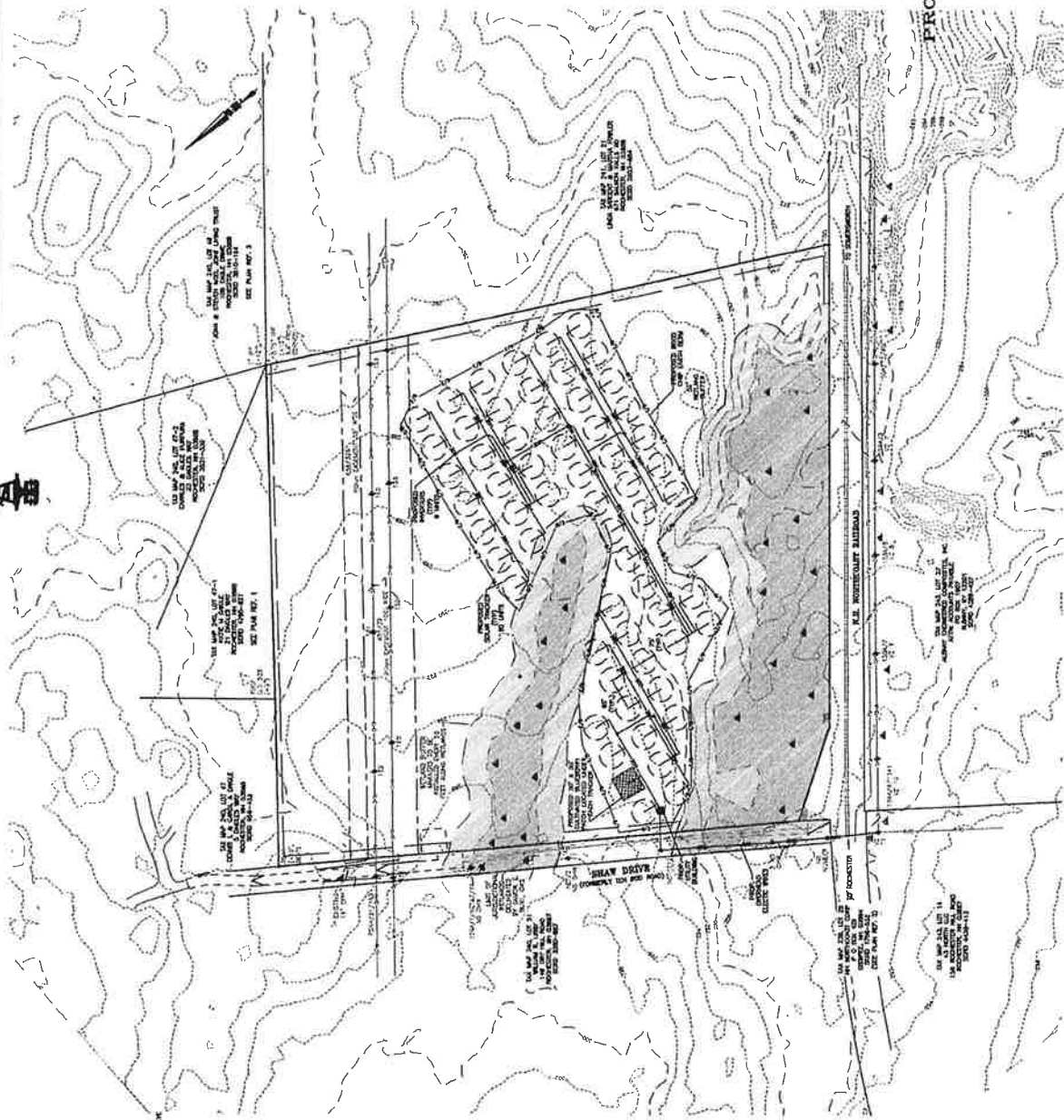
ii. The proposed use is a reasonable one because:

Please see attached.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it.

Please see attached.

CIVIL ENGINEERS

[illegible][illegible]

DRAFT

TAX MAP 240, LOT 48
OWNER OF RECORD:
GNM SOLAR 17, LLC
129 WASHINGTON STREET
ROCHESTER N.H. 03867
SCRD BOOK 434d, PAGE 485

ROUSED AGRIVOLTAICS FIELD
TAX MAP 240, LOT 49
SHAW DRIVE
ROCHESTER NH
PREPARED FOR:
GNGH SOLAR 17, LLC

APRIL 2022
GRAPHIC SCALE

(IN REPLY)
ENC - 100 ST.

