

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, February 28, 2012
—MINUTES—

CALL MEETING TO ORDER:

Chairman Vornehm called the regular meeting of the Bridgewater Township Zoning Board of Adjustment to order at 7:30 p.m. in the Bridgewater Municipal Courtroom, 100 Commons Way, Bridgewater, New Jersey.

OPEN PUBLIC MEETING 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 20, 2012, proper notice was sent to the Courier News 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 Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:15 pm and no new testimony will be taken after 10:30 pm. Hearing assistance is available upon request.

ROLL CALL:

Don Sweeney – present	Jay Rosen – absent
Jim Scott – absent	Paul Riga – absent
William Vornehm, Chairman – present	Lee Schapiro – absent
Pushpavati Amin, Alt. #1 - present	Evans Humenick, Alt. #2 – present
Carl Schulz, Alt. #3 – present	Michael Kirsh, Alt. #4 - present

Others present: Attorney Lawrence A. Vastola, Land Use Administrator Marie L. Broughman, Board Planner Scarlett Doyle

MINUTES FOR APPROVAL:

The December 20, 2011 Regular Meeting, January 17, 2012 Reorganization & Regular Meeting, and February 21, 2012 Regular Meeting minutes will be presented for Board consideration when they are completed.

MEMORIALIZING RESOLUTIONS:

There were no pending resolutions to memorialize.

HEARING AND DELIBERATIONS:

HIGGINS - 157 CANDLEWICK LANE

Block 444, Lot 25

#26-11-ZB; Use & Bulk Variances (ground mounted solar arrays in residential zone)

TIME: 120=5/12/2012

The Applicant was present to represent herself. Sworn testimony was provided by Applicant Janet Higgins, Landscape Architect Walter Corella, and Solar Installer of Eco Solar Solutions Peter Costales.

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

- A-1 2/28/12 Photo: Summertime view with string outlining the proposed ground mounted solar array
- A-2 2/28/12 Panoramic Photo Board – looking west to northeast
- A-3 2/28/12 Shade Analysis

The property is known as Lot 2 in Block 26 of the Tax Map, located in the R-40 Single-Family Residential Zone at the terminus of Bell Lane with access from Candlewick Lane through driveway easement, and commonly known as 157 Candlewick Lane.

The subject property consists of a tract of land having an area of 5.8 acres. It is fully improved with a single-family dwelling, freestanding garage and a green house. Applicant proposes to construct a ground mounted solar array on the property. A variance is needed as ground mounted solar arrays are specifically prohibited in all residential zones.

With respect to this application the Board is in receipt of the following: (a) a report from the Township Planner dated January 6, 2012; (b) a report from Sewer Utility dated February 15, 2012 advising no comments; (c) accompanying the application an unsealed plan entitled “Minor Site Plan and D-Variance For Mrs. Janet Higgins Ground Mounted Solar Array Lot 25 in Block 444 Zoning District R40 157 Candlewick Lane Bridgewater, NJ 08807”, drawn by Peter Costales, Eco Solar Solutions, LLC dated November 15, 2011, and consisting of five (5) sheets; (d) a survey prepared by Thomas Bliss, dated July 27, 1972 with field measurements updated to May 4, 1998 by Walter Carell, Jr. GLA loc. AS00425; and (e) a decommissioning plan.

The governing body has adopted an ordinance controlling the location, installation and decommissioning of solar arrays. This ordinance specifically prohibits ground mounted solar arrays in residential zones. The ordinance does, however, contemplate the potential for use variance requests for ground mounted facilities in residential zones and sets forth guiding information which the Board must consider in addition to the requirements of the Municipal Land Use Law.

The Municipal Land Use Law (MLUL) sets forth as one of the purposes of zoning, the utilization of renewable energy sources, which has been identified as being inherently beneficial. The concept of inherently beneficial use has been judicially created dealing with uses considered of such community value that their permission should be considered favorably. The standard to be applied by the Board when considering such a use was judicially established in the matter of Sica v. The Board of Adjustment of the Township of Wall, 127 N.J.152(1992). The case set forth what is called the four prong Sica test, which requires the Board to identify the public interest at stake, identify the detrimental effect that will inure from the grant of the variance, consider reasonable conditions to lessen the

detrimental effect, and finally to weigh the positive and negative criteria to determine whether on balance, the grant of the variance would cause a substantial detriment to the public good.

In this case the public interest has been set by the MLUL which sets forth as one of the purpose of the Act to promote utilization of renewable energy sources. Therefore, the first prong of the Sica test is satisfied. When applying the remainder of the test the overriding consideration is the size of the property, 5.8 acres in a zone wherein 40,000 S.F. is the required size of any lot. Prohibiting ground mounted solar arrays in residential zones, is intended to eliminate the aesthetic impact which they would have on the neighborhood. Locating a ground mounted array on a 5.8 acre lot should be possible with little or no impact on adjoining properties.

Solar Installer Peter Costales testified that the array will encompass an area of just under 1,000 S.F. with a 3-foot walkway. It will be between 12 and 15 inches above the ground. The energy supplied will be only for the applicant's use. Further, given the proposed location of the array, any glare emanating from it will be directed toward the existing dwelling.

Landscape Architect Walter Corella testified, initially, that a total of approximately 69 trees will have to be removed to accommodate the array. However, upon questioning it was determined that most of these trees were of a small caliper not requiring a permit to be removed and that a total of 3 large oak trees were those of significance. To replace the trees to be removed and to provide a buffer for the array, the applicant proposed to plant up to a total of 50 shrubs 18 to 24 inches in height.

