

GREENWICH TOWNSHIP LAND USE BOARD

MINUTES

March 9, 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:

Chairman Bruce Williams called the meeting to order at 7:30 p.m and Secretary Amy Fleming read the public notice into the record.

2. ROLL CALL:

Members Present:

Chairman Bruce Williams, Vice Chairman Mr. Mark Scuderi, Mr. Paul Beam, Mr. Joseph Cicchiello, Mr. Brian Baylor, Mr. Gary Hill, Mr. Joseph Fiamma, Mr. Jeremy Blunt, Ms. Andrea Sherlaw, Mr. Rocky Stine

Members Absent:

Ms. Cathie Cullen, Mr. George Bradlau

Also Present:

Jonathan Drill, Esq., Board Attorney

Mike Finelli, Board Engineer

Kendra Lelie, Board Planner

Amy Fleming, Board Secretary

Chairman Williams asked for a motion to excuse Ms. Cullen, Mr. Bradlau and Ms. Parker.

A motion was made by Mr. Hill to excuse the absent board members, seconded by Mr. Scuderi.

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

3. FLAG SALUTE

4. MINUTES:

The minutes of February 9, 2023:

A motion was made by Mr. Blunt to approve the minutes from February 9, 2023, seconded by Mr. Fiamma.

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

5. PUBLIC HEARING:

- a. 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 applicant previously appeared at the January 12 Land Use Board meeting and was carried to March 9 as they hoped to return with visuals depicting the proposed landscape buffers. 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. They are also seeking a variance from the buffer requirements. Ms. Rubright stated that the applicant was ready to present visuals depicting a proposed 5-foot-high fence which would act as a buffer. Planner Sean Moronski from Langan Engineering and Environmental Services, Inc. was sworn in. The applicant's other witnesses - 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 – were all previously sworn in.

Attorney Drill asked if there were any interested parties in the room who were not connected to the application and there were none.

Planner Sean Moronski approached the podium and gave an overview of the existing conditions of the site, which has been in operation since 1952. He referred to an 11" x 17" photo board and a photograph location map, both of which were distributed to the board members prior to

the meeting. Secretary Fleming displayed the photos as they were being discussed onto the large screen in the meeting room so that all present at the meeting could view them. A discussion ensued regarding the American Telephone and Telegraph Easement which is located near the proposed location for the solar array. The applicant agreed to seek approval from AT&T regarding the location of the panels in or near their easement. Mr. Moronski used a photograph titled "View from Route 57 eastbound" to point out the proposed location of the solar array. The photograph showed an existing shed which he noted would be removed. He discussed a few more of the photographs which showed different views of the subject property taken from neighboring lots. The board members questioned why photographs were not taken from the three lots immediately adjacent to the east and Mr. Moronski testified that the lots were higher in elevation than the subject lot so any type of screening would not block the view of the proposed panels from those residences. He claims that the proposed fence would screen some of the project and that the proposed panels are a much more passive operation that what would potentially be done on that section of the property in regards to the asphalt operation.

Mr. Moronski recounted the variances being sought, including the front-yard setback variance and the proposed buffering. He reminded the board members that the front-yard setback in discussion is the area adjacent to the access easement for two land-locked residential lots. The benefits of the overall project outweigh any potential detriments from the project, which is why a c-2 variance is being requested. In regards to the buffering variance, the residences to the west of the property are already screened by a thick evergreen buffer. The initial application submission also included a request for a variance for the area underneath the panels, but noted that meadow grass is now being proposed in this area and the variance is no longer needed. An existing commercial building would help to shield the proposed panels from passersby and neighbors on Route 57 in an area known as the "Scenic Corridor". Board Planner Kendra Lelie asked how much higher in elevation the neighboring lots to the east are compared to the area where the solar panels are being proposed and Mr. Moronski stated over ten feet. Board member Gary Hill questioned which trees on the property are proposed to be removed and Mr. Moronski pointed to a tree near the existing shed on photograph 8 from the photo bard and Engineer Finelli stated that there were also trees near the access easement to the east which are marked to be removed on the site plan. Board member Paul Beam asked if the adjacent lot to the south with the vacant commercial building (lot 19) and the adjacent lot to the south with the existing trees (lot 20) are owned by the owner of the subject property and the applicant stated that they are. The applicant agreed to a condition that the vacant building on lot 19 would remain to help shield the solar panels and if the building was removed, a screening of similar height would be erected.

Engineer James Mower was called to the podium. He displayed and distributed a visual titled Proposed Site Plan – Cross Sections which was marked as Exhibit A-2. Engineer Finelli asked why the proposed fence was labeled as 5' in height in some areas of the exhibit and the site plans and 6' in height on other areas of the exhibit and Mr. Mower testified that the correct height of the proposed fence is 6'. He described how this exhibit shows how much of the panels would be able to be seen over the proposed fence from various areas around the array. Kendra

Lelie asked why sight-lines were not taken showing the views from the neighboring residences and Mr. Mower testified that the fence would not buffer the panels from the neighboring houses due to the elevation. Ms. Lelie questioned whether the original proposal of an evergreen buffer would effectively screen more of the proposed array from those houses and Mr. Mower testified that they would.