INCHES - 100 FT.

1 INCH = 100 FT.

NORWAY PLAINS ASSOCIATES, INC.

31 Mooney Street, Allen, N.H. 603-875-3948

PTLR NO. 104
PLAN NO. C-5235
DATE NO. 21059 SP-1

II. NARRATIVE

The Applicant seeks to operate a sustainable blueberry farm, powered by sunlight, on the Property. To this end, the Applicant proposes installation of fifty solar panels collecting 1-megawatt of alternative current to power multiple farm-uses on the Property, with excess electricity delivered to the nearby energy grid under the State of New Hampshire's net metering rules.⁴ In addition to solar power production, the solar panels are proposed as a method to create a shaded micro climate for the Property's blueberry farm. This micro climate increases solar power production by up to 3-percent, and results in reduced water consumption and carbon emissions at the Property.

The Property is uniquely suited to sustainable farming practices because it 1) is located on a Class VI Road, 2) is wooded and screened, 3) abuts residential and industrial, and commercial uses, 4) includes a high voltage electricity corridor, and 5) is encumbered by a utility easement for the same.

III. LEGAL ANALYSIS

The project substantially complies with the Ordinance, the Application, and the 5-variance criteria as set forth in NH RSA 674:33.

The variance criteria are enumerated and *italicized* below with the Applicant's responses following in plain text.

A. The variance will not be contrary to the public interest.

The Applicant respectfully asserts the proposed use, i.e., solar panels located in the Agricultural District, represent a reasonable use of the Property, and that the public interest is served by permitting the orderly development of property in a locus specifically zoned for agriculture.⁵ Here, the solar panels produce energy while creating a shaded micro climate for the Property's primary use as a blueberry farm. This micro climate results in reduced water consumption and increased power production throughout the Property, and the proposed use does not 1) alter the essential character of the surrounding neighborhood, 2) impact abutters, and/or 3) affect the public.

B. The spirit of the ordinance is observed.

The spirit of the ordinance is observed because the Project represents a reasonable use of property when balanced with the location, zone, and historic use of the Property. Allowing the solar panels that work to increase farm production—an agricultural use—encourages the most appropriate use of land in Rochester's Agricultural District when juxtaposed with the zone's intent "...to promote expansion of agricultural activity."⁶

⁴ See *Id.*

⁵ Ordinance § 275-5.4(4), 275:52.

⁶ *Id.*

C. Substantial justice is done.

Substantial justice is done by granting this variance because it allows the Applicant's property to be reasonably utilized in light of abutting property uses (i.e., agricultural uses) and its locus in the Agricultural District (a district established "...to promote expansion of agricultural activity").⁷ This proposal does not burden the public in any way, and substantially benefits the Applicant by allowing him to reasonably use his property with no detrimental effect to surrounding property.

D. The values of surrounding properties are not diminished.

The Applicant respectfully asserts that all surrounding properties have an associated value that is premised upon the existence of structures and features similar to those proposed on his Property, and that the proposed improvements likely increase comparable neighboring property values. Here, the Project will not affect any abutting neighbor and is consistent with other uses in the near vicinity and promoted in the existing district.

E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

- 1) *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.*

Rochester's Agricultural District was specifically created to allow agricultural uses.⁸ The proposed solar panels work to create energy while substantially increasing farm productivity—an agricultural use. Additionally, the Property is adjacent to Rochester's General Industrial District where surplus energy is offloaded into the immediate power grid. This immediate proximity makes the Property uniquely suitable for installation of solar panels. Additionally, abutting property currently hosts 2-kVA transformers suitable for off-loading surplus energy produced by the solar panels.

Accordingly, there is no fair and substantial relationship between the general public purpose of the Ordinance's provision—prohibiting solar panels on the Property—and the specific application of this provision to the Property because the use specifically promotes agriculture, and the Property abuts the Industrial District where surplus power may be easily off-loaded.

- 2) *The proposed use is a reasonable one.*

The Agricultural Zone was created "...to promote expansion of agricultural activity." The solar panels serve the dual purpose of sustainably powering the Property's farm operation while providing a micro climate designed to increase

⁷ *Id.*

⁸ *Id.*

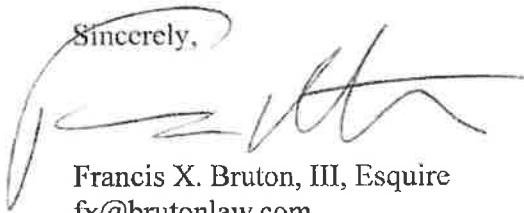
crop production and decrease water consumption. These symbiotic uses “preserve existing farms, promote expansion of agricultural activity,”⁹ and are reasonable given the Property’s proximity to the Industrial District where surplus power is off-loaded.

