

Unofficial Minutes

Township of Pilesgrove Planning Board

September 16, 2020 Minutes

This meeting was held in person at the Twp. Public Works Building at the Municipal Complex.

The Chair called the meeting to order at 7:05 p.m. He announced that the South Jersey Times and the Elmer Times were properly noticed and agenda/notices were published on the Township bulletin board and website. All of the above was done in accordance with the New Jersey Sunshine Law and the Governor’s Executive Order.

Members stood for the Pledge of Allegiance.

Roll Call

Members:

- Jeff String, Chair
- Joe Crevino
- Mark Desiato
- Milton Eachus
- Mitch Layton -- absent
- George Brooks
- Craig Lewis
- Glenn Manning-- absent

- Alternate #1 Jeff Dobbs
- Alternate #2 Bill Miller
- Alternate #3 Russell Davis
- Alternate #4 Matt Hitchner

The Chair seated Mr. Dobbs for the vacant position of Mr. Haaf, Mr. Miller for Mr. Layton, Mr. Davis for Mr. Manning.

The Solicitor swore in the Board professionals.

Motion to approve minutes from September 16, 2020 minutes (Desiato/Eachus) all ayes on voice vote with Mr. Lewis abstaining.

The Board Solicitor swore in the professionals.

Memorialization of Resolutions

Completeness Determination

Public Hearings, new and continued

2020-013 O'Donnell and Silva, Minor Sub, B 14 Lots 3 and 3.01

The Solicitor swore in Mr. O'Donnell.

Mr. O'Donnell explained he wanted to add primarily wetlands to increase the size of the parcel. The Engineer reviewed his letter of September 16. He described the property and the transfer of acreage; there are no variances required. Both lots are in conformance and no new lot is being created.

Motion to open to the public (Crevino/Eachus, all ayes on voice vote. No public comment. Motion to close (Desiato/Crevino), all ayes on voice vote.

Motion to approve the minor subdivision/lot line adjustment subject to conditions from the engineer (Crevino/Desiato), all ayes on roll call.

2020-014 Kreider, Appeal of Zoning/Request for Variance, B 79 Lot 1

The Solicitor swore in Mr. Kreider.

Mr. Kreider explained he wants to place a pole shed at the end of the drive and his neighbor has no objections. The solicitor said he reviewed the public notices and all is in order.

The Board Engineer said he reviewed the completeness letter last meeting, and there is no new letter. The applicant is requesting relief from the setback and side-yard requirements. Mr. Kreider said his property is much longer than it is wide, and the current zoning laws would require him to place the pole shed in an obstructing place in the middle of the yard and take down a tree. The Engineer said the applicant submitted pictures. He said he has neighbors on both sides, but only one neighbor parallels where the shed would be. The requirement is 30 feet; he is requesting 10.

Motion to open to the public (Eachus/Dobbs), all ayes on voice vote. No comment. Motion to close to the public (Davis/Crevino), all ayes on voice vote.

Motion to approve (Crevino/Desiato) the application, all ayes on roll call.

2020-011 Pilesgrove Solar/Nichomus Run Solar Farm, Use/Conditional Use Variance, B 60, Lots 3, 4, 4.01, 5, 8, and 9; B 61 Lots 3, 4, 5

Mr. Crevino and Mr. Lewis stepped down. Mr. Hitcher was seated for Mr. Lewis.

Sitting for the use variance and conditional use variance: Eachus, String, Brooks, Desiato, Hitchner, Davis, Miller and Dobbs.

Keith Davis, attorney for the applicant, recapped the list of people who testified at the August meeting for the dual use solar-sheep farming operation. He said he assumes the public with attorneys and the board consultants will be testifying. He said he wanted to discuss an item at the end of the planner's report of August 11, 2020. Davis said it's a legal issue, regarding a comment that the use variance is beyond the power of the Planning Board due to the size of the parcel, and it could be construed as a zoning case. Davis said he provided the Board with a zoning case involving the Township of Edison and a

