

**LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
WEDNESDAY, NOVEMBER 17, 2010, 7:30 P.M.**

Present: John Gladwell, Alt. #1
Robert Kulak
Leona Maffei
Sam Pangaldi, Alt. #2
Peter Kremer, Chairman

Absent: Stephen Brame (Absent/excused)
Bruce Kmosko (Absent/excused)
Cathleen Lewis (Absent/excused)
Charles Lavine, Vice Chairman (Absent/excused)

Also Absent: Sara A. Summiel, Recording Secretary (Excused)

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slaugh, P.P., AICP, Planning Consultant, Clark•Caton• Hintz
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson

1. Statement of Adequate Notice

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger newspapers on Wednesday, November 10, 2010.

2. ADOPTION – CALENDAR FOR 2011:

Mrs. Maffei moved and Mr. Kulak seconded to approve Adoption of Calendar.

Vote:

AYES: Gladwell, Kulak, Maffei, Pangaldi, Kremer
NAYES: None
ABSENT: Brame, Kmosko, Lewis, Lavine

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3. Application No. ZB-16/10 (TURTLE ENERGY, LLC – LAWRENCEVILLE SCHOOL SOLAR FARM), Use Variance, Major Site – Preliminary 7 Final Approval Application No. SP-12/10, 2500 Lawrence Road, Tax Map Page 58+, Block 5801, Lots 1.01.2 & 9.

The hearing was recorded. The Board took jurisdiction.

Mark A. Solomon, Esq., represented the applicant. Mr. Solomon gave a brief overview of the application and the ownership of the Lawrenceville School. He proceeded to explain the partnership with Turtle Energy, LLC to acquire the panels to build and maintain facility. He briefly explained the recent adoption of Legislation with regard to solar panels and the opportunity for the school and their students to demonstrate sustainability leadership. The applicant proceeded to give an overview of the sustainability initiatives demonstrated by the School over the past years. The applicant stated that after the construction of the proposed solar system, 230 acres of farmland will be left. The applicant stated that a consultant has been hired to give counsel on how the School could sponsor a farm that will regenerate the soil. With regard to the agricultural rights and lease of the land, applicant explained the Turtle Energy, LLC has agreed, as part of their 20-year lease of the land, to use best efforts of agricultural on the site. The applicant is seeking approval to install a 6 mega-wall ground mounted Solar Photovoltaic system on Lot 9. The applicant stated that the site is located on Route 206 and is currently used as farmland and to the north side, as a community garden. The applicant stated that the solar array will cover about 40 acres of land. The applicant briefly explained that the proposed solar array would provide about 90 percent of the School's electrical power. The applicant stated that the array would generate approximately 8500 megawatt hours of electricity and reduce the School's dependence on fossil fuels. The applicant described the proposed improvements to be located in the EP-1 district. The applicant addressed the use variance request because of the separation of zoning from EP-2 to EG1 since a solar array facility is not a permitted use.

The applicant's Professional Engineer referred to Exhibit A-1 (Photo Package) and described the existing conditions on the site. The applicant stated that Lot 9 slopes primarily from north to south with drainage running west to east. The applicant described the environmental constraints with regard to the wetlands and the small tributary of Shipetauken Creek. The applicant stated that all the necessary applications have been submitted to NJDEP for required permits, wetlands disturbance identification and verification of floodplain tributaries.

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Mr. Slauch referred to his report dated November 9, 2010, and addressed Item No. 6.3. He questioned whether a request was made to NJDEP for identification of any threatened or endangered species. The applicant did state that an Environmental Assessment for habitat was completed for wood turtle. The applicant will provide a copy of Assessment to the Township Professionals, in addition to the EIS, when available, from NJDEP.

Mrs. Kraemer referred to her report dated November 5, 2010, and addressed Item No. 1.03. She requested the applicant to provide new concrete apron on the north side of the Community Garden. She requested the applicant to acquire the necessary permit from New Jersey Department of Transportation prior to construction for required access from Route 206. The applicant shall install reflective pavement markers for the driveway access from Route 206. Also, Mrs. Kraemer requested compliance with regard to the turning radii for emergency vehicles. The applicant shall install a Knox box on the gate entrance of emergency access road for emergency access. The applicant agreed to comply with the Township's requirements and other recommendations.

The applicant proceeded to address the variance with regard to the side yard. Mr. Slauch confirmed that after re-measuring there is no side yard setback requirement. The applicant addressed the stream buffer variance and stated that NJDEP should respond within a short period of time for verification. The applicant is proposing to provide a temporary access around the fence about 25 feet from the 100-year flood plain to prevent any disturbance. The applicant stated that the proposed 8-foot high chain link fence surrounding the solar panels is for security purposes. With regard to the buffer density exception, the applicant does not propose since the residential homes are so far away.