IV. RELIEF REQUESTED

Pursuant to NH RSA 674:33, the Applicant respectfully requests the ZBA:

1. Approve the Application; and
2. Grant any and all relief necessary to affect the aforementioned request.

Sincerely,



Francis X. Bruton, III, Esquire
fx@brutonlaw.com

FXB/mas
Enclosures

cc: GNM Solar 17, LLC

⁹ *Id.*

ZONING

275 Attachment 4

City of Rochester

Table 18-D Industrial-Storage-Transport-Utility Uses
[Amended 5-7-2019; 8-2-2022]

LEGEND

P = Permitted Use
C = Conditional Use
E = Use Allowed by Special Exception

Industrial-Storage-Transport-Utility-Uses	Residential Districts					Commercial Districts					Industrial Districts		Special			Criteria/Conditions Reference
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	R1	HS	AS				
Airport	—	—	—	E	—	—	—	—	—	—	—	P	Article 21			
Commercial parking facility	—	—	—	—	C	—	—	—	—	—	—	—	Articles 20 and 22			
Contractor's storage yard	—	—	—	E	—	—	—	E	P	P	—	—				
Distribution center	—	—	—	—	—	—	P	C	P	—	—	—	Article 21			
Electric vehicle charging station	P ¹	P ¹	C	P ¹	P	P	P	P	P	P	P	P	Article 20			
Emergency services facility	—	—	—	—	C	C	—	C	C	—	P	—	Article 21			
Fuel storage	—	—	—	—	—	—	P	E	E	—	—	—	Article 21			
Helipad (accessory use)	—	—	—	E	—	E	P	E	P	P	P	P	Article 21			
Industry, heavy	—	—	—	—	C	—	P	E	P	E	—	—	Article 21			
Industry, light	—	—	—	—	—	—	P	P	P	—	—	—	Article 21			
Industry, recycling	—	—	—	—	—	—	—	—	—	P	—	—	Articles 20 and 22			
Junkyard	—	—	—	—	—	—	—	E	E	P	—	—	Articles 20 and 22			
Laundry establishment-3	—	—	—	—	—	—	—	P	P	—	—	—	Articles 20 and 21			
Mini-warehouse	—	—	—	—	—	—	P	C	P	—	—	—				
Monument production	—	—	C	—	—	C	—	P	P	P	—	—	Article 21			
Parking lot	—	C	C	C	C	C	—	P	C	P	C	P	Article 21			
Printing facility	—	—	C	—	—	P	P	P	P	—	—	—				
Public parking facility	—	—	—	—	P	—	—	—	—	—	—	—				
Recycling facility	—	—	—	—	—	—	—	E	E	P	—	—	Articles 20 and 22			
Research and development	—	—	—	—	E	P	P	P	P	—	—	—	Article 21			
Sawmill	—	—	—	—	—	—	—	—	E	—	—	—	Article 21			

ROCHESTER CODE

Industrial-Storage-Transport-Utility-Uses	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions Reference
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	
Sawmill, temporary (accessory use)	—	—	—	P	—	P	—	P	P	P	—	P	Article 23
Solid waste facility	—	—	—	—	—	—	—	—	—	P	—	—	Articles 20 and 22
Tank farm	—	—	—	—	—	—	P	C	P	—	—	—	
Trade shop	—	—	C	—	C	C	P	P	P	P	—	—	Article 21
Transportation service	—	—	C	—	C	—	P	P	C	C	—	—	Article 21
Truck terminal	—	—	—	—	—	—	P	—	C	C	—	—	Article 21
Utility - substation	E	E	E	E	E	C	E	P	P	P	E	E	Article 21
Utility - power generation	—	—	—	—	E	—	E	—	E	E	—	—	Article 21
Warehouse	—	—	C	—	C	C	P	P	P	C	—	C	Articles 20, 21 and 23
Wireless communications facility	—	—	—	E	E	E	P	E	P	P	E	E	Articles 20 and 22

NOTES:

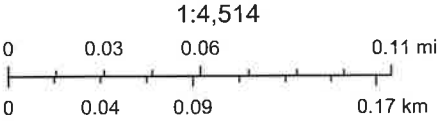
- 1 Permitted as an accessory use only for personal use.

