

**Minutes Open Session
White Township Zoning Board of Adjustment
September 15, 2010**

There was a special meeting of the White Township Zoning Board of Adjustment on Wednesday, September 15, 2010. Present were Board Members: Joseph Magnini, Elaine Reichart, Donald Weidlick, Kyle Shoemaker, Michael Grossmann, Myron Rasley, James Cooper, and Paul Mourry. Also Present: Board Attorney William Gold and Board Engineer Joseph Modzelewski. Chairman Magnini led the Board in the pledge to the flag and he called the meeting to order. He then announced that notice of this meeting was given in compliance with the "Open Public Meetings Act."

NEW BUSINESS:

#447 Clean Jersey Solar, Block 62, Lot 24

Chairman Magnini announced that tonight's meeting is a special meeting to hear the Clean Jersey Solar application. Board Attorney Gold reviewed that Board Member Shoemaker's family owns property that is contiguous with the subject property and he will be stepping down from hearing this application. Mr. Shoemaker recused himself and he sat in the audience. Board Attorney Gold also stated that the Board Secretary is unable to be here for this special meeting, as she has another obligation, and the official record of tonight's hearing will be the transcript that will be prepared by the Certified Court Reporter, who is present this evening. He asked that only one person speak at a time, so that the record is accurate.

Kenneth Pape, Esq. was present on behalf of the Applicant and he stated that they are present this evening requesting a Use Variance approval, along with bulk variances and Preliminary and Final Site Plan approval. Board Attorney Gold stated that he has received the proof of service and he confirmed that proper notice has been supplied. Attorney Pape reviewed that there are only five Board Members present at this time and he asked if they could wait an additional 10 minutes for the remaining two Board Members to arrive. The Board noted that it was agreed to start at 7:00 p.m. to give the Applicant's the additional time and they agreed to the requested recess.

The Board took a brief recess. Mr. Weidlick arrived and the meeting then resumed. .

Attorney Pape stated his concern with not having a full seven member board this evening. He stated that they will make their presentation; however, they reserve their right to not request a vote this evening. He then reviewed the application this evening for a solar farm. He stated the electricity is generated by harvesting the sun's rays and the electricity that is generated is collected and sent directly to the grid. The grid is managed by a company called PJM. PJM has reviewed the proposed site and has found it to be acceptable. He stated that a sample solar panel is leaning against the wall. He stated that they are proposing 51,264 panels that are 39 by 77 inches in size and they are made of glass, silicon and aluminum. The panels are on a fixed racking system and they require no manpower to maintain other than to repair or replace cells that are no longer functioning. He stated that the State of NJ has found that alternative energy generation is inherently beneficial, which reduces the burden on the Applicant to address the positive criteria of the use variance; however, he stated that they have every intention of presenting the necessary proofs to support their case for a use variance. He stated that the Stimulus Bill provides substantial grant money to those that take it upon themselves to build private solar farms.

Attorney Pape then went on to briefly review how they will proceed with their presentation this evening. Ms. Reichart arrived at 7:39 p.m. Board Attorney Gold stated for the record that Attorney Pape has made his opening statement and that no testimony has been provided at this point.

Stuart Challoner was then sworn in and he provided his qualifications as a Professional Engineer and a Professional Planner. The following was submitted and marked as an Exhibit:

A-1 Overall Dimensional Plan, dated 7-01-10

Mr. Challoner stated that the proposal is to install solar panels on 59 of the 78 acres. He reviewed that this same property received a 17 lot subdivision by the White Township Planning Board. He stated that the subdivision would be vacated if the Zoning Board of Adjustment approved this application. The following was submitted and marked as an Exhibit:

A-2 Google Earth Aerial Photograph, taken in 2007

Mr. Challoner briefly described the area surrounding the subject property. The following was submitted and marked as an Exhibit:

A-3 Colored Rendering of the Proposed Buffering Landscaping Plan, dated 7-01-10

Mr. Challoner went on to describe the property as it exists today. He stated that they propose to construct a solar farm, which will be accessed via a maintenance access road off of Hope Crossing Road. He stated that they are proposing a berm with plantings to provide a buffer and a screen. He stated that the solar panels are fixed and they require very little maintenance. He stated that the entire project is monitored over the internet. He stated that a service person would be sent to the site, only if there was a malfunction. He stated that there is no lighting proposed and the interior roadways would be graveled. He stated that the panels would all be facing South towards Route 46 and they would be directed away from the adjoining residential lots. He stated that only noise generated from the site would be the noise from the transformers and the one substation. He stated that there are cooling fans that generate noise similar to a hair dryer. He stated that the entire site becomes quiet once the sun goes down as the system will not be generating electricity. He then went on to describe the proposed landscaping and the fencing. The following was submitted and marked as an Exhibit:

A-4 Letter from Grape Solar

Attorney Pape then read the letter from Grape Solar into the record, which states that there are no heavy metals used in the manufacturing of the solar panels. Mr. Challoner then went on to describe the methodology of collecting the electricity from the site. He then went on to address Board Engineer Modzelewski's report of September 1st, 2010 at great length.

Several Board Members had questions regarding the proposal. Mr. Grossman suggested that perhaps 100 feet of the access roadway/driveway be paved. Board Attorney Gold requested a copy of the written agreement between the Applicant and PJM. The Applicant went on to address the 8 foot safety barbed wire fence, being proposed around the substation.