Matthew Moore from Moore Energy was called to the podium as the next witness. In response to Kendra Lelie's question as to why the proposed screening was changed from evergreen trees to a fence, Mr. Moore stated that they believed a fence would be a more solid screening than a natural buffer. He referred to two photo renderings depicting a 6' fence and these photos were marked as Exhibits A-3 and A-4. Mr. Moore explained how the photos were created and the perspectives that the photos are from. He explains that if arborvitae were used as a screening buffer, there is a great potential of them growing tall and blocking the sun from the solar array. He testified that due to how a solar array is wired, if one panel is shielded from the sun it would have a negative effect on the entire array. Attorney Drill asked if the proposed array could be wired differently so that shielding of one panel would have no effect on the others and Mr. Moore stated that they could not be. He later explained that they could be but it would be more expensive and would not allow for the same level of output. Mr. Drill asked if the panels could be lowered any closer to the ground and Mr. Moore stated that 18" would be the lowest the panels could be set to the ground without being affected by snow. The board asked if taller arborvitae could be planted on the eastern edge of the access easement and Mr. Moore believed that the neighbors' opinions should be considered. Attorney Rubright reminded the board that there were no interested parties or neighbors in attendance at the meeting.

The decommissioning plan for the proposed array was distributed to board members and professionals and marked as Exhibit A-5. Mr. Moore gave a brief overview of the plan. Attorney Drill recommended a condition which would require the applicant to submit a bond which would cover the eventual decommissioning of the solar array. Gary Hill asked where the produced electricity would go in the event of the asphalt plant ending operation and Attorney Drill stated that the array would then become a principle use and would require a use variance. Mr. Moore explained that in the report there is a section which discusses abandonment and that in the event of the asphalt plant ceasing operation, the solar array would be decommissioned at that time.

John Kibblehouse from The HK Group approached the podium as the applicant's next witness. He explained to the board members that he approached the three adjoining neighbors to the east and explained the project and his impression was that the neighbors had no objection to the proposed array. It was confirmed that the neighbors were sent legal notice of the board meeting and that the notice was legally sufficient. Gary Hill asked why the proposed array could not be moved to the back corner of the lot and Mr. Moore testified that it would significantly impact the asphalt business operations.

A straw poll was conducted where the board members were each asked if they believed screening was necessary, if they were more inclined to a fence or vegetation, and the desired height of the screening. Most board members were in favor of a 10' tall evergreen screening.

A ten-minute break was taken from 9:40 to 9:50 while the applicant discussed how to proceed.

When the meeting resumed, Attorney Rubright informed the board that the applicant was willing to comply with a 10' evergreen buffer. They also wished to proceed with a vote. The site plan was displayed and marked with a green highlighter in the locations where the evergreen buffer trees would be planted. This was marked as Exhibit A-6. Kendra Lelie advised the board members that she, along with Engineer Finelli, would work with the applicant to ensure that the buffer was acceptable. A condition was made to maintain the height of the screening at a minimum of 10', although the applicant agreed that the trees could grow taller as long as they were not impacting the solar panels. This buffer proposal would remove the need for a landscape buffer variance.

A motion was made by Mr. Blunt to grant preliminary and final site plan approval along with the c-2 front-yard setback variance along with any conditions that were agreed upon:

1. The plans should be revised to show the highest point of the panels no more than 9' above grade elevation,
2. If the building on lot 19 is removed, it must be replaced with similar height screening,
3. A mixture of different varieties of evergreens should be planted as a buffer at a minimum of 10' mature height and should be deemed acceptable by Kendra Lelie and Mike Finelli,
4. Decommissioning bond based on \$36,000 in today's money with the value of the bond being projected out 30 years and if there is abandonment there must also be a decommissioning as they will no longer be an accessory use,
5. Locate the arborvitae and mixture of evergreens along the right-of-way as far east as possible,
6. The board's standard condition from their Rules of Procedure,
7. Any conditions of approval in Mike Finelli and Kendra Lelie's reports,

seconded by Mr. Scuderi.

(On roll call, three eligible members voted against the motion and six eligible members voted in the affirmative.)

6. MANAGEMENT OF ESCROWS:

a. Review of Current Escrow Balances

All board members and professionals were provided with current escrow balances for all active applications.

7. AFFORDABLE HOUSING:

a. COAH Update

Attorney Drill informed the board members that the Ingerman (Dumont Road) final plans have been signed and distributed to the applicant.

8. SCHEDULE OF MEETINGS:

The next meeting is scheduled for April 13, 2023.

9. ADJOURNMENT:

A motion was made by Mr. Hill to adjourn the meeting, seconded by Mr. Scuderi. All members were in favor.

The meeting was adjourned at 10:36 p.m.

Amy Fleming

Land Use Board Secretary