

**Minutes Open Session
White Township Zoning Board of Adjustment
October 21, 2010**

There was a regular meeting of the White Township Zoning Board of Adjustment on Thursday, October 21, 2010. Present were Board Members: Joseph Magnini, Elaine Reichart, Donald Weidlick, Myron Rasley, Kyle Shoemaker, James Cooper, and Paul Mourry. Board Member Absent: Michael Grossmann. Also Present: Board Attorney William Gold and Board Secretary Alfia Schemm. Chairman Magnini led the Board in the pledge to the flag and he called the meeting to order at 7:30 p.m. He then announced that notice of this meeting was given in compliance with the "Open Public Meetings Act." Mr. Shoemaker sat in the audience.

MINUTES APPROVED:

The minutes of the September 15, 2010 meeting were distributed to all Board Members prior to this evening's meeting. Mr. Cooper noted that he misspoke at the meeting and he meant to state that the Board had the information necessary to make a decision during his motion to approve the Clean Jersey Solar application.

Mr. Mourry made the motion to adopt the minutes. Motion seconded by Mr. Rasley. In a voice vote, all were in favor.

MEMORIALIZING RESOLUTION:

#447 Clean Jersey Solar, Block 62, Lots 24

Mr. Cooper made the motion to approve the Resolution. Motion seconded by Mr. Mourry. Discussion on the motion: Mr. Cooper suggested some corrections, which were discussed with the Board. In a voice vote, all were in favor, of adopting the Resolution as amended this evening.

OLD BUSINESS:

#447 Clean Jersey Solar, Block 62, Lots 24

Peter Klouser, Esq. was present on behalf of the Applicant and he reviewed that he is present this evening to request a modification in their approval to allow for a change in the approved fence. He stated that they are now requesting a barbed wire perimeter fence. He stated that also present is Engineer Challoner.

Stuart Challoner was sworn in and Board Attorney Gold acknowledged that the Board had accepted Mr. Challoner's credentials. Engineer Challoner stated that they are now requesting the 7 foot chain link fence with barbed wire, which was originally proposed, for security and insurance purposes. He stated that have relocated the fence and they have increased the size of the berm. He stated that the berm and the landscaping will screen and obscure the fencing. Ms. Reichart stated that it would be helpful to see a picture of the proposal and then what it would look like 5 years from now. Engineer Challoner stated that they did provide compliance drawings, which were submitted and marked as an exhibit;

A-1 Sheet 6 of 20, revised October 14, 2010

Mr. Challoner described the fencing, the berm, and the proposed landscaping. He stated that they would also post a performance bond and inspection funds to cover the landscaping. Ms. Reichart asked if the fence will impact housing values. Attorney Klouser stated that they are committed to the residential homeowners and they are willing to enhance the vegetation to screen the fence. The Board discussed the proposal with the Applicants.

Chairman Magnini then opened the hearing to the public.

David Brady, Esq. present representing Ivan Somky and he had several questions regarding the proposal, which were addressed by the Applicants. After, a brief discussion the Applicants agreed to berm along the abutting Residential Zone. Attorney Brady questioned the visual view of the proposal from various properties and he questioned the drainage, which was addressed by the Applicants. He continued to question the reasons for requesting the change to the fence.

Dominick Santini Esq. was present on behalf of Mr. & Mrs. Duckworth and he stated that he spoke with the Applicants about pushing back the berm away from the property line along with some of the drainage issues, which was addressed by Engineer Challoner.

Barry Wessner was sworn in and he described what he will see visually from his home. He questioned who the Applicants are, the number of solar applications the Applicants have represented, and whether the Applicant's feel that they are experts. He submitted the following document, which was marked an Exhibit:

O-1 Print out of Applicant's website, 3 pages

Mr. Wessner asked why the fence as approved, is no longer acceptable. He asked if the Applicant agreed to the reduced fencing only to get the application approved. Board Attorney Gold reviewed the application procedure with Mr. Wessner. Mr. Wessner stated that in reading the transcript the Applicant stated many times that the approved 6 foot fence would be adequate. Attorney Klouser acknowledged that they made a mistake in agreeing to the reduced fencing. The Board asked if there is a letter from the Insurance Company stating that they will not insure the site without the modification to the fencing. The Applicants stated that the fencing is required for the safety of the project and the public. Mr. Wessner stated that he does not see the need for the requested fencing and he requested that the Board deny the variance request.

