

LAND USE BOARD MINUTES
November 19, 2014

The Tewksbury Township Land Use Board met in a regularly scheduled meeting on the above date in the Municipal Meeting Hall, 60 Water Street, Lebanon, New Jersey. The meeting was called to order at 7:32 p.m.

Present: Michael Moriarty, Bruce Mackie, Robert Becker, Ed D'Armiento, Alt. #2, Kurt Rahenkamp, Alt. #3 and David Larsen, Alt. #4.

Also present: Daniel Bernstein, Land Use Board Attorney, William Burr, Land Use Board Engineer and Shana L. Goodchild, Land Use Administrator.

Absent: Blake Johnstone, Mary Elizabeth Baird, Shaun Van Doren, Dana Desiderio, Shirley Czajkowski and Ed Kerwin.

There were approximately five (5) people in the audience.

OPEN PUBLIC MEETING ACT STATEMENT

Mr. Moriarty opened the meeting by announcing that adequate notice of the meeting had been provided by posting a copy thereof on the Police/Administration Building bulletin board, faxing a copy to the Hunterdon Review and the Hunterdon County Democrat, and filing with the Municipal Clerk, all on January 9, 2014.

PLEDGE OF ALLEGIANCE

Those present stood and pledged allegiance to the American flag.

CLAIMS

Mr. Moriarty asked the Board if there were any questions or comments regarding the following claims to which the response was negative. Mr. Becker made a motion to approve the claims listed below and Mr. Rahenkamp seconded the motion. The motion carried by the following roll call vote:

1. Bernstein & Hoffman – Attendance at 10-15-14 LUB meeting, invoice dated October 16, 2014 (\$375.00)
2. Bernstein & Hoffman – Land Use Board Escrow – Holmes (B23, L8.09), invoice dated October 7, 2014 (\$450.00)
3. Maser Consulting – Land Use Board Escrow – Cellco Partnership (B44, L26), invoice #253876 (\$390.00)
4. Maser Consulting – Land Use Board Escrow – Oldwick Fire Company (B44, L22.01), invoice #253877 (\$162.50)
5. Maser Consulting – Land Use Board Escrow – Lyons (B32, L37.07), invoice #253878 (\$225.00)
6. Maser Consulting – Land Use Board Escrow – Wollmer (B11, L20), invoice #253879 (\$32.50)

7. Maser Consulting – Land Use Board Escrow – Reed (B45, L21), invoice #253881 (\$747.50)
8. Maser Consulting – Land Use Board Escrow – Taylor (B37, L7), invoice #253882 (\$32.50)
9. Maser Consulting – Land Use Board Escrow – Holmes (B23, L8.09), invoice #253880 (\$780.00)
10. Suburban Consulting Engineers – Land Use Inspection – Halsey Farm (B32, L7), invoice #000000023195 (\$964.17)

Roll Call Vote:

Those in Favor: Mr. Mackie, Mr. Becker, Mr. Moriarty, Mr. D’Armiento, Mr. Rahenkamp and Mr. Larsen

Those Opposed: None

CORRESPONDENCE

A motion was made by Mr. Becker and seconded by Mr. Rahenkamp acknowledging receipt of the following items of correspondence. All were in favor.

1. Memorandum dated November 7, 2014 from Chief Holmes re: Becker/Green Power Energy, Appl. No. 14-14, Block 31, Lot 7.03.
2. Notice dated Oct. 8, 2014 from American Towers, LLC re: Notice of LOI, Transition Area Waiver for Block 44, Lot 26 for installation of new monopole tower, equipment compound and adjacent access road connection to King Street.
3. A letter dated Oct. 30, 2014 from Sean Murray re: closing of his escrow for 37 Philhower Road.
4. A letter dated October 17, 2014 from the Hunterdon County Planning Board to all Municipal Mayors/Planning Board Chairs re: Proposed Amendment to the Hunterdon County Water Quality Management Plan – Frenchtown Borough Wastewater Management Plan Chapter.
5. Notice dated October 14, 2014 re: an application to the NJDEP for a flood hazard area permit for Block 23, Lot 26.03 and Easement on Lot 26.
6. Notice dated October 14, 2014 from Andrew and Kathryn Platt re: application to the NJDEP general permit authorization in wetlands/wetlands transition area for cutting of vegetation and construction of utility line.
7. Two (2) letters from Asset Management Consultants re: return of escrows for Sprint and Nextel Communications.
8. The NJ Planner, July/August – Vol. 75, No. 4.
9. A letter dated November 13, 2014 from William Burr re: Green Power Energy/Becker, Appl. No. 14-14, Block 31, Lot 7.03.
10. A letter dated November 18, 2014 from the Tewksbury Township Environmental Commission re: Green Power Energy/Becker, Appl. No. 14-14, Block 31, Lot 7.03.

