
CALL TO ORDER:

Mr. O'Leary called the meeting to order at 7:34 p.m. and stated it was open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

FLAG SALUTE

ROLL CALL: Members Present: Hughes, Fette, Luthman, Randazzo,
Corcoran, Didyk, Leuthe, Taylor, O'Leary.

Members Excused: Straub.

Also Present: Ursula Leo, Esq.
Nevitt Duveneck, PE
David Banisch, PP

AUDIENCE:

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

COMPLETENESS/ HEARINGS:

1.) Barnside, Inc. VAR09-14 B:24 L:3.06

Mr. Lawrence Cohen Esq., said he was present on behalf of Barnside, Inc.

Mr. O'Leary asked who the owners of the property were in case there was a potential conflict of interest. He noted there was no certification in the application that was presented to the Board. Mr. Michael Oriolo of 11 Magnolia Lane in Roselle, NJ was sworn in by Ms. Leo. Mr. Oriolo said he was the principal shareholder of Barnside, Inc and owns 100% of the property.

Mr. Cohen said he was in receipt of the Board Engineer's report dated 8-19-10 which recommends completeness.

Mr. Duveneck said he received a revised map dated 9-5-10 which addressed concerns in his original report. He said there is enough information submitted to deem the application complete and recommended the Board take that action.

A motion to deem the application complete was made by Mr. Corcoran. It was seconded by Mr. Fette and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Randazzo, Corcoran, Didyk, Leuthe, Taylor, O'Leary.

Mr. Howard Bach, PE of 43 Layton Lane, Sparta, NJ was sworn in by Ms. Leo. He gave his qualifications which were accepted by the Board.

Mr. Bach described to the Board the map which was part of the application with a date of 9-5-10. He said the property is a long thin lot challenged by wetlands on the south and east sides and by its topography. He said there is only one place to build on the lot. There is an existing barn and silo as well as an existing easement on the property. He said the easement is for the telephone company. Mr. Bach said they have received approval from the County Health Department for septic approval. He explained the wetlands and the transition area to the Board. He said the lot is 3.68 acres in the R-5 zone and explained the lot frontage and said the owner was proposing a single family home on the top of the property. He explained the constraints of the property and said they cannot meet the .75 acres of unconstrained land as required by the ordinance. Mr. Bach said the constraints of the property are the wetlands and the slopes. He said they are proposing to use the existing driveway. The existing barn is from the mid 1800 and the silo is from around the 1940's. Mr. Oriolo said the barn is in fair condition.

Mr. Bach reviewed the variances the applicant was seeking. He said they will need a variance for the minimum lot size. They have 3.68 acres in a 5 acre zone. They also were requesting variances for lot width, lot depth, front yard setback, rear yard setback and minimum unconstrained land.

Mr. Cohen noted the Board Engineer's report speaks about the existing barn and the need for a variance. Mr. Cohen felt since it was an existing barn, it did not require a variance. Ms. Leo said this would be the Board's decision. There was a discussion on the barn, its location and the need for a variance.

Mr. Bach noted there was only one place for the house and septic to be located. He said the driveway itself can conform to the township ordinances however the site distance to the south going downhill back towards Pelletown Road is challenged. Mr. Cohen said they will submit the site distances for the driveway to the Board. Mr. Duveneck requested a full site distance up and down Dennis Road. Mr. Bach will provide the information.

Mr. Bach indicated the top of the property is bedrock or ledge rock and may need to be blasted or hammer out with a hydraulic hammer. The amount will depend on the architectural plans. The material would have to be removed from the site because there is no place to use it on the site. They cannot determine at this time where it would be taken. Some of the existing trees will need to be removed. Mr. Bach said they will try to keep the limit of disturbance as tight as possible however they will need a drill rig to be able to get to the septic site. He said they are proposing .6 acres of disturbance which include the septic, well, driveway and utilities. Mr. Duveneck requested the trees being proposed for removal be indicated on the map. Mr. Leuthe noted the proposed house had observation decks and felt it would be important to see how many trees would be removed from the property. Mr. Cohen said they can flag the location of the house, the septic and the driveway so the Board can see what will be removed. Mr. Duveneck noted the Board was very concerned with the ridgeline and did not want to see the top of the mountain wiped out of trees. Mr. Cohen will advise the Board Secretary when the flagging is completed. Mr. Leuthe felt the trees are needed to hold the mountain together because of the drastic slopes it has. Mr. Duveneck agreed and expressed a concern about the view from the house on Pelletown Road and suggested they buffer the view with trees.