60 Shaw Drive



3/20/2023, 9:19:11 AM

 Tax Parcels



Esri, HERE, Garmin, INCREMENT P, NGA, USGS, Esri Community Maps Contributors, Rochester GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Property Location 60 SHAW DR
Vision ID 8836

Parcel ID 0240/ 0049/ 0000/ 1

Card # 1 of 1 Account # 8836
Sec # 1 of 1 Bldg # 1

Land Use 6710
Print Date 3/5/2023 5:35:21 PM

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)								
Element	Cd	Description	Element	Cd	Description							
Style			Solar									
Grade			Central Vac									
Stories			Nbhd Modifier									
Units			MH Make									
Frame			MH Serial #									
Foundation			Color:Mdl #;D									
Exterior Wall 1												
Roof Structure												
Roof Cover												
View			CONDO DATA									
Interior Wall 1			Condo Main		Complex #							
Interior Floor 1			Adjust Type	Code	Building #							
Basement Flo			Condo Floor		Section #							
Bsmt Garage			Condo Location		% Owner							
Finished Bsmt			COST/MARKET VALUATION									
FBLA			Building Value New		0							
Rec Room			Year Built									
Electric			Depreciation Code									
Insulation			Remodel Rating									
Interior/Exterio			Year Remodeled									
% Heated			Depreciation %									
Heat Fuel			Functional Obsol									
Heat Type			Economic Obsol									
AC Percent			Trend Factor		1.000							
Bedrooms			Special Adj									
Full Bath(s)			Condition %									
3/4 Bath(s)			Percent Good		0							
Half Bath(s)			RCNLD									
Extra Fixture(s)			Dep % Ovr									
Kitchen(s)			Dep Ovr Comment									
Extra Kitchen			Misc Imp Ovr									
Total Rooms			Misc Imp Ovr Comment									
Fireplace(s)			Cost to Cure Ovr									
W.S.Floors			Cost to Cure Ovr Comment									
OB - OUTBUILDING & YARD ITEMS(D) / XF - BUILDING EXTRA FEATURES(B)												
Code	Description	L/B	Qty	Dim 1	Dim 2	Grade	Condition	Yr Bt	% Gd	Unit Price	Grade Adj.	Appr. Value
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description	Living Area	Floor Area	Eft Area	Unit Cost	Undepreciated Value						
Ttl Gross Liv/ Lease Area 0 0 0 0 0												

No Sketch

**GNM SOLAR 17, LLC
123 WASHINGTON STREET
ROCHESTER, NH 03867**

March 15, 2023

City of Rochester
31 Wakefield Street
Rochester, NH 03867

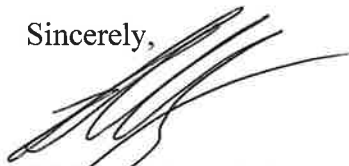
Re: Application for Variance
Applicant: GNM Solar 17, LLC c/o Bruton & Berube, PLLC
Owner: GNM Solar 17, LLC c/o Bruton & Berube, PLLC
Property: 60 Shaw Drive, Rochester, NH 03868
MBLU: 0240/ 0049/ 0000
Zone: Agricultural District ("AG")

To Whom it May Concern:

Please accept this correspondence as written authorization for Francis X. Bruton, or any other representative from the law firm of Bruton & Berube, PLLC of Dover, New Hampshire to act on our behalf with respect to the proposed project within the City of Rochester. This representation shall include, but not be limited to, discussions with Town officials, meetings before any regulatory boards, telephone conferences, signing of any applications, and any and all other actions reasonably necessary to move the above-referenced project forward.

Should there be any questions regarding this authorization, please feel free to contact me.

Sincerely,



W. Paack Campbell
Its duly authorized Member

FRANCIS X. BRUTON, III
CATHERINE A. BERUBE
JOSHUA P. LANZETTA

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC

ATTORNEYS AT LAW

601 Central Avenue
Dover, NH 03820

TEL (603) 749-4529
(603) 743-6300
FAX (603) 343-2986

www.brutonlaw.com

HAND DELIVERED

March 15, 2023

Robert Gates, Chair
Zoning Board of Adjustment
City of Rochester, New Hampshire
31 Wakefield Road
Rochester, NH 03867

Re: Application for Variance
Applicant: GNM Solar 17, LLC c/o Bruton & Berube, PLLC
Owner: GNM Solar 17, LLC c/o Bruton & Berube, PLLC
Property: 60 Shaw Drive, Rochester, NH 03868
MBLU: 0240/ 0049/ 0000
Zone: Agricultural District ("AG")

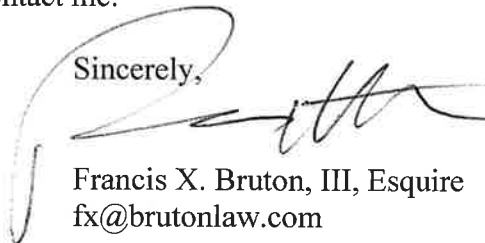
Dear Chairman Gates:

Enclosed please find ten (10) copies of an Application for Variance along with the associated filing fee.