MINUTES

➤ June 4, 2014

The minutes of June 4, 2014 were approved as submitted by motion of Mr. Becker and seconded by Mr. Rahenkamp. All were in favor. Mr. Mackie abstained.

➤ June 18, 2014

The minutes of June 18, 2014 were approved as submitted by motion of Mr. Becker and seconded by Mr. Rahenkamp. All were in favor. Mr. Mackie abstained.

ORDINANCE REPORT

Mr. Mackie had no ordinances to report on.

PUBLIC PARTICIPATION

Mr. Moriarty asked the public if there were any questions or comments regarding anything not on the agenda. There being no comments or questions, Mr. Moriarty closed the public participation portion of the meeting.

RESOLUTIONS

➤ Resolution No. 14-18 Oldwick Fire Company, Appl. No. 14-02, Block 44, Lot 22.01 *Eligible to vote: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mr. Becker, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin and Mr. Johnstone*

Mr. Mackie made a motion to approve the following resolution. Mr. Becker seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 14-02
RESOLUTION #14-18

WHEREAS, THE OLDWICK FIRE COMPANY has applied to the Land Use Board of the Township of Tewksbury for permission to install an electronic display free-standing sign at the OLDWICK FIRE HOUSE which is located at Oldwick Road on property designated as Block 44, Lot 22.01 on the Tewksbury Township Tax Map, which premises is located in the Piedmont (PM) District, and

WHEREAS, the application was presented by Webster (Dan) Todd, Jr., the President of the Oldwick Fire Company; Architect Edward Matthew O'Brien, AIA; and sign company representative William (Bill) Clark at the August 6th, 2014 and October 1st, 2014 Land Use Board meetings and voted on at the October 15th, 2014 meeting, and

WHEREAS, the application was reviewed by Land Use Board Engineer William H. Burr, IV, P.E. of the firm of Maser Consulting, P.A., and

WHEREAS, the Board, after considering the evidence presented by the applicant and Mr. Burr, has made the following factual findings:

A. The Subject Property.

1. The subject property contains 5.068 acres or 220,262 square feet.
2. The site is developed with a firehouse, a detention basin, driveways, and parking stalls.
3. The fire station is identified by its distinctive cupola and 1 foot tall letters on the front of the building.

B. The Proposal.

4. The applicant proposes to install an electronic display, free-standing sign within approximately 20 feet of the Oldwick Road right-of-way.
5. The overall dimensions of the masonry sign would be 7 feet 1 inch tall, except for small cutouts at the top of the sign on both sides, by 10 feet wide. The electronic display section of the sign would be approximately 3 feet by 6 feet. It would be embedded in a random rectangular flagstone base.

6. The messages on the sign would be remotely controlled from both the fire station and computers in designated fire officials' homes.

7. The messages would likely be on three (3) lines with letters 4-6 inches tall.

8. The sign would be internally lit. It would be turned off at 10:00 pm.

9. The messages could change every five (5) seconds.

10. The sign would be used for emergencies such as Hurricane Sandy and road closings, fire company messages, community group events, possibly senior citizens' birthdays, but not commercial messages. The messages would be approved by a committee of the Oldwick Fire Company.

C. Required Variances.

11. Land Use Board Engineer Burr, in his July 31, 2014 report, noted the required variances:

“ZONING REVIEW:

1. According to Planning Board Resolution of Approval No. 04-14, a lot coverage of 32.3% exists on the property which is more than what is permitted by the DRO – Sec. 706F (5% max.) and Sec. 710.2 (25% max. for Fire & Rescue Buildings). Since the proposed sign will further increase the coverage by an additional 20 S.F., a lot coverage variance is required.
2. The proposed sign does not meet DRO Section 720 – Signs; therefore, a variance is required.
3. Planning Board Resolution of Approval No. 04-14 contains Condition #9 which states that “Any sign for the banquet facility shall require a permit. If a freestanding sign is sought, a variance will be required.”