Mr. Cohen said they will return on December 16, 2010 with the Applicant's planner and a planners report.

Mr. Duveneck went through his report and requested a septic permit from the County. Mr. Bach submitted a permit from Sussex County Health Department dated 8-12-10 which was marked as exhibit A-1.

Mr. Duveneck asked for an increase in the township right of way. Mr. Cohen agreed.

Mr. O'Leary asked if the lot had been subdivided in the past. Mr. Bach said it had to have been subdivided in the past.

Mr. Fette requested the trees to be removed be marked on the revised map. He asked why the front yard for the old barn is Pelletown Road and the front yard for the proposed dwelling they are using Dennis Road. Mr. Cohen said there are technically two front yards. Mr. Fette expressed a concern with old barns falling down. He said an old barn does add character to the town however one that is falling down is considered an unsafe structure. He requested an opportunity to go through the barn with the owner and assess the condition of the barn. Mr. Oriolo testified that the barn has the largest chestnut beam in the State and the beam is on the historic register.

Mr. Luthman asked if the septic can be within 10 feet of the property line to which Mr. Duveneck said yes. Mr. Luthman asked where an alternate septic field would be located if the proposed location failed. Mr. Bach said it would go next to the proposed field. He said it can also go back in the same place. There was a discussion on the location of the utility boxes. Mr. Oriolo said he purchased the property in 2000 and the easement was in place at that time. Mr. Cohen will provide a copy of the easement to the Board. Mr. Luthman asked if the barn was included in the impervious calculation to which Mr. Bach said no.

Ms. Didyk asked about phase II of the project. Mr. Oriolo explained that phase I will be the construction of the house and phase II will be the construction of the garage. He said he will be residing in the house once it is constructed. Ms. Didyk requested a copy of the original subdivision resolution. Mr. Luthman felt there never was a subdivision and that lot 3.06 was part of the farm across the street however it had its own lot number. Mr. Cohen said his client indicated he was not aware that this lot was part of any previous subdivision.

With no further questions from the Board, Mr. O'Leary opened the meeting to the public. Mr. Gerald Bouchal of 19 Dennis Road, Lafayette came forward to ask questions. He asked if the proposed driveway will be paved. Mr. Bach said a portion of it will be paved. Mr. Bouchal asked Mr. Bach if they planned on widening the driveway. Mr. Bach said it will be widened to the proper radii and will be constructed to the township's driveway ordinance. Mr. Bouchal asked if trees will be removed along the proposed driveway. Mr. Bach said it will depend on site distance. Mr. Bouchal asked for the elevation of the road in comparison to the easement driveway. Mr. Duveneck said the applicant is going to provide a driveway profile for the next meeting and that he will have full advantage of looking at it. Mr. Bouchal expressed a concern about the water runoff from the driveway.

Mr. Cohen granted an extension of the application to the December 16, 2010 meeting. A motion to carry the application without further notice to the December 16, 2010 meeting date was made by Mr. Fette. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Randazzo, Corcoran, Didyk, Leuthe, Taylor, O'Leary.

2.) Beaver Run Solar Farm SP10-11 B:25 L:2, 4.01

Mr. Hughes and Mr. Corcoran stepped down from the Board for this application.

Mr. Kevin Kelly attorney for the applicant requested that only phase I of the project be addressed at this time. He said they will try to address phase II at the December 16, 2010 meeting. He said the phase I part is the 8.5 acre lot known as lot 4.01 that would be just for the use of the Shotmeyer property. He said the larger portion would be phase II. He asked for the Board to approve the use variance for phase I. He asked to address only lot 4.01 for the use variance and the preliminary and final site plan.

A motion to bifurcate the use variance for lot 4.01 (phase I part of the project) was made by Mr. Randazzo. It was seconded by Mr. Leuthe and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Didyk, Leuthe, Taylor, O'Leary.

Mr. David Banisch issued a report dated 10/21/2010. Mr. Banisch said the environmental impact statement raised a number of concerns. He expressed his concerns to the Board. He felt the environmental characteristics were incomplete and would impact the use variance. He said his report expresses a concern about the Sica test. He explained the test to the Board.

