

BRIDGEWATER TOWNSHIP PLANNING BOARD
Reorganization & Regular Meeting
Monday, April 28, 2014
—MINUTES—

1. CALL MEETING TO ORDER:

Chairman Rusak called the meeting to order at 7:03 p.m. in the Municipal Courtroom, 100 Commons Way, Bridgewater, New Jersey.

2. OPEN PUBLIC MEETINGS ACT ANNOUNCEMENT:

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A. 10:4-6. On January 8, 2014, proper notice was sent to the Courier Newspaper and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building. Please be aware of the Planning Board policy for public hearings: no new applications will be heard after 10:00 pm and no new testimony will be taken after 10:15 pm. Hearing Assistance is available upon request.

3. SALUTE TO FLAG:

There was salute to the flag.

4. ROLL CALL:

Stephen Rodzinak – present

James Franco – **absent**

Walter Rusak – present

Councilman Matthew Moench – present

Ron Charles – **absent**

Barbara Kane – present

Mayor Dan Hayes – present

Tricia Casamento, Alt. #1 – present

Others present: Board Attorney Thomas Collins, Board Engineer Robert C. Bogart, Board Planner Scarlett Doyle, Recording Secretary Marianna Voorhees

5. APPROVAL OF BOARD MINUTES:

April 22, 2014 Special Meeting (pending) – No action was taken.

6. MEMORIALIZATION OF RESOLUTIONS:

Bridgewater Raritan High School Basilone Field Turf - *Courtesy Review*

Block 411 Lot 40

#14-013-PB

DECISION: Approved 4/28/14

Motion by Councilman Moench, second by Mrs. Kane, the foregoing resolution memorializing the approval on 4/28/14 was adopted as presented on the following roll call vote:

AFFIRMATIVE: Mr. Rodzinak, Councilman Moench, Chairman Rusak, Mayor Hayes, Mrs. Kane, Mrs. Casamento

ABSENT: Mr. Charles, Mr. Franco

7. LAND DEVELOPMENT APPLICATIONS:

Bridgewater Baseball and Softball, Prince Rodger's Field – *Courtesy Review*

#14-012-PB Block 515 Lot 1

Joe Perello, Certified Landscape Architect and Professional Planner, of Suburban Consulting Engineers was sworn in to give testimony on behalf of Bridgewater Baseball and Softball. Mr. Perello's qualifications as a certified landscape architect and professional planner were reviewed and accepted by the Board.

Mr. Perello presented to the Planning Board the Capital Improvement Plan for Bridgewater Baseball and Softball specifically Prince Rodgers Field 2 and Prince Rodgers Field 3 at the Prince Rodgers Park. Mr. Perello stated this plan is to replace the existing infields with artificial turf infields, with the exception of the pitcher's mound. He stated the benefit of the artificial turf infield will be a reduction in the drainage and maintenance for fields during inclement weather.

Board Chair Walter Rusak opened the meeting to the public for questioning and comments. No one from the public was present. This portion of the meeting was closed.

The Board did not have any additional recommendations.

Motion by Chairman Rusak, second by Councilman Moench, the Board approved the Bridgewater Baseball and Softball, Prince Rodger's Field application and carried on the following roll call vote:

AFFIRMATIVE: Mr. Rodzinak, Mr. Franco, Councilman Moench, Chairman Rusak,
Mayor Hayes, Mrs. Barbara Kane, Mrs. Casamento

ABSENT: Mr. Charles, Mr. Franco

Bridgewater Raritan High School Basilone Field Turf - *Courtesy Review*

#14-013-PB Block 411 Lot 40

Mr. Craig Stires, P.E. of Stires Associates, presented on behalf of the Bridgewater-Raritan Board of Education, Capital Improvement Plan for replacement artificial turf field at the Basilone Field at the Bridgewater-Raritan High School.

Engineer Stires stated that the existing turf field at Bridgewater-Raritan High School needs replacement. Mr. Stires submitted plans showing the proposed capital improvements for the replacement of the artificial turf and related improvements at the Bridgewater-Raritan High School Basilone Field. Planning Board Engineer, Mr. Bogart did not recommend any additional conditions.

Board Chair Walter Rusak opened the meeting to the public for questioning and comments. No one from the public was present. This portion of the meeting was closed.

The Board found that the Capital Improvement Plan presented was consistent with the Master Plan of the Township of Bridgewater and should be approved.