TECHNICAL REVIEW:

2. The applicant is seeking a variance to construct a permanent information sign structure with built-in electronic screen display. The plan indicates that the entire structure will measure 70.83 S.F. (7'-1" x 10 ft.) with the electronic screen measuring about 18 S.F. (6 ft. x 3 ft.).

The DRO does not currently contain standards for signs in the Piedmont District. However, since the Township has standards for "Retail, Commercial and Business Uses in the VB District", pursuant to Section 720E.5 of the DRO, such standards could be used as a guide to evaluate the signage being proposed by the applicant. The applicant should provide testimony to clarify how the proposed sign compares to the following DRO requirements:

- a. DRO Sec. 720.E.5.a – size of the sign shall not exceed the smaller of either six (6) S.F. or an area equal to 5 percent of the wall area devoted to that business for the wall on which it is placed.
- b. DRO Sec. 720E.5.c. – a directory sign, which shall be one non-flashing and non-rotating ground sign, shall be permitted for announcing each of the tenants in addition to the signs noted in subsection E.3.a of this section. Its area shall not exceed 6 square feet and its height shall not exceed 12 feet.
- c. DRO Sec. 720.F – No signs may be illuminated except one display sign in nonresidential zoning districts. Lighted signs shall be illuminated only during business hours and only to the extent necessary for readability and shall be turned off by the close of business or 10 pm. No neon, flashing or glaring sign shall be permitted in any district."

D. Signs in Oldwick.

12. The Board takes quasi-judicial notice that the signs in the Village of Oldwick are significantly smaller than the proposed 70 square foot sign and are likely smaller than the 18 square foot message board. As an example, the Melick Farm Stand, a farm stand across Oldwick Road from the subject property, has an innocuous free-standing sign that is barely visible from the road.

13. There are no electric display signs in Oldwick, or anything remotely similar.

E. Village of Oldwick.

14. The Fire Company property is located within approximately 550 feet of the Oldwick Historic District, which is listed on both the State and National Register of Historic Sites. A number of buildings in the district are listed in both registers.

15. A goal of the 2013 Master Plan Re-Examination Report is:

“6. Identify and preserve historic structures, landmarks, village and hamlets. Protect buildings, hamlets and the village and scenic roadways that remind us of our historic legacy. Require design standards in historic districts for new and renovated buildings that will respect the Township’s history and rural character...”

F. Analysis of Requested Variances.

16. There are alternative methods for reaching citizens in emergency situations, such as the establishment of a website, or sending e-mails to residents, which could reach essentially all Tewksbury residents in their home, without the necessity of driving past the Oldwick Fire House.

17. Emergency situations occur infrequently. Hurricane Sandy was a once in a lifetime disaster.

18. The Board suggests to the Fire Company that it could place a portable sign in the front of the Fire Station when emergencies occur.

19. The Board is concerned with the sign operating daily until 10:00 pm with routine messages and only infrequently with emergency messages.

20. The applicant has not proven the positive criteria which would justify the grant of the requested sign variance. The sign is in a district which does not allow free-standing signs. The Village Business District allows directory free-standing

signs of no more than 6 square feet. The proposed sign is not a directory sign and is substantially larger than a permitted directory sign in the Village Business District.

21. The overwhelming use of the sign would be for non-emergency events as emergencies infrequently occur.

22. A viable alternative is provided by the use of a temporary portable sign, such as that used by the Township of Tewksbury.

23. The Board finds that the requested sign, although technically not a flashing sign, has some of the attributes of a flashing sign with messages which can be changed every five (5) seconds.

24. The proposed electronic display free-standing sign will be an oversized discordant structure along Oldwick Road. It would be inconsistent with existing signage along Oldwick Road. The electronic element with the changing messages would be detrimental to the character of both the residences and businesses along Oldwick Road and totally inconsistent with the character of the historic district.

25. The proposed sign is inconsistent with the goal of the 2013 Re-examination Report of protecting historic structures, villages, and hamlets. The requested sign is not only inconsistent with the provisions of the PM District where signs are not allowed, but is inconsistent with the provision of the Village Business District where signs are permitted. Although the requested sign may not be considered flashing, its fast changing messages and patterns are wholly inconsistent with the intent of the Master Plan and the Zoning Ordinance.

26. The requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance for the Township of Tewksbury.

27. The applicant has failed to prove either the positive or the negative criterion for the grant of the requested variances.

NOW, THEREFORE BE IT RESOLVED by the Land Use Board of the Township of Tewksbury on this 19th day of November 2014 that the application of THE OLDWICK FIRE COMPANY be denied.