This application requests 10 additional solar trackers for the property. The property has already been granted a variance for the use of solar trackers (Case# 240-49-A-22). The City has taken a position that the approval of September 14, 2022, was only for 50 trackers, not the 60 presented on the plans by the Applicant (See amended Notice of Decision of the Planning Board, dated November 23, 2022, the e-mail from Director Saunders dated September 1, 2022, and the letter from Director Saunders, dated November 28, 2022). Although the Applicant believes the approval was for 60 trackers, to address the concerns of the City, the Applicant herein submits this new application for the additional 10 trackers.

We understand that this matter will be placed on the agenda of the Zoning Board of Adjustment for its meeting of April 12, 2023. Should there be any questions regarding the enclosed application, please do not hesitate to contact me.

Sincerely,



Francis X. Bruton, III, Esquire
fx@brutonlaw.com

FXB/mas
Enclosure

cc: GNM Solar 17, LLC

Subject **FW: ZBA and PB Decisions for 60 Shaw Dr**
From Packy Campbell <packyc@rsarealty.com>
To jim@jimshannonlaw.com <jim@jimshannonlaw.com>
Date 2023-03-09 1:16 pm



- 240-49-A-22 - NOD - GHM Solar 17 - 60 Shaw Dr AMENDED.pdf(~4.0 MB)
- Letter re PB approval matching ZBA approval.pdf(~593 KB)

From: Shanna Saunders <shanna.saunders@rochesternh.gov>
Sent: Thursday, December 1, 2022 11:08 AM
To: Packy Campbell <packyc@rsarealty.com>; Scott Lawler (slawler@norwayplains.com) <slawler@norwayplains.com>
Cc: Terence O'Rourke <terence.orourke@rochesternh.gov>
Subject: ZBA and PB Decisions for 60 Shaw Dr

Packy and Scott –

I wanted to let you know that based on a concern from the ZBA Chairman, and in consultation with the City's Legal Counsel we are issuing you this letter and amended Notice of Decision limiting the approval of Planning Board to 50 trackers for 60 Shaw Dr. The ZBA's variance for use of Power Generation Utility in the Ag zone was based on an application submittal of 50 trackers. The Planning Board erred in approving 60.

Should you have any questions, please feel free to reach out.

Shanna

Shanna B. Saunders
Planning Director

City of Rochester
City Hall Annex, 33 Wakefield Street
Rochester, NH 03867

Email: Shanna.Saunders@rochesternh.gov
Phone: (603) 335-1338



"Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has." Margaret Mead

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PLANNING & DEVELOPMENT DEPARTMENT

**City Hall Annex
33 Wakefield Street,
Rochester, New Hampshire 03867-1917
(603) 335-1338 - Fax (603) 330-0023
Web Site: www.rochesternh.net**

Planning Board
Conservation Commission
Historic District Commission
Arts and Culture Commission

November 28, 2022

GHM Solar 17, LLC
Packy Campbell
123 Washington Street
Rochester, NH 03867

RE: PB Approval of 60 Shaw Drive: Site Plan to install 60 solar trackers with blueberry bushes
Case# 240 – 49 – A – 22

Dear Mr. Campbell

This letter is to inform you that the Planning Board overstepped its jurisdiction by approving a site plan with 60 solar trackers. The ZBA, at its September 14th rehearing of the variance for Power Utility Generation use of the property at 60 Shaw Drive, heard testimony that the proposal included 50 trackers. This is reflected in the rehearing request that was submitted and went out in ZBA member packets. The ZBA approved the variance based on this submittal and representation.

For that reason, the PB final plan – to be submitted – must reflect the fact that 50 trackers were approved.

Should you want to amend the plan to include 60 trackers, you must first return to the ZBA to have them extend the use approval to 60 trackers and then return to the Planning Board to update the site plan to include 60 trackers.

