

Township of Pilesgrove Planning Board

Minutes, Regular Meeting

Held virtually on GoToMeeting

April 21, 2021

The Chair called the meeting to order at 7 p.m. He announced that the South Jersey Times and the Elmer Times were noticed on April 1, 2021. The agenda was posted on the bulletin board outside the municipal building. All of the above was done in accordance with the New Jersey Sunshine Law.

Members stood for the Pledge of Allegiance.

Roll Call

Members:

Jeff String, Chair
Mark DeSiato, Vice Chair
George Brooks
Joe Crevino
Russell Davis
Jeff Dobbs
Milton Eachus
Craig Lewis
Bill Miller

Alternate #1 Mat Hitchner
Alternate #2 Joe Blandino
Alternate #3 Mark Valente
Alternate #4 Ruth Peters

The Chair called the meeting to order at 7:00 p.m.

The Solicitor swore in the Engineer.

Motion to approve minutes from March 17, 2021 (Crevino/DeSiato) all ayes on voice vote.

Resolutions

Res. # 2021-017 *Memorializing approval of Fidelity Asset Management, variance, Block 74, Lot 13, (Eachus/DeSiato) all ayes on roll call.*

Res. #2021-0018 *Memorializing approval of John Esh, bulk variance, Block 79, Lot 16 (Miller/DeSiato) all ayes on roll call*

Public Hearings

2021-004 John DiGregorio, variance and relief, Block 61, Lot 4.02

John DiGregorio provided background on the acquisition of the property and the repairs made to bring it up to code. He wishes to use it as an overnight guest house, primarily for those hunting at his preserve. He is also asking for relief from the certificate of occupancies. He said the zoning officer told him he believes he does not need a use variance, but that he should get one should the ordinances ever change.

Planner Randy Scheule said the ordinance does not provide for short term rentals such as requested, and there is no provision for relief of the CO's and he doesn't believe the Board has the authority to waive. He reviewed definitions in the ordinance. The Solicitor agreed that relief from CO's must be determined by Township Committee. He said the applicant would have to request Township Committee to revise the ordinance to authorize without a variance, or Mr. DeGregorio could talk with the Housing Officer. It was noted the Housing Officer is the same as the Zoning Officer. Mr. Miller asked if the land is part of the Game Creek Hunting farm; Mr. DiGregorio said yes, it is used as part of the operation.

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

The Solicitor said the applicant properly noticed the public.

Motion to approve as a short-term rental to supplement visitors to Game Creek and the general public (DeSiato/Dobbs) all ayes on roll call.

#2021-005 American Legion Ambulance Association, preliminary and final major site plan, Block 25, Lot 11.01

Robert Wiltze, representing the applicant, described the intention to house ambulances and create a storage area on the property, formerly known as the Woodstown National Bank. Ambulance Association President Joe Valentine, Engineer Brian Peterman, and Architect Robbie Conley were sworn in.

Wiltze said there would be cross easements; no requests for variances.

Valentine testified that the association transitioned to a paid squad and serves seven municipalities, responding to about 64 per cent of emergency calls in the County. The Association operates in four additional areas. He further described the operation: no public would be on site; deliveries would be limited to office supplies, and there would be normal trash generated by employees. No hazardous waste chemicals are used on site. Mr. Conley described the proposed building. Some existing facilities will remain; other areas will be renovated for different usage. He explained the cross-easement usage with the Sunoco station. He said a drive-through will be replaced with a connector to a new 3000 square foot pole building. Also, the former bank building is not a two-story building. Maintenance of vehicles will be off site; refueling is at the county garage. Engineer Brian Peterman discussed circulation, landscaping, lighting, and signage. He does not believe it is a major change of use with respect to traffic

and activity. No additional flashing red lights will be installed. Mr. Miller expressed concern about “third” entrance on Route 40 at the gas station because it is a confusing and dangerous intersection, and the ambulance activity would be more so should the gas station be replaced with another use. There was further discussion about Sunoco’s plan to install a diesel island. The Association said the “third entrance” on Route 40 is not a necessity and agreed to not use that driveway.

The Engineer reviewed his letter of April 19, 2021. He said the applicant submitted a response letter, agreeing to the recommendations, including seeking a wetlands delineation waiver letter, approvals on the septic system, circulation plans to the fire marshal and other details and changes to the plans.

The Planner reviewed his letter of April 19, 2021. He said side elevations were not provided and he suggested aesthetic changes. Mr. Valentine responded there is little change to the side elevation, and windows would be a security issue as that side is where the ambulances are parked. The Planner asked for a landscaping plan for the signage, lighting plans, and recycling information. The applicant will work to enhance the site.

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

Motion to approve preliminary and final site plan, conditioned on closing off the driveway off Route 40 and compliance with requirements from the Board’s professionals and waivers to accept environmental report in lieu of an EIS (Crevino/DeSiato) all ayes on roll call.

Motion to amend the Resolution to waive requirement for a dumpster (Miller/Dobbs), all ayes on roll call.