The applicant's Professional Architect gave an overview of the history for Turtle Energy. The applicant stated that Turtle Energy is a \$400M electrical distributor. The applicant explained the coordination of the electrical, mechanical, structural and civil disciplines for the design of solar array. The applicant referred to Exhibit A-2 and described the footprint of proposed solar array. The applicant proceeded to review Exhibit A-3 and described the Site Sections of the construction area. With regard to the agriculture use, the applicant suggested the use of clover for the ground cover and the applicant stated their willingness to work the Township Professionals. The applicant stated that the time frame of construction would be from March to

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September 2011. The applicant referred to Exhibit A-4 and described the installation of the 1700 posts for the Photo Montage Panels.

The applicant stated that the proposed panels are guaranteed to be working in the next 25 years at 80 percent of their original power outlet. The applicant's Professional Planner gave testimony with regard to the use variance because of the Lawrenceville School being located in the EP-2 zone which does not permit the Boarding School, but does permit the Day School. The applicant addressed the stream buffer variance and explained that it would be more efficient to provide necessary solar energy to the school than to lose three acres of viable farmland. The applicant stated that the 7,000 sq. ft. disturbance will not have a detrimental impact on the flood plain area. With regard to the density buffer, the applicant explained that the proposed solar array will barely be visible from Route 206. The applicant proceeded to give testimony with regard to the benefits and public purposes to install the solar panels as an inherently beneficial use with the School's continued Green Program and felt that the variance could be granted without substantial detriment to the public good.

Mr. Slauch accepted the applicant's characterization of the use variance, but did not agree with how it was characterized because the proposed use would be a principal use of the property that is separated out by the zoned lots. He addressed the goals of the Master Plan and Preservation of Farmland and agreed with the inherently beneficial use. Also, he stated that the proposed landscape buffer behind the Community Garden is unnecessary. Mr. Schmierer stated that the applicant did ask for approval to work with the Township Professionals to continue other agricultural uses under the solar panels and other site improvements including the planting of meadow grass. The Board accepted.

Mrs. Kraemer addressed Item 1.06 of her report with regard to the Farmland Assessment. The applicant agreed to confer with the Tax Assessor to determine the real property tax. The applicant agreed to comply with the Township's recommendation. The Board accepted.

Mr. Slauch addressed Item 7.4 of his report with regard to lighting. Also, the applicant will include motion detector within side of the fenced-in area surrounding the solar panels. The applicant agreed to an Administrative review for the lighting and security system. The Board accepted. (See Attachment No. 1 – Reports)

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A discussion took place by the Board with regard to whether the applicant should delete the installation of the evergreens and split the rail fence behind the Community Garden. The Board agreed to reserve the right to review whether or not additional landscape buffering is necessary after the solar arrays have been installed. The applicant accepted and will confer with the Township Professionals for an Administrative approval.

Exhibits:

- A-1 Photo Package
- A-2 Existing Panorama Views
- A-3 Site Sections
- A-4 Photo Montage Panel
- A-5 General Arrangement & Plan

The following Witnesses were placed under oath:

- Wesley Brooks, CFO, Lawrenceville School
- Jennifer Schwenker, Professional Engineer & Expert
- John Millard, Representative – Architect & Representative of Turtle Energy, LLC
- Tiffany Curviello, Professional Planner & Expert

Public Comment:

- Howard Myers, Farmer of the Land for 19 years. Mr. Myers stated that the benefits of this project would outweigh any downside. He stated his willingness to work with the applicant and the school to continue farming around the project. Also, he stated his willingness to farm the remaining land in the best environmental sensitive way possible. He stated that he has been collecting solar energy over the years and supports the approval of this application.
- Peter Radice Jr., 6 Dennick Court, Lawrence, questioned the name of Turtle Energy and whether the Turtle Energy owns the property. Mr. Radice questioned whether Turtle Energy will be paying taxes because of the tax-exempt status on agricultural land.

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Mrs. Maffei moved and Mr. Kulak seconded to approve the application, including variances, and conditions placed on record, subject to all appropriate conditions and the recommendations contained in the Township Professional's reports.

Vote:

AYES: Gladwell, Kulak, Maffei, Pangaldi, Kremer
ABSENT: Brame, Kmosko, Lewis, Lavine

4. Old Business/New Business/Correspondence: None
5. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 11:30 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,
Sara A. Summiel-emailed

Sara A. Summiel
Recording Secretary

MINUTES APPROVED: April 27, 2011