congregate care facility. In that case, Edison said it did not have jurisdiction to make such a large zoning change. The Applicant appealed. He summarized the court's finding and said the Edison Board did have jurisdiction for an inherently beneficial use. Mr. Davis said that case and the Pilesgrove Solar case are similar. Mr. Davis said the Pilesgrove Township Planning Board has the jurisdiction to hear the application and can only look at the size in connection with negative impact and impairment to the zone plan for the township. If the board believes it is spot zoning, then it needs to consider it in that context. Mr. Davis presented additional information on spot zoning definitions, specifically when the area to be rezoned is not consistent with the existing district. Mr. Davis said the proposed area does allow a public utility and he maintained a solar farm is a public utility, and the sheep farm is an allowable agricultural use. He also cited a case involving the Township of Dover to substantiate his position that the applicant does not change the character of the zoning district. He restated that concerns must be examined in the context of substantial negative impact/impairment to the zoning district. Mr. Miller asked whether consideration should be given to the fact that the ground has been used agriculturally historically? Mr. Davis rejects the position that the solar farm is inconsistent since it will be a dual use with livestock production. There was elaboration by Mr. Davis, who added that the solar is an interim use because at the end of the life-cycle, it will remain solely in agriculture. Mr. Davis clarified that the solar farm is not a public utility, but compatible as if one and same as a utility with its designation of an inherently beneficial use. There was additional discussion.

The Planner reviewed his nine-page report and specific township ordinances and its conditional use ordinance. He highlighted the definition of public utilities, standards, compatibility with enjoyment of surrounding property, fencing, intensive livestock farming standards and requirements. He said there are site plan issues to be determined when the applicant returns. The planner said he visited the site and reviewed the application, which he described. He reviewed the zoning ordinance, proposed/continuing uses, the township master plan re-examination report and its mission to maintain farmland and its language referencing solar facilities. He said the township specifically designated the planned light industrial zone to guide solar development, and that residential development was a secondary use for farmland. He also said: the Township also expanded in its farmland element report the areas for preservation to include AR2, and the proposed project site is discouraged in a 2017 state solar siting plan analysis designed to guide location. The state analysis said there is more than enough preferred lands to locate solar facilities to meet the state's future demand for green energy. The planner said the application is bifurcated, and significant items in the site plan application will be necessary for the board to know in order to vote on the use variance.

In response to the Planner's request for additional testimony: The applicant's various professional witnesses described the status of the project with AC Electric and PJM and said the final study should be reviewed by early next year. That study includes the details of the substation and how the power output will tap into the existing high voltage transmission lines. The output of 150 MW would handle the equivalent of power for 240 homes. Inverters were discussed; about 45 would be scattered about the site. Panels options were described, along with placements, setbacks and view cones. Mr. Davis said the applicant will seek approvals from other agencies as required. Landscape buffers were described, which will be less dense along County House Road and more dense along Route 45; berms could be included if required by the Board. The Planner discussed solar requirements in the Township's planned light industrial zone compared to what the applicant is requesting in the agricultural area. He said is unaware

of any recommendation in the Township's Master Plan that this agricultural area be rezoned as a planned light industrial zone.

The Board took a brief recess at 8:45 p.m. The Board returned at 9:00.

The Engineer reviewed his report of August 15, 2020. He said many of the items in his report have already been addressed in testimony. He highlighted setback requirements, and requested confirmation of setbacks involving the substation. The Applicant said the 500-foot setback is the distance from the property line to the substation; the height of the highest accessory equipment would be 30 feet. The Engineer said the Conservation Zoning District should be identified on the plans, and the bulk standards need to be satisfied without the conservation zone area. He asked the applicant to address the need for agricultural buffers as required by the ordinance, since the board may not consider this as an ag project. Mr. Davis said he doesn't see how that could be, since agriculture will continue, but if the Board wishes additional reasonable buffers, the applicant is open to considering. He advised the Board that an environmental impact statement is not a check list requirement for a use variance, but the Board may require the applicant to submit an agricultural impact assessment as part of the environmental impact statement due to the size of the land being converted. Mr. Davis said the applicant will voluntarily submit an EIS.

The Board Solicitor said the bifurcating of the application (site plan and use variance) does not take away the Board's right to place reasonable requirements for information for purposes of determining the use variance. Mr. Davis said it is not necessary because the land will remain in agricultural use. The Solicitor said it is his opinion that the application does not remain in one use – just agriculture – and that the Board may need additional information to consider the variance. Mr. Davis said the applicant will submit an agricultural assessment that will be responsive to the Board's concerns. The Board asked the Planner for clarification on the intensive livestock farming ordinance. The Planner asked for clarification of the setback from an adjacent residential property. The Applicant said the plans show a 30-foot setback. Various environmental maps were discussed.

Motion to open to the public (Eachus/Desiato), all ayes on voice vote.

Joe Hanaghan of Quinton, who serves as the Salem County Director of Veterans Services, said the project is important to the veterans community because additional lands are needed to expand the county veterans cemetery. The federal veteran cemeteries are running out of space, and they are meant to be a lasting tribute.

Ed Kalinowski, a union member, reiterated his testimony from last month supporting the project, which will benefit many counties with jobs.

