

GREENWICH TOWNSHIP LAND USE BOARD

MINUTES

January 12, 2023

7:30 p.m.

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a notice was published in the “Express Times” and “Star Ledger” newspapers. Notice was posted on the municipal bulletin board in the Township Administration Building in Greenwich Township, New Jersey, and notice was filed with the Township Clerk.

1. CALL TO ORDER:

Attorney Jon Drill called the meeting to order at 7:30 p.m and read the public notice into the record.

2. ROLL CALL:

Members Present:

Mr. Bruce Williams, Mr. Mark Scuderi, Mr. Paul Beam, Mr. Joseph Cicchiello, Mr. Brian Baylor, Ms. Cathie Cullen, Mr. Gary Hill (joined via Zoom at 8:30 p.m. and was sworn in by Attorney Drill post meeting), Mr. Joseph Fiamma, Mr. Jeremy Blunt, Ms. Andrea Sherlaw, Mr. George Bradlau, Ms. Dana Parker (arrived to meeting at 8:10 p.m. and was then sworn in by Attorney Drill)

Members Absent:

Mr. Rocky Stine

Also Present:

Jonathan Drill, Esq., Board Attorney

Michael Finelli, PE, PP, CME, Board Engineer

Kendra Lelie, PP, Board Planner (via Zoom)

Amy Fleming, Board Secretary

Attorney Drill advised that prior to the commencement of the meeting he swore in the following: Mr. Cicchiello, Mr. Beam, Mr. Cicchiello, Mr. Baylor, Ms. Cullen and Mr. Bradlau. These members, individually, raised their right hand and read their oath of office. They then signed their oath. Mr. Drill expressed that he still needs to swear in Mr. Hill and Ms. Parker, who were not currently present.

A motion was made by Mr. Williams to excuse Mr. Stine, seconded by Mr. Beam.

(On roll call, all eligible members voted in the affirmative.)

3. REORGANIZATION, NOMINATIONS & ELECTIONS

a. Chairperson

Mark Scuderi nominated Bruce Williams as Chairperson for 2023. No other nominations were made by the board. A motion was made by Mr. Scuderi and seconded by Mr. Blunt to appoint Mr. Williams as Chairperson.

(On roll call, all eligible members voted in the affirmative.)

The meeting was turned over to Chairperson Bruce Williams.

b. Vice-Chairperson

Bruce Williams nominated Mark Scuderi as Vice-Chairperson for 2023. No other nominations were made by the board. A motion was made by Mr. Beam and seconded by Mr. Cicchiello to appoint Mr. Scuderi as Vice-Chairperson.

(On roll call, all eligible members voted in the affirmative.)

c. Board Attorney, Engineering Expert, Planning Expert, Board Secretary

A motion was made by Mr. Fiamma and seconded by Mr. Bradlau to appoint the following:

Jon Drill as Board Attorney

Mike Finelli as Board Engineering Expert

Kendra Lelie as Board Planning Expert

Amy Fleming as Board Secretary

(On roll call, all eligible members voted in the affirmative.)

d. Selection of Newspapers for Publication of Legal Notices

A motion was made by Mr. Blunt and seconded by Mr. Scuderi to designate the "Express Times" and the "Star Ledger" as the official newspapers for publication of legal notices for the board in 2023.

(On roll call, all eligible members voted in the affirmative.)

e. Approval of Calendar for 2023

Chairperson Bruce Williams read into the record the schedule of meeting dates for 2023 as follows: January 12, February 9, March 9, April 13, May 11, June 8, July 13, August 10, September 14, October 12, November 9 and December 14 with the 2024 Reorganizational Meeting scheduled for January 11, 2024. He announced that the meetings will either be held in person at the Municipal Building or over the Zoom platform, and this will be announced on the meeting agenda six days prior to the meeting date.

A motion was made by Mr. Blunt and seconded by Mr. Scuderi to approve the schedule of meeting dates for 2023.

(On roll call, all eligible members voted in the affirmative.)

f. Authorization to Charge for Meeting Minutes, Agendas and Meeting Notices

A motion was made by Mr. Scuderi and seconded by Mr. Blunt to approve the authorization of charges for meeting documents for 2023.

(On roll call, all eligible members voted in the affirmative.)

g. Adoption of Rules of Procedure

Attorney Drill confirmed there have been no changes to the rules of procedure.

A motion was made by Mr. Blunt and seconded by Mr. Scuderi to approve the adoption of Rules of Procedure for 2023.