Sincerely,


Shanna B. Saunders
Director, Planning and Development

cc: File



PLANNING & DEVELOPMENT DEPARTMENT

City Hall Annex
33 Wakefield Street
Rochester, New Hampshire 03867-1917
(603) 335-1338 - Fax (603) 330-0023
Web Site: www.rochesternh.gov

Planning Board
Zoning Board
Conservation Commission
Historic District Commission
Arts & Culture Commission

AMENDED NOTICE OF DECISION (see 11-28-22 Letter)

November 23, 2022

GHM Solar 17, LLC
Packy Campbell
123 Washington Street
Rochester, NH 03867

Re: Site Plan to install 60 50 solar trackers with blueberry bushes Case# 240 – 49 – A – 22

Dear Applicant:

This is to inform you that the Rochester Planning Board at its November 7, 2022 meeting **APPROVED** your application as referenced above.

"Applicant", herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors, and assigns.

Precedent Conditions [Office use only. Date certified: _____; Plan recorded? _____;]

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Planning Department. Certification of the plans is required prior to issuance of a building permit or recording of any plans. Once these precedent conditions are met and the plans are certified the approval is considered final.

Please note* If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval – by May 7, 2023 - the board's approval will be considered to have lapsed and resubmission of the application will be required. It is the sole responsibility of the applicant (or his/her agent) to ensure that these conditions are met by this deadline. We urge the applicant to carefully track his/her progress in meeting the individual conditions. See RSA 674:39 on vesting.

- 1) A Conditional Use Permit is required to be approved by the Conservation Commission. The Site Plan must address any concerns or comments associated with a Conditional Use Permit decision; significant plan modifications may require additional Planning Board approval.
- 2) Plan modifications. The plan drawings are to be modified as follows:
 - a. Please make any plan changes as required by the Conservation Commission including any modifications to the wetlands buffer restoration plan.
 - b. Please depict on the plan where the underground electric will be located going under the railroad tracks and tying into the existing large electrical infrastructure on Airport Drive.
- 3) Plan notes. Add the following notes (or equivalent) to the plan drawings:
 - a. Please update any notes as required by the Conservation Commission.
- 4) Copies of draft easements to be submitted to the City for review and approval.
- 5) State plane coordinates. The plans are to be tied into the State Plane Coordinate System.
- 6) Current Use. The subject property or a portion of it is presently in Current Use. This parcel has 27.00 acres of land all in Current Use and will be issued a Land Use Change Tax for all acreage disturbed. The applicant must provide to the City of Rochester Assessing Department a revised current use map and/or any other items needed to assure that the requirements of RSA 79-A and the New Hampshire Department of Revenue's Administrative Rules are satisfied. We encourage you to contact the Assessing Department at 332-5109 as soon as possible to discuss with them the financial ramifications of converting current use land. It will facilitate the process for you if you contact the department well in advance of commencing the project.
- 7) This parcel is within the "Aviation Overlay District, (AOD)" in the Zoning Ordinance. In order to confirm the proposal meets the technical specifications of the AOD please submit a letter to the Pease Development Authority (PDA) asking them to review the proposal. Please submit a copy of this letter to the Planning Department, or follow up with the Planning Department if there are any issues with the proposal or plan. If the City does not hear from the PDA within 2 weeks of this letter being submitted to them the City will consider the specifications of the AOD to have been met to the satisfaction of the PDA. The City may grant an extension to this 2-week time frame if requested by the PDA.
- 1) Inspections. In accordance with RSA 676:4-b the applicant must sign the Construction Inspection Services Agreement and make a cash deposit to cover the expected costs of inspections, in an amount that is determined by the Public Works Department. The amount in the fund is an estimate and additional funds may be required depending upon complexity and quality of work. The inspections will be conducted by the City of Rochester Public Works Department or its designee, such as a 3rd party inspection firm. The applicant must pay for inspections – at an hourly rate as determined by the Public Works Department, or based upon 3rd party inspection firm hourly rates – of the site, including all new infrastructure serving the site.
- 6) Pre-Construction meeting. A preconstruction meeting is required prior to the start of work. Please contact the Department of Planning and Development to schedule this no more than 2 week prior to breaking ground; The pre-construction meeting agreement is to be signed by the property owner prior to signing of final plans.
- 7) Other permits. All required Municipal, State and Federal permits must be obtained – including any Driveway/Curb Cut permit, Excavation Permit, Chapter 218 Stormwater Permit, NHDES AOT Stormwater Permit, NHDES Wetlands Permits, Cross Connection Control Permit, etc., as appropriate – with copies of permits or confirmation of approvals delivered to the Planning Department.

