

The Dorchester County Board of Appeals met in regular session on Thursday, July 19, 2018 in Room 110 of the County Office Building at 7:00 PM. Present were, Lin Spicer, Cindy Smith, Mike Starling, Walt Gunby, Attorney, and Steve Dodd, Director. Absent: Catherine McCulley, Elizabeth Hill

Mr. Gunby advised the Board members that a temporary chairperson would need to be elected for this meeting. Ms. Smith made a motion to elect Lin Spicer as the temporary chairperson. Mr. Starling seconded and the motion unanimously carried.

An introduction was made by Acting Chairperson Spicer, explaining the procedures of this meeting to the audience. He then asked Mr. Dodd to read the first case.

Case#2441 - Gloria A. Dolan, owner

To request a three (3) year extension to June 25, 2021 of special exception case #2441, granted by the Board of Appeals on July 25, 2013. Special exception was for a solar energy system utility scale project. Property located at 5106 Mount Zion Road, Hurlock, MD and contains 38 acres. Zoned AC, Agricultural Conservation.

Gloria Dolan, and any other person who would be testifying in this case, were sworn in.

Ms. Dolan reviewed the request and provided a site plan for the proposed utility scale project. She noted that the developer has gone out of business and the contract with them expired in April, 2018. She advised that other than the developer, everything would remain the same as presented to the Board of Appeals when the special exception was granted.

Mr. Dodd read the portion of the code pertaining to the request for an extension. Mr. Dodd asked Ms. Dolan if she had notified the adjoining property owners and all who testified during the original case. Ms. Dolan advised she had.

Mr. Dodd stated that the original special exception was granted in 2013; Ms. Dolan requested a 3-year extension in 2015 and since it is now expiring, she is back to request another 3-year extension. Mr. Dodd advised that the site plan Ms. Dolan showed the Board tonight was approved by the Planning Commission. The Planning Commission approval has also expired. A new site plan will be required for approval by the Planning Commission. Mr. Dodd advised the code standards have not changed since the project was approved however, requirements for landscaping/buffering have become more extensive since Ms. Dolan first applied for the solar project.

No one spoke for or against the request.

Mr. Spicer announced the end of testimony and the Board began their deliberations.

After all testimony, Mr. Spicer called for a motion regarding this case. Ms. Smith made a motion "to grant an extension of one (1) year". Mr. Starling seconded, and the motion passed with Mr. Spicer objecting.

**Case # 2617A – Greenfield Farms, LLC
Adam and Kimberly Kral
Richfield Solar Energy LLC**

To request the following Board of Appeals approvals: (1) amendment of the special exception approval in Case No. 2617 for the establishment of a utility scale solar energy system on lands leased by Applicant along Osborne Road and Shiloh Camp Road (“Project”), (2) a variance to permit construction of 7 ft. tall security fencing on the additional lands to be added to the Project, as defined herein; and (3) a variance of internal property line setbacks. Zoned AC, Agricultural Conservation, containing 79.18 acres.

Ryan Showalter, McAllister, DeTar, Showalter & Walker, 100 N. West Street, Easton, MD, 21601, Brendan Mullaney, McAllister, DeTar, Showalter & Walker, 300 Academy Street, Cambridge, MD, and any other person who would be testifying in this case, were sworn in.

Mr. Spicer advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Showalter advised that they would comment briefly on their written responses.

Mr. Showalter reviewed the application for amendment to the Richfield solar energy project, Board of Appeals case 2617. Mr. Showalter asked that he be allowed to incorporate by reference, the record that was established for the case and supplement with information pertaining to the amendment. The Board members agreed to this. He entered into record applicant’s exhibit 1, the decision letter from the May 31, 2018 hearing for the original case.

Mr. Showalter gave an overview of the problem encountered with the Hagadorn parcel at the time of the original request. He also spoke about the problems they might encounter with the PJM after the withdrawal of the Hagadorn parcel from the application.

Mr. Showalter showed an aerial of the three proposed properties and spoke about the modifications made to the project. Total acreage of these parcels is approximately the same as the Hagadorn parcel. Mr. Showalter noted that they are requesting a variance from the 6 ft. height of the fencing to allow for 7 ft. fencing, as approved for the original case. He also noted they are requesting a variance of internal setback lines.

Mr. Showalter entered into record applicant’s exhibit 2, a letter from Kim Coulbourne and Gloria McCumbers. He then entered applicant’s exhibit 3, a letter from Dale Humphries. Both letters are from surrounding neighbors advising they have no objection to the project.

Mr. Showalter entered into record applicant’s exhibit 6, a letter from Department of Natural Resources, in response to the environmental review addendum submitted to the Public Service Commission, confirming Wildlife and Heritage Service has reviewed the project and found no concerns or impacts.

Ms. Smith asked if the developer had spoken to surrounding neighbors about the proposed addition of parcels to the project. Zack Nelson, Invenergy, and project developer for the Richfield Solar Project, came forward and advised that no one they have spoken with expressed concern about the addition of these parcels. Mr. Dodd noted that a list of surrounding property owners notified about tonight's hearing is part of the record.