Members of the public were present as follows:

Wincheng Chen, 310 Raymond Court, addressed concerns regarding safety of the children who attend the adjacent swim club as there is a path that leads through the woods toward the property in question. He stated that the swim club is not fenced and the children hike in the woods. In addition, he addressed concerns about the existing tall trees falling onto the solar panels, breaking them and leaving shards of glass which would be harmful to the area children and wildlife. He requested the Applicant to place the solar panels on the existing greenhouse instead of the ground as proposed. Mr. Chen requested a plan that shows the specific trees to be removed.

Howard Norgalis, 143 Candlewick Lane, spoke in favor of the application. He has been a neighbor of Mrs. Higgins for 43-years and stated that she is a tree hugger. Mr. Norgalis stated that installation of solar passes the SICA test and that he highly endorses the project. He thanked the Board Members for their services and coming out for the Board Meetings.

With no further comments from the public, Chairman Vornehm closed the public portion of the hearing.

The Board deliberated and discussed several conditions including:

- Applicant shall plant up to 50 shrubs 18 to 24 inches high. The type and location of the shrubs shall be determined by the Township Planner and applicant's landscape architect. If they cannot agree then the applicant shall return to the Board for a final determination.
- No pine straw shall be used as was proposed for the installation.
- Applicant shall comply with all of the applicable provisions of the solar array ordinance.
- No developer's agreement is required.
- The Applicant shall submit a Bridgewater Township Compliance Report prior to the plans and any deeds being signed, and prior to scheduling the pre-construction meeting and issuance of construction permits.

After considering all of the testimony the Board is satisfied that on balance the positive criteria outweigh the negative criteria and with conditions the granting of the variance will not substantially impair the zone plan or land plan or land use ordinance or be a substantial detriment to the public welfare of the residents of the Township of Bridgewater.

The Board has reviewed the provisions of the ordinance which it must consider and is satisfied that the size of the property along with the conditions to be imposed by the Board address the conditions.

Motion by Mr. Sweeney, second by Mr. Kirsh, the HIGGINS – 187 CANDLEWICK LANE application was approved with conditions on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Humenick, Mr. Schulz,
Mr. Kirsh, Chairman Vornehm

ABSENT: Mr. Schapiro, Mr. Rosen, Mr. Scott, Mr. Riga

DILEEP - 17 JENNA DRIVE

Block 179, Lot 15

#32-11-ZB; Simple Variance (sunroom deck addition)

TIME: 120=5/12/2012

The Applicant was present to represent themselves. Sworn testimony was presented by Applicant Lalita Dileep and Contractor Scott Wightman.

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

- A-1 2/28/12 Photo: Existing deck
- A-2 2/28/12 Photo: View looking west
- A-3 2/28/12 Photo: View looking north, directly behind property in question

The property is known as Lot 15 in Block 179 of the Tax Map, located on the northerly side of Jenna Drive in the R-40 PURD Zone, and commonly known as 17 Jenna Drive.

The subject property consists of a tract of land having an area of 6,000 S.F. with frontage on Jenna Drive of 60 feet. The property is fully improved with a two-story single-family dwelling. Applicants propose to enclose the existing deck with a sunroom and add an additional deck adjacent to it. Variances are need from the rear yard and impervious coverage provisions of the ordinance. The ordinance requires a minimum rear yard of 24 feet, applicants propose 21.5 feet. Impervious coverage is limited to 40%, applicant is proposing 41%.

With respect to this application the Board is in receipt of the following: (a) a joint report from the Township Engineer and Township Planner dated February 18, 2012; (b) accompanying the application unsigned and unsealed architectural Plans for the sunroom prepared by Efficient Home Products dated September 9, 2011 and consisting of ten (10) sheets; (c) unsigned and unsealed plans by Alexis Spyrou, PE dated September 19, 2011; and (d) a survey prepared by Stires Associates dated February 24, 2000, upon which applicant has inserted the proposed deck and sunroom.

Applicant Dileep testified that the property was purchased in 2000 as new construction for which a certificate of occupancy was issued, and that the existing deck was in its current position, 21.5 feet from the rear property line. The applicants therefore are not increasing the encroachment into the rear yard. There was introduced into evidence photos showing considerable vegetation along the rear property line, which will lessen any negative impact on the property to the rear. The proposal does not violate the side yard requirements of the zone. The ordinance limits impervious coverage to 40%, applicant is proposing 41%.

There were no members of the public present who spoke regarding this application.

The Board deliberated and considered the 1% variance for improved lot coverage deviation de minimus. After reviewing this application the Board is satisfied that the benefits to be derived by granting the variance outweigh any detriment to the land use ordinance and that the granting of the variances will not substantially impair the zone plan or land use ordinance or be a substantial detriment to the public welfare of the residents of the Township of Bridgewater. There shall be no developer's agreement required and the Applicant shall submit a Bridgewater Township Compliance Report prior to the plans and any deeds being signed, and prior to scheduling the pre-construction meeting and issuance of construction permits.

Motion by Mr. Schulz, second by Mrs. Amin, the DILEEP – 17 JENNA DRIVE application was approved with conditions on the following roll call vote:

AFFIRMATIVE: Mr. Sweeney, Mrs. Amin, Mr. Humenick, Mr. Schulz,
Mr. Kirsh, Chairman Vornehm

ABSENT: Mr. Schapiro, Mr. Rosen, Mr. Scott, Mr. Riga

MEETING OPEN TO THE PUBLIC:

Members of the public wishing to address the Board on any matter not listed on the agenda may do so at this time.

OTHER BOARD BUSINESS:

There was no other Board business discussed.

ADJOURNMENT:

It was the consensus of the Board to adjourn the meeting at approximately 9:45 pm.

Respectfully submitted,
Marie L. Broughman,
Land Use Administrator/Board Clerk

Adopted as Presented: 3/20/12