(On roll call, all eligible members voted in the affirmative.)

4. MINUTES:

The minutes of December 8, 2022:

A motion was made by Ms. Sherlaw to approve the minutes from December 8, 2022, seconded by Mr. Blunt.

(On roll call, all eligible members voted in the affirmative.)

5. CORRESPONDENCE: None.

6. DISCUSSIONS AND RECOMMENDATIONS:

a. 2022 LUB Annual Report

The board reviewed the 2022 Land Use Board Annual Report prepared by Board Secretary Amy Fleming. There were no questions or comments and the board approved the resolution of adoption.

7. RESOLUTIONS:

a. Resolution Adopting 2022 Annual Report

A motion was made by Mr. Fiamma to adopt the resolution, seconded by Mr. Blunt.

(On roll call, all eligible members voted in the affirmative.)

8. PUBLIC HEARINGS:

a. Antonio K. Boulos – LUB-2022-02

block 43 lot 3.01 – 500 State Route 173

C-Variances Pertaining to the Construction of a Single-Family Home

Attorney Drill announced that the Antonio K. Boulos application will be carried without need for further notice to the February 9, 2023 meeting and the applicant has extended the time period for the Land Use Board to act on the application until April 30, 2023.

b. Moore Energy Group for Warren Asphalt / H&K Group, Inc. – LUB-2022-01

block 3 lots 14 & 19 – 703 and 705 Route 57

Minor Site Plan to Install Ground-Mounted Solar Facility

Attorney Susan R. Rubright, Esq. from Brach Eichler LLC appeared on behalf of Moore Energy Group for Warren Asphalt / H&K Group, Inc. for a minor site plan application for the installation of a ground-mounted solar array and related equipment at an existing asphalt plant. The property is just under 15 acres in size in the B-1 zone and consists of an asphalt plant, material storage and a warehouse. The proposed solar array is a permitted accessory use in the zone, however a bulk c-1 and c-2 variance is being sought for the front yard setback. A front yard setback of 7.9 feet is being proposed where a 70-foot setback is required. Since the proposed array exceeds 1,000 square feet, the array must adhere to the 70-foot principal structure setback. If the proposed array was smaller than 1,000 square feet, it would require a front yard setback of 25 feet. The board professionals were sworn in, as well as Vice-President property owner John Kibblehouse from The HK Group, Engineer James Mauer from LAN Associates, and

professional solar installer Matthew Moore from Moore Energy Group on behalf of the applicant.

John Kibblehouse displayed sheet C1.01 titled "Existing Conditions" with a revision date of December 8, 2022. This plan is part of the plan set which was distributed to board members and professionals prior to the meeting. Mr. Kibblehouse described the business operations of the asphalt plant and the current site layout. He, along with Attorney Rubright, clarified that although the application specifies lot 14 and lot 19, the proposal solely pertains to lot 14 as lot 19 is not related to the asphalt plant. He stated that the proposed solar array would produce energy which would go directly to the grid and then be bought back by the asphalt plant. This statement was later corrected by solar installer Matthew Moore who stated that all energy produced would be utilized exclusively by the asphalt plant. Mr. Kibblehouse specified that there are presently 4-5 employees present on site each day and the installation of the solar array would not affect that in any way.

Attorney Drill noted for the record that there were no members of the public present either in person or on Zoom and Secretary Amy Fleming noted that board member Dana Parker arrived to the meeting at 8:10 p.m. and was sworn in by Attorney Drill.

Engineer James Mauer, who was present on behalf of Erik Boe, was called to the podium and a discussion ensued relating to the front-yard setback of the property. The variance that is being requested relates to the setback from an access easement, which is the primary access for two of the neighboring properties, thus constituting a "front yard setback". Sheet C2.01, "Proposed Site Plan", was displayed in front of the board members and marked as Exhibit A-1 as Mr. Mauer used highlighters to mark the required and proposed front-yard setbacks. Planner Kendra Lelie agreed with the decision to call this area a front-yard setback in relation to the neighboring homes.

Mr. Mauer addresses Engineer Finelli's report dated December 27, 2022. Mr. Finelli believes that since a portion of the proposed array will be located within grass areas the project is subject to the Highlands Rules, but that exemptions can be granted locally. The applicant inquired as to who could grant those exceptions for Greenwich Township and Engineer Finelli stated that he would investigate that. The applicant testified that approximately 31,680 square feet of existing asphalt could be removed and meadow grass could be planted to transform the area under the proposed panels to pervious surface. However, they stated that if the existing impervious asphalt would exempt that area from Highlands Rules, they would prefer to keep it. Engineer Finelli revealed that there are special grass seed mixed specially intended for under solar arrays that would require minimal maintenance.