David Dolbow, a local farmer who is vice president of the Salem County Board of Agriculture, opposed the project due to its impact on agriculture and the conversion of 800 acres of prime farmland. He said the solar project should be relocated to other less desirable land. He urged the board to consider whether the income derived from the project will be from the farming end or the solar end.

Phil Allen, who lives on Route 45, supports the project as a great benefit to the community.

Troy Mullison of Pilesgrove said he supports the project because taxes are outrageous.

Steven DiMatteo of Pittsgrove Township said there is no more sensible development than solar energy, and the County needs to bring back ratables. He is also a business agent for a union local, and this is a win-win for jobs, in spite of the objection to aesthetics.

Frank Gandolfi of Pilesgrove supported the project to bring in tax revenue. He said he lives next to the solar project in Yorktown, and it's one of his best neighbors.

Mr. Bergluan, a member of various Legion Posts in the County, said they all support the project for the benefits to the County's veteran cemetery. He said there are currently about 4,000 veterans in Salem County.

Beth Timberman of County House Road said her property is on the northern border of the project. She and her husband have Pratt Gardens, and she expressed concerns about the maintenance of the trees and leaves blowing outside the property, increased water runoff due to impervious coverage, how just a few employees can handle the needs of 1000 sheep, and how poisonous seeds carried by birds will impact sheep. She thanked the board for its hard work.

Natalie Wilder said she is 24 years old and will be here 30 years from now watching this project, and she expressed concerns about whether this project will become obsolete as technology advances. Coming from a farm family, she said she is concerned about any impact from the panels on the farmland.

James Wren from Pennsylvania, one of the owners of the land, said he likes the granting of land to the veterans and is in favor of the project.

Margie Eachus, a long-standing farmer from Pilesgrove, asked whether this is a sheep farm or a solar panel farm? She said she has not heard a detailed plan about how the sheep farm will operate or be profitable. She said she thinks it's a mowing operation.

Peter Pratt of Pratt Gardens on County House Road said his family has been here 63 years and for more than 40 they have opened their grounds to the public to come for free and look at the azalea landscaping. He said he opposes the project due to the loss of land and he doubts the ability of the Township to hold the applicant accountable in 30 years or if they walk away before that.

Elwood Robinson on Route 45 said he is a Vietnam Veteran, and he understands the need for more cemetery space, and he also grew up on a farm here in the County. He said he is having trouble justifying how the Board could take 800 acres of farmland that generates thousands and thousands of bushels of crops each year and put 1.2 sheep per acre and call it agriculture. This isn't poor or stripped farmland. He asked the Board to carefully consider the impacts and the Township's mission to preserve farmland.

Fran Rapa, Regional Manager with the New Jersey Conservation Foundation and a resident of Pilesgrove, said NJCF has helped preserved 3000 acres in the township and 600 acres of open space, secured more than \$11 million in fund to help preserve township lands, and holds easements on more than 800 acres. The Township has developed a strong vision to protect its farmland, the township voters have approved a trust fund to support purchase of easements, and the ordinances are clear on protecting the viability of agriculture. He encouraged the Board to deny the application as inconsistent with decades of Township planning. Clean energy and solar energy are desirable, but not here. To

approve the application would send the wrong message to developers that Township ordinances are weakened and not upheld.

Attorney Jeff Behran representing resident Mr. Sloath, said he would like to present testimony at the next meeting and to reserve the opportunity to keep the public portion open.

Barbara Wooley Dillon commented.

Attorney Andrew Brewer representing the NJCF said he has several witnesses to testify on environmental issues and they want to cross question at the next meeting. Mr. Davis requested to be advised of the names.

The next meeting date will be Oct. 21, 7 p.m., same room, and no need for additional public notice. The Solicitor confirmed.

Motion to close to the public (Desiato/Eachus), all ayes on voice vote.

Motion to approve vouchers (Eachus/Desiato) all ayes on roll call.

Under discussion, the Board assigned a subcommittee to assist in reviewing the Township Master Plan and to meet before the next Board meeting and to make a recommendation to the Township Committee's request doe possible changes. Serving will be the Mr. String, Mr.Eachus, Mr. Miller and Mr. Hitchner.

Motion to open the meeting to the public (Eachus/Dobbs) all ayes on voice vote. There was no comment.

Motion to close to the public (Crevino/Dobbs) all ayes on voice vote.

Motion to adjourn (Eachus/Dobbs) all ayes on voice vote.

The meeting adjourned at 10:10 p.m.

Minutes submitted by Board Secretary Rita Shade.