Roll Call Vote

Those in Favor: Mr. Mackie, Mr. Becker and Mr. Moriarty

Those Opposed: None

- Resolution No. 14-19 Barry and Catherine Reed, Appl. No. 14-12, Block 45, Lot 21 *Eligible to vote: Mrs. Baird, Mr. Van Doren, Mr. Mackie, Mrs. Czajkowski, Mr. Moriarty, Mr. Kerwin and Mr. Johnstone*

Mr. Mackie made a motion to approve the following resolution. Mr. Moriarty seconded the motion. The motion carried by the following roll call vote:

LAND USE BOARD
TOWNSHIP OF TEWKSBURY
APPLICATION # 14-12
RESOLUTION # 14-19

WHEREAS, BARRY and CATHERINE REED have applied to the Land Use Board of the Township of Tewksbury for permission to construct an addition to their single family residence and for approval of an existing deck and shed on their property which is located at 10 Felmley Road and designated as Block 45, Lot 21 on the Tewksbury Township Tax Map, which premises is located in the Residential 1.5 (R-1.5) Zone, and

WHEREAS, the applicants previously received a side yard setback variance from the Tewksbury Township Board of Adjustment, a predecessor to the Tewksbury Township Land Use Board, for the construction of an addition to their home which was memorialized in a resolution which was adopted on April 18th, 1988, and

WHEREAS, the current application was presented by Barry and Catherine Reed at the October 15, 2014 Land Use Board meeting, and

WHEREAS, the subject property is improved with a one-story home with two decks and a two-car garage, an above ground swimming pool, a shed, and a circular shaped driveway, and

WHEREAS, the lot is undersized, containing about 1.09 acres, while the Zoning Ordinance requires a minimum lot size of 1.5 acres in the R-1.5 Zone, and

WHEREAS, the lot is narrow, with road frontage of 100.53 feet, and a lot width at the building setback line of about 100 feet, while the Zoning Ordinance requires a minimum lot width of 175 feet in the R-1.5 Zone,

WHEREAS, the applicants propose to construct an addition 21 feet 4 inches wide by 12 feet deep which will consist of an expanded bedroom and a handicap bathroom to serve Barry Reed, and

WHEREAS, the addition would maintain the existing non-conforming western side yard setback of 18.1 feet, while the Zoning Ordinance requires a minimum side yard setback of 30 feet in the R-1.5 Zone, and

WHEREAS, the testimony disclosed the materials, roof, and architecture of the addition will match that of the existing home, and

WHEREAS, the applicants have removed the existing above-ground swimming pool and small deck, which when subtracted from the addition reduces existing lot coverage from 14.9% to 14.27%, while the Zoning Ordinance permits total lot coverage of 15% in the R-1.5 Zone, and

WHEREAS, the Hunterdon County Health Department has approved the new bathroom, and

WHEREAS, the side yard setback variance is justified under N.J.S.A. 40:55D-70c(1)(a) on the basis of the small size and narrow width of the subject property, and

WHEREAS, the side yard setback variance is also justified under N.J.S.A. 40:55D-70c(1)(c) on the basis of the location of the existing home on the lot, and

WHEREAS, the applicants received a building permit for the construction of the deck which has a non-conforming side yard setback of 18.6 feet on the eastern side of the home, and

WHEREAS, the deck and shed are existing conditions which fit harmoniously with the lot and its environment, and

WHEREAS, the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Tewksbury.

NOW, THEREFORE be it resolved by the Land Use Board of the Township of Tewksbury on this 19th day of November, 2014 that the application of Barry and Catherine Reed be approved in accordance with architectural plans titled: "BARRY

& CATHY REED 10 FELMLEY ROAD WHITEHOUSE STATION, N.J. 08889
SCALE: ¼"=1'0" LOT-21 BLOCK-45" undated and unattributed consisting of four (4)
sheets and a survey titled "BARRY E. AND CATHERINE L. REED 10 FELMLEY RD.
TEWKSBURY TWP. HUNTERDON CO. NEW JERSEY" prepared by Terrell M. Essig,
Professional Engineer & Land Surveyor on February 16th, 1993 with the survey modified
and signed by the property owners on September 8th, 2014 subject, however, to the
following conditions:

1. The architectural plan shall be corrected to show the width of the addition at 21 feet 4 inches.
2. There shall be no exterior entrances or walkways to the addition.
3. The architecture and exterior materials of the addition shall match the existing home.
4. No trees are to be removed in the construction of the addition.
5. No exterior lights are proposed.
6. The approved plan shall show the above-ground swimming pool and the small deck have been removed.
7. The applicants shall submit a Foundation Location Survey to the Land Use Administrator with a copy to the Zoning Officer and a copy to the Construction Official prior to any further construction on the addition beyond the foundation.