2020-011 Pilesgrove Solar (Nichomus Run), use/conditional use variance, Block 60, Lots 3, 4, 4.01, 5, 8, and 9. Block 61, Lots 3, 4, 5.

Keith Davis, attorney for the applicant, said several new exhibits have been prepared based on testimony from last month. He also submitted a recently published letter for evidence. He also raised what he called a sensitive issue that arises with a conflict of interest and its impact on any future appeals. He said at one of the meetings, Board member Woody Eachus’ wife testified and in a later meeting the two were seen in the same screen talking to each other. He said state law does not allow a board member to have an indirect or direct interest or conflict in a matter. He cited Randolph Planning Board. He said he wanted to put it on the record and asked how the Board would like to handle it.

Mr. Eachus said she was just helping him set up the computer for the virtual hearing because he is not technologically skilled. He also asked since he is a farm, is that a conflict? Mr. Davis said that was not his issue. The Board Solicitor said making a decision on a conflict of issue is a board member’s decision as to whether the member can be objective. The Board Solicitor said he is not concerned about her being in the same screen shot to help him with the computer. He said it is his personal opinion is that Mr. Eachus should step aside to avoid the appears of conflict, but that the decision on whether a conflict presents itself is up to the Board member.

Mr. Davis asked Mr. Eachus if he can act fairly and objectively on the application. Mr. Eachus said everyone has someone in their ear, and his wife's position will not affect his decision making; he can render a fair decision.

Mr. Davis called Civil Engineer Joseph Dietrich, from Westwood Professional Services, who was sworn in. He discussed the proposed solar array conceptual grading plan. He explained color-coded grading exhibits. He said 6.25 per cent of the site would require grading. He said the overall grading and drainage will be as it stands today; the top soil will be preserved and replaced once the cut areas are compacted fill. All state, county, and local stormwater and grading design regulations will be followed, and from an engineering perspective permanent preservation for farming "can be achieved." Mr. Davis asked about the quality of water that will drain into the creek. He said the plans appear to improve the quality of water because currently silt from runoff goes into the stream. Mr. Dietrich said there will be a reduced amount of runoff. The panels were described. Calculations indicate the panels and poles will cover about 200 of the 800 acres.

Jeff Barons cross examined Mr. Dietrich. Mr. Dietrich said he read certain testimony. Mr. Barons said the plans from Westwood are not signed; therefore, just drawings. Mr. Barons questioned whether the impact of sheep grazing will affect runoff. Mr. Dietrich said he is not a sheep expert, but there are practices with rotation etc. and his plan took into account ground cover and grass.

The Board's Engineer reviewed his letter reviewing the stormwater plan, stating the plan must address all required provisions by the state, best management practices, and maintenance of systems. Special Planner Kevin Rjis read excerpts from his earlier reports. He highlighted dual uses and the necessity to determine environmental impact; the state's renewable energy report; and the township's environmental impact statement requirements.

Mr. Davis said he will rely on the previous testimony of the shepherdess, Julie Bishop. Mr. Miller asked how she will ensure water and feed on such a large tract. She said a series of gates will control where the sheep move for rotational grazing, and the details are not yet finalized. She added that electric fences can be solar powered. Water trailers will be used, but specific plans are not finalized. He asked whether lambing season could increase to 2,000. She said yes. She also grasses pulled up by sheep during grazing could be replaced/replanted. She also said the existing two chicken coops will be renovated for the sheep.

Motion to take a recess at 9 p.m. (Eachus/DeSiato) all ayes on voice vote. Motion to resume at 9:15 (DeSiato/Eachus) all ayes on voice vote.

Motion to open the application for public comment (DeSiato/Dobbs) all ayes on voice vote.

Cheryl Reardon said Piles Grove residents have repeatedly and overwhelmingly supported protecting farming, and that is the No. 1 mission of the Township.

Peter Pratt, who owns Pratt Gardens, the property next to the proposed site, said he is concerned about water quality as there has been on-going issues with run-off. He described various things he has done over the years to prevent the run-off, and he does not see how grass will prevent this. He questioned the buffer zone, the applicant's claim that no chemical spraying will take place, proliferation of woodchucks, and other environmental concerns.

Richard Pierson, owner of the property under contract by the applicant, said he came to Salem County 38 years ago, and companies have done nothing but improve Salem County. His said his various companies provide good paying jobs with benefits, he built the golf course, and owns more than 2,000 acres in Salem County. He said something needs to be done with this farm; it was in bankruptcy twice and he bought it from Wilmington Trust. He said the applicant is a good company. Looking into the future, he said solar energy is better than nuclear power plants. He said he knows farming, and sheep are not destructive to the grass and the revenue is important because taxes are as high as Cherry Hill. He said he pays \$30,000 a year in taxes on his house, \$60,000 a year on his office building and \$100,000 a year on the golf course. The Township needs to be reasonable about revenue so young people can stay here. He said the construction of the solar site will be phased in, the property is best suited for a solar operation, and he claimed run-off will be reduced by 50 per cent.