Mr. Mauer described the proposed landscape screening as being 6-foot-tall Arborvitae planted between the proposed array and the access easement for the neighboring houses. Engineer Finelli stated that he, along with Planner Kendra Lelie, would ensure that the proposed landscaping would be sufficient to screen the proposed solar array from the neighboring properties. Board Attorney Drill advised the applicant that this application is only the third ground-mounted solar application that the board has heard and that one of the previous two

was denied due to insufficient screening. The applicant agreed to plant 8- to 10-foot-tall Arborvitae.

The applicant agreed to a condition that they would acquire Upper Delaware Soil Conservation District approval if applicable. There was a discussion regarding a possible underground waterline located near the proposed array. The board and applicant were unsure as to the ownership of the easement but Mr. Finelli suggested that it most likely belongs to local water service Aqua. Attorney Drill advised that the applicant would need to seek approval from Aqua or whomever owns the easement in order to plant trees within this water easement. Planner Lelie stated that if the proposed trees were not able to be planted within the easement, she would work with the applicant to select trees which would be able to be planted just outside of the easement while also providing sufficient screening. If the array needed to be relocated to allow the trees to be planted outside of the easement, the applicant agreed that they could be shifted 5 feet to the north.

Matthew Moore from Moore Energy Group was brought forward to testify when Engineer Finelli inquired about possibly lowering the height of the proposed panels. He testified that the panels need to be at least 2 feet off of the ground so that they are not affected by snow. It is possible to lower their height slightly.

Mr. Moore confirmed that the system is designed to offset 100% of the company's 520,000 kWh energy usage per year. All of the energy produced by the 930 panels will be directly used on-site, known as "net metering". He described how the array is designed to be decommissioned at the end of its life and agrees to that as a condition of approval. Mr. Finelli asked the applicant if they would be willing to install a light on the gate of the fence around the array and they agreed. A condition was also added that the applicant would comply with any requirements from the Fire Chief.

Board member Paul Beam expressed concern regarding the proposed screening and Kendra Lelie stated that she had indicated in her report that additional plantings would be required if the screening was deemed insufficient after install. Attorney Drill proposed a condition which read "post-construction, the Board Engineering Expert and Board Planner shall perform an on-site visit to determine whether the solar panels can be seen from Route 57 and Liberty Road (County Route 637) and if so, the applicant shall add evergreen landscape screening to the satisfaction of the Township Engineer and Township Planner to satisfy ordinance section 16-4.9.a.3.c." and the applicant agreed. Mr. Beam was still skeptical about the screening being satisfactory. Attorney Rubright expressed that the board members should be looking at the benefits vs. detriments as a whole.

A straw poll was conducted to determine if the board members were comfortable conducting a vote with the known information about the proposed landscape screening, or if they believe the applicant should come back to the board for a second meeting with additional information regarding the landscaping and the sight-lines. The majority of the board members voted that they would like the application to be carried so that more information can be provided.

The applicant requested a five-minute break. During this time, board member Gary Hill, who had joined the meeting at 8:30 p.m. via Zoom, was sworn in by Attorney Drill.

Upon resuming the meeting, the applicant agreed to provide the board with visuals to show that the landscaping will be a solid barrier. Attorney Rubright provided a brief recap of the requested c-variance. Board member Joe Cicchiello asked if all neighbors within 200' of the subject property have been informed about the night's meeting and Attorney Drill confirmed that he had reviewed the contents of the notice while Secretary Fleming confirmed that she had reviewed the certified mailing slips and everything was satisfactory.

The application, which was deemed complete on December 27, 2022, was carried without need for further notice to February 9 and March 9, 2023. The board requested that all revised documents be received at least ten days prior to the meeting instead of the usual twenty-one-day rule.

9. MANAGEMENT OF ESCROWS:

- a. Review of Current Escrow Balances

All current balances are acceptable.

10. AFFORDABLE HOUSING:

- a. Affordable Housing Update

Attorney Drill indicated that there is progress on the Fuhman site.

11. SCHEDULE OF MEETINGS:

The next meeting is scheduled for February 9, 2023.

12. ADJOURNMENT:

A motion was made by Mr. Blunt to adjourn the meeting, seconded by Mr. Cicchiello.

The meeting was adjourned at 10:15 p.m.

Amy Fleming

Land Use Board Secretary