Motion by Councilman Moench, second by Mrs. Kane, the Board approved the Bridgewater Raritan High School Basilone Field application on 4/28/14 with no conditions on the following roll call vote:

AFFIRMATIVE: Mr. Rodzinak, Councilman Moench, Chairman Rusak, Mayor Hayes, Mrs. Kane, Mrs. Casamento
ABSENT: Mr. Charles, Mr. Franco

10 FINDERNE AVE SOLAR, LLC - FINDERNE AVE BETWEEN RAILROAD AND RARITAN RIVER
#14-007-PB Block 304 Lot 1
Preliminary and Final Major Site Plan with Variances

Sworn testimony was presented by Kurt Hoffman, P.E., of Kurt Hoffman Engineering who was present to represent the Applicant, 10 Finderne Ave Solar, LLC

The Applicant submitted exhibits which were marked into evidence as follows:

- A-1 4/28/14 Colored rendering of Sheet 3 of Site Plan
- A-2 4/28/14 Colored rendering of Sheet 4 of 9 of Site Plan
- A-3 4/28/14 Somerset County Planning Board letter of April 24, 2014
- A-4 4/28/14 Zoning and Land Use Map by George Ritter, P.P.
- A-5 4/28/14 Photographs by George Ritter, P.P.
- A-6 4/28/14 Proposed solar array superimposed on an aerial photo

The Applicant was represented by counsel, Jennifer Smith, Esq. The Applicant presented testimony by Mr. Kurt Hoffman, a professional engineer, and Mr. George Ritter, a professional planner. Mr. Hoffman's qualifications as a professional engineer are recognized and accepted by the Board. Mr. Hoffman was sworn. The Board recognized and accepted the qualifications of George Ritter, P.P. as a professional planner. Mr. Ritter was sworn. Mr. Hoffman described the site plan for the Board and described the variances that the Applicant is seeking. Mr. Hoffman also described the surrounding properties. Mr. Hoffman reviewed the entire site plan with the Board and the comments and recommendations set forth in the Board Engineer and Planner's review report and the Applicant confirmed they would comply with all of the recommendations and conditions and the qualifications or deviations from said report. The Applicant's representative confirmed that the applicant would accept a condition that there would be no hazardous materials used in conjunction with the solar panels.

Mr. Ritter described the preliminary and final site plan and related "c" variances and site plan exceptions. He explained his opinions regarding the variances and site plan exceptions. He identified each of the variances that the Applicant is seeking. He confirmed that the Applicant is proposing to construct solar panels of approximately 4 ½ feet in height with screen mounted attachments to the ground. He stated the existing area of the yard or mowed lawn, and that the Applicant would prefer to keep the existing mowed lawn to the maximum extent practical and merely over seed with the grass seed mixture proposed and seed any limited disturbed areas with the same proposed grass seed mixture. He stated that the Applicant will maintain the lawn with a

landscape contractor, and that this will limit soil disturbance to the minimum extent necessary to implement the site plan. He responded to the questions and comments of Board Members and the Township Planner, Mr. Ritter, confirmed on behalf of the Applicant, that the Applicant will install a landscape buffer area between the fence and the solar array in the area of the property from the northern edge of the wetlands buffer wrapping around the corner of the areas of the arrays by the parking lot on the northern end of the property. The Township Planner recommended a landscape buffer in this area. The Board found it appropriate to require this buffer as a condition of the variances requested by the Applicant and, in lieu of the installation of the trees, required by the tree replacement ordinance provisions. Mr. Ritter confirmed that eight existing evergreen trees near the Raritan Valley Regional Sewage Authority sewage treatment plant are being removed, and that they were planning to replace them. He explained that they can utilize those replacement shrubs or trees in this proposed buffer area. The landscape buffer shall be installed in accordance with the requirements of the Township Planner and any dispute between the Applicant and Township Planner regarding the landscape buffer shall be returned to the Board for a final determination.

Mr. Ritter described each of the variances and explained his opinions regarding the same. The Variances are as follows:

1. 126-335.C(3c) – solar side yard setback – 150 feet required, 10 feet proposed, solar rear yard setback – 200 feet required, 25 feet proposed
2. 126-335.E - variance from landscape buffers
3. 126-191C.2 - site plan exception - 3 trees per 5,000 square feet of disturbed area required = 259 trees.
4. 126-335.C5, the grasses will be a grass-seed mix mowed rather than having mulch.

Site plan exceptions from site plan design standards include the following:

- Solar Side Yard Setback
- Solar Rear Yard Setback
- Solar Landscape Buffer
- Tree Planting

Mr. Ritter explained that, in his opinion, the variances could be granted pursuant to N.J.S.A. 40:55D-70c and that the site plan exceptions should be granted pursuant to Section 51 of the Municipal Land Use Law. He explained that the granting of the variances would benefit the purposes of zoning by promoting a renewable or solar energy use in an appropriate manner in an existing developed office and manufacturing property in the manufacturing zone. He explained that the surrounding land uses are the railroad tracks, County of Somerset vacant land and the Raritan Valley Regional Sewage Authority (“SRVSA”) sewage treatment plant. He explained that these uses will not be impacted by the proposed solar arrays in any significantly negative way. Moreover, in his opinion, these uses are compatible with the solar arrays and will continue to provide a separation of the solar arrays from any nearby uses. He explained that the closest existing residence is approximately 275 feet from the proposed northern corner of the solar array and that even the potential future housing on the property across the railroad tracks will be a substantial distance from the solar arrays and separated by the railroad tracks and existing vegetation on the intervening land. He explained that the solar arrays would be low in height and the solar panels will face south away from the nearest residences. He testified that the landscape