- 8) Drainage maintenance. If applicable, a drainage maintenance agreement approved by Public Works must be executed and recorded with this Notice of Decision at the time certified plans are recorded. In order to comply with the Stormwater Management IOP Manual, DPW staff shall be allowed periodic access to the parking areas for inspections related to the annual stormwater infrastructure report compiled for the City Engineer.
- 9) Requirements of RSA 674:41 I(c) with respect to developing property abutting a Class VI road are to be followed. Please submit a draft notice for the limits of municipal responsibility of the Class VI Road for the proposed project area as per (RSA 674:41, I(c)1), prior to final plan submittal. Note that City Council will need to authorize the allowance of building permits on a Class VI Road (RSA 674:41, I(c)3). The application will be requested to be on the Council agenda for December 6th.
- 10) Final Drawings. (a) four sets of large black-line plus (b) one set of 11" x 17" final approved site plan drawings plus (c) one electronic version by pdf or flash drive must be on file with the City. *Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the site plans.* (The applicant need only submit additional black-line sets of drawings or individual sheets, as needed, to make five complete sets – consult the Planning Department). At the discretion of the Planning Department minor changes to drawings (as required in the precedent conditions, above) may be marked by hand. Note: If there are significant changes to made to the plans, as specified above, one full size paper check print must be sent to the Planning Department for review prior to producing these final drawings. Once the plan is recorded at the Registry of Deeds, submit two 11x17 recorded copies of the plan. Assessing will need an 11x17 recorded copy of the plan.
- 11) Recording. The plat, this notice of decision (per RSA 676:3 III), and deed (a deed is required if the lots are owned by two separate parties or if one lot is sold prior to recording of this plat) must be recorded together at the Strafford County Registry of Deeds within six calendar months to the date the plat is certified (e.g. if certified September 9th they must be recorded by March 9th). See RSA 478:1-a regarding plat requirements. Failure to comply with this requirement herein shall render the lot line adjustment null and void.

General and Subsequent Conditions

All of the conditions below are attached to this approval.

1. Construction Cost estimate for this project shall be submitted for review and approval. Estimate shall be based on the Department of Public Works Construction Surety Schedule and shall include a 10% Contingency. Costs for items not specifically addressed in the Surety Schedule will be based on 1) City standards, 2) NHDOT weighted averages, 3) industry standards, or 4) contractor estimates.
2. Performance Guarantee. If applicable, prior to issuance of a building permit or beginning site work, the applicant shall provide site improvement and restoration security. The performance guarantee shall be an amount equal to 10% of the approved Construction Cost Estimate (including a 10% contingency) to ensure the proper and timely completion of site work and site restoration within the development. Before the subdivision/site plan can be recorded, lots deeded to third parties, or structures occupied the applicant shall provide a cost estimate of remaining site work including labor, and provide the City with a security in the form of either letter of credit or cash equal to 110% of the estimated cost for remaining work. (Any existing surety being held at this time may be converted

toward this amount). This amount shall include preparation of as-built plans. Construction Cost estimate for this project shall be submitted for review and approval. Estimate shall be based on the Department of Public Works Construction Surety Schedule and shall include a 10% Contingency.

3. Costs for items not specifically addressed in the Surety Schedule will be based on 1) City standards; 2) NHDOT weighted averages; 3) industry standards; or 4) contractor estimates. This full surety must remain in place until the road is accepted or a Home Owner Association is created to define ownership and responsibility of the road and road drainage. If phased, the surety can be permitted per phase.
4. Erosion control shall be properly installed on site PRIOR to any construction. Erosion control shall be properly maintained throughout construction; any breaks or breeches shall be repaired within 48 hours of the storm event.
5. Wetland buffer areas shall not be impacted by any construction activities (other than those impacts permitted under the CUP and DES wetlands permit). Wetland buffers shall be marked with construction tape markers placed on trees or on wooden stakes prior to any onsite activity, and such markers shall be maintained throughout construction. Wetland Buffers shall be marked with Conservation Overlay District tags prior to CO's for homes (available for a nominal fee at the Rochester Planning Office), and such markers shall be maintained in perpetuity.
6. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways;
7. A Surveyor is to submit a signed letter to the Planning Department stating that the new lot corner monuments have been set (Subdivision Regulation 6.1) and that reference pins have been set on all easement bounds (Subdivision Regulation 5.7.4)
8. As-Built. Three sets of full size (measuring at least 22" x 34") or black line paper plus 1 set of 11" x 17" plus one digital pdf copy of the as-built site plans (or "record drawings") stamped and signed by the Engineer or Surveyor are to be submitted to the Planning Department prior to issuance of the Certificate of Occupancy (or use/occupancy of the site where no CO is required). The as-built drawings must include the following language or equivalent: "This as-built drawing substantially conforms with the final plans approved by the City of Rochester Planning Board and certified by the Planning and Development Department except for the following significant modifications: ...". If no significant modifications were made simply state "none". Otherwise, itemize the modifications on the as-built or on an accompanying letter. The Department relies on the good judgement and good faith of the Engineer/Surveyor in determining which modifications should be considered significant (for example, minor adjustments in locations of plant materials would not be significant whereas relocation of a catch basin would be).