Mr. Thomas Knutelsky, PE explained phase I of the project to the board. He explained exhibit A-4 which was previously entered. He explained the shade abatement area to the Board. He said there would about 1400 solar panels constructed on metal racks on 2.5 acres. There will be an 8 foot high fence surrounding the area used for solar. He said the remainder of the land will remain undisturbed and continued to be used for pasture land. He said about 2.5 acres will need to be cleared for shade abatement. He said the area where the solar panels will go has been used for corn and has been previously cleared of trees. He said the trees that need to be removed are only about 40 to 50 years old. Mr. Duveneck said the area that Mr. Knutelsky is saying is pasture land contains a lot of ledge and steep slopes. Mr. Knutelsky said there was corn on the sloping part of the field. He said there are stone fences that go through the property that indicate it was pasture land. Mr. Duveneck asked why the panels cannot be moved to avoid the slope and the removal of trees. Mr. Knutelsky said that even if they moved the panels the trees would still need to be removed.

Mr. Charles Shotmeyer of 633 Ewing Ave, Franklin Lakes, N.J., owner of the property, was sworn in by Ms. Leo. He said his family has owned the property since 1962. He said the solar panels are proposed in the location they are because if they do not get phase II approval then he prefers to have Phase I where it is proposed. He said if they move it further west it will be in more productive fields. He said the phase I proposed location is not productive farmland. He said they have done tree harvesting in the shade abatement area. He said it is also a better area to collect sun. Mr. Knutelsky explained the ridgeline on exhibit A-3 and A-4 to the Board. Mr. O'Leary expressed a concern about the clearing of the trees on the ridgeline. Mr. Randazzo suggested a conservation easement be placed on the ridgeline as a condition of any approval. Mr. Kelly said they would agree to this condition.

Mr. Leuthe asked if the panels will be seen from Lewisburg Road. Mr. Knutelsky explained the view from Lewisburg Road and Fox Hill Road to the Board. He said there would be no visible impact from either road.

Mr. Taylor asked why the trees on the north side of the proposed panels need to be cut down. Mr. Knutelsky said he will defer this question to other experts. Mr. Troy Henson of SUR Technology located at 628 North 2450 West, West Point, Utah was sworn in by Ms. Leo. He said his profession is renewable energy development which develops solar farms from engineering to financing. He said they work with land owners and boards to develop solar properties. He gave his background and education to the Board which was accepted. He said he is the president and C.E.O. of SUR Tech. Mr. Henson explained the shade profile and said if one panel is shaded the whole string will be inoperative. He said they are proposing 1400 panels which are 3.5' X 6'. He explained how the DC current goes through the convertor and becomes AC current. He said the power will go to Sussex Rural Electric Cooperative. The trees to the north will be removed for access to the panels and so they will not fall on the panels. He said they prefer not to take down any more trees than necessary.

Mr. Banisch expressed a concerned with the area were the trees will be cut down. He asked if they would be planting any native vegetation in the area where the trees are being cut. Mr. Henson said they are not planning on putting shrubs in that area however they are going to leave the low growth plants that exist. Mr. Shotmeyer said there will be grazing in the shade abatement area. He said it is currently being maintained as pasture land.

Mr. O'Leary expressed a concern about the glare coming off of the panels. Mr. Henson said the panels will not produce glare. They are made with an anti-glare glass and the panel will be fixed in place. Mr. Henson entered and marked one 270 watt solar panel as exhibit A-10. He explained the panel to the Board.

Mr. Randazzo asked how the panels will impact the blue heron which nests in the pond on the property. Mr. Henson said he could not answer that question.

Mr. Randazzo asked how the electricity is transferred off of the site. Mr. Hanson said the electricity goes through the wires from the back of the panel which run underground to the inverter which takes the DC electricity and turns it into AC electricity which is sent to a grid. The wires from the inverter will go overhead to the existing utility poles. He said there will be 4 invertors which will be about the size of a small refrigerator. He said the sound of the inverter from one meter in distance will be 65 decibels. He said there is a slight hum from the inverter however you need to be right up against it to hear it. Mr. Banisch asked for the specifications on the invertors.

Mr. O'Leary asked what happens to the panels when they burn out or are broken. Mr. Hanson said they are shipped back to the manufacturer and they are recycled. Mr. O'Leary asked for an exit strategy or plan. Mr. Hanson said he does not have an exit strategy at this point. He said that is something they would have to address when the time comes. The panels are unbolted from the support system and the poles are removed from the ground and everything is taken from the site.