buffer, together with the existing vegetation, will shield or buffer the solar arrays from any existing or future residential uses. He described his exhibits and explained the location of the project relative to other industrial and utility-type uses, including the SRVSA sewage treatment plant. Mr. Ritter explained and supported his opinions. He opined that the granting of the variances would not cause a substantial detriment to the public good and would not cause a substantial impairment of the zone plan and zoning ordinance. He explained that the Municipal Land Use Law has identified solar energy to be an inherently beneficial use and has also allowed principal solar in industrial zones on tracts of 20 acres or greater, and that, in his opinion, the granting of the variances, in this case, would promote the purpose of the Municipal Land Use Law and the intent and purpose of the ordinances of the Township of Bridgewater. He acknowledged that the deviations from the setbacks and buffers are of a larger nature, but when considered in conjunction with this particular property, it was his opinion that there would be little or no impact upon the public good and little or no impairment of the zone plan and zoning ordinance. He explained his proofs for the site plan exceptions, particularly from the buffer requirements and the buffers within the setback requirements. He explained that, in his opinion, the imposition of the strict and literal enforcement of the design standards and the setbacks and buffers would prevent a reasonable use of the rear and side yards of the existing office and manufacturing site for solar energy use.

Board Chair Walter Rusak opened the meeting to the public for questioning and comments. No one from the public was present. This portion of the meeting was closed.

The Board finds that the property in question is proposed for an accessory solar system to service the existing buildings on the property located in the M-2 zone. The Board finds that the proposed locations of the solar arrays in the rear and side yards of the property in an area adjacent to an existing railroad line. The abutting Somerset County vacant land and the SRVSA sewage treatment plant, will benefit the purposes of zoning by providing for a solar energy use in a portion of the property suitable for such use. The Board finds that the uniqueness of this property is clear. The Board finds that the granting of the variances will benefit the purpose of zoning by promoting the solar energy use on an appropriate property at an appropriate location. The Board finds that the conditions accepted by the Applicant with respect to a landscape buffer to be planted between the area of the northern most wetlands buffer line and the corner of the parking lot at the northern end of the property will benefit the purpose of zoning. The Board determined that the benefits resulting from this particular application will outweigh the detriments and impairments. With respect to the negative criteria, the Board finds that the granting of the “c” variances will not cause a substantial detriment to the public good, and will not cause a substantial impairment to the zone plan and zoning ordinance. In this regard, the Board notes that the rear yard and side yard nature of this property and the adjoining uses make it a unique setting for the granting of the deviations from the ordinances requested by the Applicant.

The Board found that since the benefits of the purpose of zoning will outweigh the detriments pursuant to N.J.S.A. 40:55D-70(c)2 that the variances and preliminary and final site plan application and site plan exceptions.

The following terms and conditions were agreed upon by the Planning Board:

1. The terms of such approval are to be strictly in accordance with the plans and testimony presented to the Board herein, and same are incorporated into this resolution by reference.
2. The Applicant shall comply with the following review reports: report of the Township Engineer, Robert Bogart, and Township Planner, Scarlett Doyle, dated April 18, 2014; report of the Township Sewer Coordinator, Mr. Robert Reich, dated April 21, 2014; and report of the Director of Human Services, Chris O. Poulsen, dated April 22, 2014. Said reports are attached hereto and incorporated herein by reference.
3. The Applicant shall provide landscaping to the satisfaction of the Township Planner in the area between the northern wetlands buffer line and solar arrays near the parking lot on the northern side of the property. The applicant shall plant a landscape buffer in the area as directed by the Township Planner. Any dispute between the Township Planner and the Applicant shall be returned to the Board for a final determination.
4. The Applicant shall relocate the shed and the helipad is being removed and abandoned.
5. The Applicant shall not utilize solar panels that contain hazardous materials.
6. The Applicant's approval was effective on April 28, 2014, with the understanding that the Applicant waived its rights to a written resolution and could proceed at its own risk, subject to an explicit condition that the Applicant shall obtain all governmental approvals necessary before the start of work. The Board recommends that the Township Attorney and the Township favorably consider that the Developer's Agreement be solely with the Applicant since it is a 10-year tenant of the owner of the property. This determination of the type of developer's agreement, if any, shall be made by the Township Attorney and Township Mayor and Council.
7. All taxes, fees, escrows, assessments and other monies due to the Township of Bridgewater shall be paid in full.
8. The Applicant shall obtain governmental approval from any other governmental agencies with jurisdiction relating to the property, if necessary.
9. The Applicant shall comply with all rules, regulations, statutes and ordinances of the United States of America, State of New Jersey, County of Somerset, and Township of Bridgewater.

Motion by Mayor Hayes, second by Councilman Moench, the 10 FINDERNE Solar, LLC – FINDERNE Ave between railroad and Raritan River, Preliminary and Final Site plan with variances was approved with conditions on the following roll call vote:

AFFIRMATIVE: Mr. Rodzinak, Councilman Moench, Chairman Rusak,
Mayor Hayes, Mrs. Barbara Kane, Mrs. Casamento
ABSENT: Mr. Charles, Mr. Franco

8. MEETING OPEN TO THE PUBLIC:

There were no members of the public wishing to address the Board on any matter not listed on the agenda.

9. ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 8:10 pm.

Respectfully submitted,
Marianna Voorhees, Recording Secretary