The following photo was submitted and marked as an Exhibit:

A-5 Representational Photo of similar Solar Farm

Attorney Pape stated that they are willing to stipulate that they will not use any pesticides or herbicides. The Applicants then addressed the level of noise that would be generated from the site.

Mr. Challoner then began to provide Planning testimony. He stated that the proposed use is a conditional use; however, they do not meet the condition of having paved interior roadways. He described the adjacent properties and he stated that they are proposing a landscaped berm. He reviewed the proposed fencing and the location of the transformers. He stated that the proposal meets the public good criteria as it helps meet the 2020 goal of 20 percent renewable energy for

the State of NJ. He stated that the property had received a 17 lot subdivision approval, which would generate a school burden to the Township. The proposal would create a ratable for the Township and would not require any public services from the Township. He stated that traffic will be practically non-existent once the site is up and running. He stated that there are no air emissions coming from the site and there will be no ground water used or septic systems installed. He concluded by stating that no new houses will be built, population will not be increased, no children will be added to the school, no traffic generated, no public services required, no water or septic needed, no pesticides, herbicides, or fertilizers, and a storm water management system will be created and they will meet the State requirements. Attorney Pape stated that these facilities are fully taxed and they do not require any services. He stated that it is his understanding that if they chose to pave all of the driveways through the system, that they would meet all of the conditions of the "Conditional Use" and that they would instead be before the Planning Board for Site Plan Approval.

Attorney Pape asked if he could have a few minutes to confer with his Client. After a brief recess, the hearing resumed.

The Board and the Applicant discussed the location of the proposed fence and the berms and it was agreed to place the perimeter fence inside of the berms and the Applicant agreed to work with the Board Engineer as to the species of plantings and they would supply a performance and maintenance bond. The Applicants stated that they are willing to comply with the comments in Board Engineer Modzelewski's report.

Chairman Magnini then opened the meeting to the public.

Frank Wheatley was sworn in and he stated that is representing himself and Mr. Somyk. Board Attorney Gold stated that Mr. Wheatley can represent himself; however, only an Attorney can represent Mr. Somyk. Mr. Wheatley stated that Mr. Somyk is present and he will make his own statement.

Ivan Somky was sworn in and he read a prepared statement where he stated his concern over the amount of land being disturbed, the impact of the proposal to the environment, the impact of the proposal on neighboring property values, and the risk of high voltage shock and fire. He stated that the only people that will benefit from the proposal is the Applicant. He also stated his concern over what the short term and long term goals are and he concluded by stating that the property should be placed in farmland preservation.

Frank Wheatley acknowledged that he was already sworn in and he questioned the zoning of the property and variance procedure, which was addressed by both Board Attorney Gold and Attorney Pape. Mr. Wheatley asked if there have been any health studies done on solar farms. Attorney Pape stated that he is not aware of any. He stated that there are solar panels that employ heavy metals; however, they are not considering those types of panels. Board Attorney Gold stated that it would be up to the Zoning Officer to enforce the terms of the Resolution and the Township Engineer to monitor the construction. Attorney Pape affirmed that no topsoil will be removed. Mr. Wheatley questioned the prevention of theft and destruction of the panels. Attorney Pape addressed the fencing. Mr. Wheatley asked about the possibility of a fire. Attorney Pape stated that they can meet with the fire sub code official and they will make sure that there is sufficient access. He went on to state that there will be no lighting and signage. Mr. Wheatley asked about the grant money available and what would happen if the company were to

go bankrupt. He also stated his concern over the wildlife. Attorney Pape stated that they do have an LOI and a 50 foot buffer is required from the wetlands.

Barry Wessner was sworn in and he asked what local contractors are going to work on the project. Attorney Pate stated that they do not have a list of any of the contractors as they have not entered into any contracts. Mr. Wessner asked if there is any snow plowing being proposed and he asked what would happen if there was a fire and there was no access. Attorney Pape stated again that they would be meeting with the fire sub code official and they will comply with whatever he requires.

Chairman Magnini asked if there was anyone else from the public wishing to speak. With there being no further public comment, the hearing was closed to the public.

Ms. Reichart asked if there is a reason why they are not paving the entire roadway. Attorney Pape stated it would be over kill to pave the entire roadway and it would create a lot of impervious coverage; which would then require storm water management. He stated that they would be willing to make arrangements with the Fire Department for access.

Mr. Cooper stated that it appears that the Board does not really have the finalized site plan based on what they have heard this evening. He stated that he Board does have the conditions/ stipulations to what the Applicant will need to comply with, so he would like to make a motion that the application be approved subject to the proper revisions in the site plan as discussed and agreed to by the Applicant this evening. He also applauded the Applicant for not having the entire paved driveway, allowing for water to percolate in the ground. Motion seconded by Mr. Mourry. Discussion on the motion: Someone from the public asked how the Board can make a decision in one night, without allowing the public more time to review and question the proposal. Board Attorney Gold stated that the application was noticed correctly and any interested party could have retained their own attorney and or experts. It is up to the Board to determine if they need more time. Attorney Pape stated that they have followed the letter of the law; the public has been given the full opportunity to comment. He stated that they have rested their case and they are asking for a vote this evening. In a roll call vote, all were in favor.

ADJOURNMENT:

In a motion made and seconded, the meeting was adjourned. In a voice vote all were in favor.

Respectfully Submitted:

Alfia Schemm
Board Secretary