Mr. Luthman asked for more information on how this project will affect the habitat. He also asked about the contouring of the land. Mr. Knutelsky said they will remove the existing vegetation in the area where the panels are going. He said the existing top soil will remain and replanted with a low growth vegetation. He said the racks will follow the contour of the land. Mr. Luthman requested a bond be put in place to cover the cost of removing the solar farm and restoring the site back to an agricultural farm.

Mr. Banisch asked about the jobs this project will create in the area. Mr. Henson said it will create from 50 to 100 jobs depending on the time it takes to do the construction. He said it will be a mix of local labor and non-local labor.

Mr. Fette asked if the panels will be installed horizontally. Mr. Henson said it will either be installed horizontally in levels or vertically in single layers however it will not reach over 8' in height. There will be 1463 panels in total and the overall footprint will not change from what was proposed.

Mr. O'Leary asked if the inverters shut off if not needed. Mr. Henson said the inverters do not operate in the dark and would not be making any sound.

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

There was discussion on the ratability of the project. Ms. Leo said it will be addressed during site plan testimony.

Mr. Luthman asked for a conservation easement along the ridgeline which would be reflected in the deed. Mr. Kelly asked how he would handle this. Ms. Leo said they can show the ridgeline on the map and do a small easement and record it in the deed. Mr. Banisch explained the designations for the site such as environmentally sensitive areas and endangered species. He explained the map that he handed out to the Board. Ms. Caldwell felt there would be no negative impact from the clearing of the trees. Mr. Banisch said there should be some documentation to that affect. He said an L.O.I. is required per the ordinance and it was not provided. Mr. Knutelsky said they would get natural heritage data, environmentally sensitive area and endangered species areas with the phase II portion of the project.

Mr. Luthman felt there were a number of missing items from the E.I.S. He wanted to make sure the impacts are minimized. He felt the conservation easement should go along the shade abatement area. Mr. Kelly said the conservation easement is off the table. He felt it was not justifiable to give away property in this manner and they would not do it. Ms. Leo said the Board has the right to impose reasonable conditions and wanted to know what the difference was between the applicant saying they would not clear the ridgeline and a conservation easement spelling it out when it is shown on the plan anyway. Mr. Kelly felt the conservation easement was not a reasonable condition.

There was a discussion on the conditions being proposed. Mr. Luthman said he did not want the Board held liable if Phase II does not get passed. He felt Phase II would be very different from Phase I. There was a lengthy discussion on where the conservation easement will be located on the land. Mr. Duveneck suggested the conservation easement just prevent the clear cutting of trees on the ridgeline.

A motion to approve the use variance for lot 4.01 with the following conditions: specifications for noise generation by the inverters, area for abatement will be fenced pasture, no clearing of trees along the natural ridgeline to be shown on revised plan and a conservation easement recorded on a deed, no removal of top soil, site plan approval, and project limited to 1500 panels on 2.5 acres was made by Mr. Randazzo. It was seconded by Mr. Taylor and passed with a roll call vote. Ayes: Fette, Luthman, Randazzo, Didyk, Leuthe, Taylor, O'Leary. Mr. Luthman expressed a concern that the applicant is taking a risk that just because phase I use variance is approved it does not mean that phase II will be approved. He did not want anyone to think that phase II is a done deal because of the vote that just took place. Mr. Randazzo, Ms. Didyk and Mr. Leuthe expressed the same concern.

The site plan portion of the application was carried to the November 11, 2010 meeting date.

OLD BUSINESS: None.

NEW BUSINESS: None.

RESOLUTIONS: None.

ORDINANCES: None.

ZONING REPORT: None.

BILLS: List 9 & 10

A motion to pay the bills as presented was made by Mr. Leuthe. It was seconded by Mr. Randazzo and passed with a roll call vote. Ayes: Hughes, Fette, Luthman, Randazzo, Corcoran, Didyk, Leuthe, Taylor, O'Leary.

EXECUTIVE SESSION: None.

CORRESPONDENCE: None.

ADJOURNMENT:

A motion to adjourn was made by Mr. Randazzo. It was seconded by Ms. Didyk and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo
Land Use Board Secretary