Joseph Venesky was sworn in and he asked if the fencing has anything to do with homeland security and he stated his concern with possible dangers.

Anthony De Nicola was sworn in and he suggested that the Applicant consider installing a mini mesh fence, which is very hard to climb and to leave the height as it is was approved.

Bud Allen was sworn in and he asked if there could be telemetry installed to address the public safety concerns regarding the fence. He stated that the proposal is not necessary and it is absurd.

Arnold Hyndman was sworn in he stated that he is aware of two solar fields in which there is no perimeter fencing. He questioned the source of the Industry Standards and he suggested that the Board get documentation. He also stated that he thinks that the landscaping is critical and he asked what will happen if the landscaping is damaged or dies after the two year maintenance period expires. He stated that visual barrier should be maintained for the life of the project. The Applicants stated that they have done what the Ordinance requires. The Board and the Applicant discussed the maintenance of the buffer and what Township requires.

Jason Menegus was sworn in and he stated his concern over the visual impact of the fencing in a Rural/Residential area and the possible harm to neighbor children. He asked if the Resolution addresses the reclamation of the land. Board Attorney Gold stated that once the project was done the land would revert to whatever the zoning is at that time.

Frank Wheatley acknowledged that he was still under oath and he asked if they will require lighting for public safety. He asked about the buffering and he stated that the Applicant does not care about the Residents and what they will see. He stated that the Applicants have no investment in the community. Engineer Challoner stated that they agree to push the berm to the back of the easement. Mr. Wheatley stated that he does not feel that the fence is for safety but for lower insurance premiums.

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.

Attorney Brady then summarized that the required fence is not needed. He then reviewed the lack of credible proof that the fence is required for public safety reasons.

Attorney Klouser stated that they are present for the limited purpose to request the variance for the fencing. He stated that they have agreed to increase the buffers and to pull the buffers back further away. He stated that they are committed to screening the fence. He asked that the Board grant the variance.

Mr. Cooper reviewed the comments from the Residents and he asked that the Board obtain the Industry Standards. Ms. Reichart asked if the project can move forward without the requested fencing. The Applicants stated that the end user is now requiring the requested fencing. The Board stated that they would like to receive documentation in regards to the Industry Standards and Board Attorney Gold reviewed the application procedure for the public. Mr. Cooper questioned the conflicting testimony in regards to the fencing and he again asked that the Applicant provide the Industry Standards. Chairman Magnini thanked everyone for attending.

In a motion made and seconded, the Board announced that this matter is being carried to the Board's November 18th Board Meeting. In a voice vote, all were in favor.

#446 Quick Check Corporation, Block 62, Lots 4 &5

Board Attorney Gold stated that the notice for the site plan request was not clear and Attorney Debra Nicholson stated that she will notice for the adoption of the Resolution and she will clarify that their request is for Preliminary and Final Site Plan.

Mr. Cooper questioned the Warren County letter. Board Attorney Gold stated that any approval granted is always conditioned upon outside agency approval and any significant changes would need to be addressed by this Board.

MINUTES APPROVED:

The minutes of the September 16, 2010 meeting were distributed to all Board Members prior to this evening's meeting.

Mr. Cooper made the motion to adopt the minutes. Motion seconded by Mr. Rasley. In a voice vote, all were in favor.

PAYMENT OF BILLS: The following vouchers were submitted:

William Gold- Clean Jersey Solar	2137.50
William Gold-Quick Check	150.00
Hatch Mott MacDonald-Clean Jersey	2263.80
Hatch Mott MacDonald-Quick Check	1990.70
Maser-Quick Check	2495.00

Mr. Mourry made the motion to approve the vouchers. Motion seconded by Ms. Reichart. In a voice vote, all were in favor.

OTHER:

Ms. Reichart asked if the Board has been served or received notice of a Rodota lawsuit. Both Board Secretary Schemm and Board Attorney Gold stated that they had not received anything to date.

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