As-builts are to include State Plane Coordinates. A copy of the Asbuilt line work is also to be submitted as a CAD file that is georeferenced to that same coordinate system.

All applicants requiring a Stormwater Management and Erosion Control Plan shall submit relevant pollutant accounting information to the Planning Department as required by the Department of Public Works. Required information shall be submitted at the time of as-builts.

9. Execution. The project must be built and executed exactly as specified in the approved application unless changes are approved by the City.

10. Approvals. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
11. Violations. In the event of any violations of these conditions of approval or of any pertinent local, state, or federal laws – such as those regarding erosion and sedimentation control, wetlands, stormwater management, and general site development standards – the City of Rochester reserves the right to take any appropriate permissible action, including, but not limited to, withholding of building permits, withholding of certificates of occupancy, withholding of driveway permits, revocations of permits/approvals, referring violations to other agencies, and calling of bonds.
12. Other permits. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project. Contact the City of Rochester's Building, Zoning and Licensing Department at 332-3508 regarding building permits. Please also contact the City of Rochester Fire Department at 330-7182 to ensure that the proposed building meets all Fire Codes. Finally, please contact the Department of Public Works for any stormwater, sewer, or water permits or fees that are required.
13. APPEAL PROCESS: Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

Sincerely,



Ryan O'Connor
Senior Planner

Cc: File

Norway Plains – Scott Lawler
SP-22-15

**ABUTTERS LIST
FOR
GNM SOLAR 17, LLC
60 SHAW DRIVE
ROCHESTER, NH
(MAP 240, LOT 49)
March 15, 2023**

OWNER OF RECORD/APPLICANT:

TAX MAP 240, LOT 49 (60 SHAW DRIVE)
GNM Solar 17, LLC
PO Box 77
Farmington, NH 03835

ABUTTERS:

TAX MAP 240, LOT 47 (23 DAIGLES WAY)
Charles E. & Alice D. Purpura
23 Daigles Way
Rochester, NH 03868-5726

TAX MAP 240, LOT 47 (5 DAIGLES WAY)
Dennis L. & Carol A. Daigle
5 Daigles Way
Rochester, Nh 03867-5710

TAX MAP 240, LOT 47-1 (21 DAIGLES WAY)
Katie M. Daigle
& Evan T. Cook
21 Daigles Way
Rochester, NH 03868-5726

TAX MAP 240, LOT 48 (983 SALMON FALLS ROAD)
Steven Wayne Noel Sr.
& Joan Noel, Trustees
Steven Wayne Noel, Sr. and Joan Noel Joint Living Trust
106 Eagle Drive
Rochester, NH 03867-7056

TAX MAP 240, LOT 51 (59 SHAW DRIVE)
William R. Libby
149 Dry Hill Road
Rochester, NH 03867

TAX MAP 240, LOT 52 (0 SHAW DRIVE)
Martin Ferwerda
37 Tarah Way
Fremont, NH 03044-3249

**ABUTTERS LIST
FOR
GNM SOLAR 17, LLC
60 SHAW DRIVE
ROCHESTER, NH
(MAP 240, LOT 49)
March 15, 2023**

CONTINUED

TAX MAP 241, LOT 21 (1035 SALMON FALLS ROAD)

Greg R. Sargent and Linda L. Sargent, Trustees
Linda L. Sargent 2005 Revocable Trust
671 Salmon Falls Road
Rochester, NH 03867

TAX MAP 243, LOT 14 (156 ROCHESTER HILL ROAD)

43 North, LLC
156 Rochester Hill Road
Rochester, NH 03867-3347

TAX MAP 243, LOT 27 (216 AIRPORT DRIVE)

Albany Eng'd Composites Inc.
Attn: Accounts Payable
PO Box 1907
Albany, NY 12201

PROFESSIONALS/INTERESTED PARTIES:

Francis X. Bruton, III, Esquire
Bruton & Berube, PLLC
601 Central Avenue
Dover, NH 03820