Beth Timberman of County Home Road said Dakota Power has every intention of developing and selling. She questioned building new outbuildings for the sheep. She said the proposal is in conflict with the Township's master plan. She said the County does not want to be like Woolwich Township, and the Amazon warehouse will be awful for Pilesgrove Township because its \$15 an hour jobs is not enough to buy housing; affordable housing will be the next issue.

Joe Hannagan, Director of Salem County Veterans Affairs and Supt. Of the Veterans Cemetery, said the additional land to be donated by Pilesgrove Solar/Nichomus Run is critical to the longevity of the cemetery. He asked the Board to remember honoring the County's veterans.

Motion to close public comment (DeSiato/Brooks) all ayes on voice vote.

Mr. Andrew Brewer from New Jersey Conservation Foundation, gave closing statements opposing the project. He said there is not enough information presented by the applicant to determine the facts of the negative impacts.

Jeff Barons, opposing attorney, gave closing statements. He highlighted environmental concerns. He cited the Township's Master Plan Re-examination Report adopted in 2001, which stated increasing development pressure and that solar operations are not farms. He said the theme of agricultural preservation continued through other Township documents. He also cited the specific designation of the PLI zone for renewable energy developments. He reminded the Board than in 2019, the applicant's attorney said the project was too large for a variance and went to Township Committee requesting a zoning amendment. When Township Committee did not act, he said the applicant added sheep and came before the Planning Board claiming the project is now different. He said the Planning Board does not have the authority to rezone. He further discussed size and court opinions and instructions regarding re-zoning. He said it is clear: The Governing Body has said the Planning Board cannot do this.

Keith Davis for the applicant, gave closing statements. He said the applicant presents a use that was not contemplated by the Master Plan, but public utilities are permitted in this zoning district. The issue is whether this use is inconsistent, and public good is part of the analysis. The use is permitted, as is agriculture. He outlined the standards the Board must follow, including the Municipal Land Use Law, the project's status as an inherently beneficial use. He said the Board has discretion, based on unique facts,

and he cited the TWC case and itemized the standards for the Board to follow, including the state document for planning renewable energy sources. He said the applicant has presented a Deed of Easement to the Board Solicitor permanently restricting the land to agriculture. He also said sheep farming will take place during the duration of the project. He said there is no burden to the township and approximately \$900,000 in revenue would be generated. He also said the use is, in fact, in compliance with the Township's Master Plan because the land will remain in agriculture with the sheep farming and the land will be permanently preserved. He reminded the Board that the trend nationally and locally is to combine sheep farming with solar facilities. He also said the applicant went beyond what it was required to submit and prepared preliminary plans for grading and drainage, and additional documents for environmental impact. As for size, he said the 820 acres is approximately 7 per cent of the AR1 and AR2 zones, which are the same, in a township that is 35 square miles. He told them board it has the discretion to balance interests and the applicant has met the criteria required.

The Board did not have additional questions.

The Solicitor advised the Board on what it is being requested. Positive criteria is met because it is an inherently beneficial use. The Board must determine whether the public interest has been stated. One vote would be taken for a use variance. Mr. DeSiato questioned whether the vote is out of its jurisdiction. The Solicitor said the Board must make its decision based on an analysis of the criteria -- the Board cannot simply say it doesn't have jurisdiction. There was further discussion on its obligations in how to approach the vote. Mr. Miller said it almost seems unfair to vote because it is a lot to absorb going through the criteria yet again. The Chair asked for the questions to allow the board to consider the record and come back to vote.

The Solicitor listed the four questions:

- 1) Was the public interest met. It could be solar, it could be agriculture.
- 2) What are the negative aspects of the application
- 3) Now you have your negatives, can you place conditions on an approval to abate the negative impacts.
- 4) A broad question of balancing the public interest and determining whether balancing the good against the detriment to public good and where does that lead you. One element is the size of the tract itself, potential uses, etc. He discussed the Dover standards.

Mr. Miller asked where the Master Plan fits into the decision making. The Solicitor said the Board needs to ask whether if granting it is detrimental to the plan.

The Chair asked the applicant whether there is consideration of preserving at least a part of the land now. Mr. Davis said the applicant has only presented a declaration that sheep farming will take place during the life of the project, and then at the end of the project the land will be permanently preserved. He also noted 40 acres are being dedicated to the veteran's cemetery and not part of the farming declaration. The sheep farming must prevail because it is a condition of the use variance.

The Solicitor announced that the Board would be in a position to vote at the May 19th meeting. He told the applicant a renote is not required.

Vouchers

The chair said he reviewed vouchers.

Motion to approve vouchers for payment, (Eachus/DeSiato) all ayes on roll call.

Public Comment

Motion to open to public comment (Eachus/DeSiato) all ayes on voice vote. There were no comments.

Motion to close public comment (Eachus/DeSiato) all ayes on voice vote.

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

Meeting adjourned 11:15 p.m.

Minutes submitted by Board Secretary Rita Shade.