Nick Leffler, Kimmey Horn, 1215 East Fort Ave., Baltimore, MD spoke about site changes and landscaping with the addition of the Kral and Greenfield properties. Mr. Leffler advised the panels will be installed with the existing grade and stormwater management will be handled as originally proposed.

Mr. Starling asked Mr. Leffler to review the differences between the types 1, 2 and 3 plantings. Mr. Leffler advised that the type 3 buffer would be the most enhanced and would be used to screen residences from project view. Type 2 buffers will be used along the roadways and would include smaller trees and plantings. Type 1 will be used to supplement existing forested areas. Mr. Leffler also showed photos of existing conditions from different viewpoints.

Mr. Showalter entered the landscape detail into record as applicant's exhibit 4 and exhibit 5, photos from different viewpoints.

Mr. Showalter called Bill McCain, 205 Executive Plaza, Salisbury, MD to speak about property valuation with respect to the addition of the three parcels. He advised the addition of the three parcels would not affect the value of the surrounding properties.

Mr. Showalter called Bob Rich, 7655 Tred Avon, Easton, MD, to speak about soil health and agronomy for the proposed additional parcels. He stated that in his opinion, adding these parcels would not pose any adverse effects to the soils.

Mr. Showalter spoke about the two parcels (258 & 259) owned by the Krals. He advised they were originally one lot of record that was divided using an exemption in the County subdivision regulations. This exemption allows parcels to be created for agricultural purposes without going through the subdivision review process. He pointed out that the parcels can not be used for development purposes until formally subdivided. Mr. Showalter noted this process is underway and is in the final stage of review/approval; he would be agreeable to condition approval on the finalization and recordation of this subdivision.

Mr. Spicer asked if there was anyone in the audience that would like to speak in favor of the request.

Brian Shufelt, 3708 Willey Rd., Hurlock, MD, and owner of Greenfield Farms, spoke briefly about the positive aspects of the project.

Adam Kral, 6004 ENM-Elwood Rd., East New Market, MD, also spoke in favor of the project.

Mr. Spicer then asked if there was anyone in the audience that would like to speak against the request.

Christi Brohawn, 6311 Wanda Rd., Hurlock, MD, stated she was not speaking for or against the project but had several questions for the Board. She asked what zoning code permits the addition of parcels once the project has been approved. Mr. Dodd advised that the Board has the authority to hear a request for an amendment to a special exception under the zoning code; Mr. Showalter advised §155.20, C (7), Modification or Extension of a Special Exception.

Ms. Brohawn asked how citizens opposed to this project can appeal the Board's decision for both cases. Mr. Dodd advised the opportunity to appeal the original request has passed; thirty days to appeal from the date the Board of Appeals granted the request. He noted that if the Board makes a favorable decision at this meeting, she would have the right to oppose this decision in the Circuit Court.

Ms. Brohawn then asked Mr. Showalter to point out on the plat where the accesses are being moved with the addition of the parcels. Mr. Showalter showed where the three access points would be. He noted that the only change would be the entrance to the Greenfield property.

Mr. Showalter entered the plat with the three access points circled into the record as applicant's exhibit 6.

Donna Todd, 6036 Shiloh Camp Rd., Hurlock, MD spoke about the third access, noting that it is in front of her house and she is opposed to it. Mr. Spicer noted the access she was referring to was approved at the initial hearing.

Mr. Dodd read the case into record.

Mr. Dodd read agency comments into the record. The Planning Commission stated that based on the information provided, they would suggest the Board of Appeals make their decision from all information and testimony provided. The Department of Public Works, through Joe Miller, Lane Engineering, stated they have no comment on the application. Applicant is seeking an amendment to the original application to include additional parcels to the project, 7 ft. fencing around the project, and a variance for internal property lines. There is nothing they can comment on from an Engineering perspective at this stage.

Mr. Spicer announced the end of testimony and the Board began their deliberations.

At this time, each Board member explained his decisions regarding the criteria.

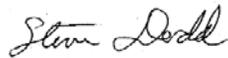
After all testimony, Mr. Spicer called for a motion regarding the variances for this case. Ms. Smith made a motion "to approve the request for the fence height and the setback variances." Seconded by Mr. Starling and unanimously carried.

Mr. Spicer then called for a motion regarding the special exception. Ms. Smith made a motion “to approve the special exception for the amendment to the solar utility scale project with the condition the Kral properties (parcels 258 & 259) are approved as building lots and, will be consistent with all conditions made at the June 17, 2018 meeting.” Seconded by Mr. Starling and unanimously carried.

A motion was made by Mr. Starling to approve the minutes of May 31, and June 21, 2018. Seconded by Ms. Smith and unanimously carried.

With no further business, a motion was made by Mr. Starling to adjourn. Seconded by Ms. Smith and unanimously carried. Time of adjournment: 9:15 PM.

Respectfully submitted,



Steve Dodd
Executive Secretary