8. The applicants shall comply with all rules, regulations, ordinances and statues of the Federal, State, County and local municipal governments that may apply to the premises. The applicant shall submit a letter to the Land Use Administrator certifying compliance with the aforementioned rules, regulations, ordinances and statues.

9. This resolution and the issuance of permits are conditioned on the applicants paying all escrows and fees.

10. The variance shall be utilized within one year of the date of this memorialization resolution. If it is not utilized within one year the approval of the addition shall become void and have no further effect.

Roll Call Vote

Those in Favor: Mr. Mackie and Mr. Moriarty

Those Opposed: None

PUBLIC HEARING

- Green Power Energy
Appl. No. 14-14
Block 31, Lot 7.03
Setback and Impervious Coverage Variance
Action Deadline – 2/24/15

Walter Wilson, attorney, was present on behalf of Green Power Energy along with Greg Hodgson, Green Power Energy, Wayne Ingram, Engineer and the property owner Susan Becker.

Board member Robert Becker noted for the record that he is no relation to the applicant.

Wayne Ingram was sworn in by Mr. Bernstein and his qualifications accepted by the Board.

Greg Hodgson was sworn in by Mr. Bernstein.

Susan Becker was sworn in by Mr. Bernstein.

Mr. Ingram explained that the property in question is 48 Philhower Road which has an existing residence and a long driveway, deck, patio, swimming pool and some walkways. The existing septic system is located in the front yard and the well is in the rear of the home. The property is fairly steeply sloped on the eastern side; the level area is behind the residence. All of the improvements on the property were constructed in the early 80's based on aerial photos. When asked if the driveway surface is blacktop, Mr. Ingram responded in the positive. When asked if the driveway is curbed, Mr. Ingram responded in the positive noting that it would be difficult to reduce the driveway area. When asked about the topography of the adjoining properties, Mr. Ingram explained that they are gently sloping with steeper slopes to the west.

Mr. Ingram explained that the proposal is to install a photovoltaic solar array that will be net metered to power the house and not meant to return energy to the grid. Two (2) arrays are proposed, a 50 foot x 16 foot larger array and a 38.5 foot x 9.5 foot lower array. They are positioned by existing timber retaining walls towards the south corner of the property. The retaining walls allow for the arrays to be positioned with minimal amount of disturbance and will hide the arrays because they will be positioned within the tiers and blend into the landscape. When asked if there is any re-grading proposed, Mr. Ingram responded in the negative. When asked what the tiered retaining walls were used for, Mr. Ingram explained that they were used as a garden.

Mr. Ingram noted that the property is at 15.2% impervious coverage which includes the entire driveway, walkways, patio, pool, house and retaining walls. The permitted coverage is 10% and so the property is 5.2% over the permitted coverage allowed for a 3.9 acre lot. The proposed panels will produce a negligible amount of increased coverage; 40 sq. ft. (0.02%) for the concrete piers as the panels themselves do not count towards the impervious coverage (per State regulations). Mr. Ingram noted that they cannot easily reduce the coverage on the property by 40 sq. ft. so the applicant is requesting a variance for impervious coverage.

Mr. Ingram noted that the applicant also needs a side setback variance to place the array 20 feet from the westerly property line where 40 feet is required. The location chosen for the arrays makes it the least noticeable from the neighbors. The only other area on the property is behind the house but is at a higher grade and would be much more visible to the residence to the west. He noted that there is approximately 200 feet of dense vegetation that will serve as a buffer. When asked if the arrays will be fenced, Mr. Ingram responded in the negative. When asked if he is aware of the new solar ordinance that the Township recently adopted which requires fencing, Mr. Ingram responded in the positive and noted that the application was filed prior to the ordinance being adopted. When asked if any additional structures are proposed, Mr. Ingram responded in the negative and noted that the only disturbance will be running the electric service to the existing electric box. When asked if there is any additional driveway access proposed, Mr. Ingram responded in the negative. When asked if there are any trees to be removed, Mr. Ingram responded in the negative.

Mr. Greg Hodgson explained that he is a solar engineer/consultant with Green Power Energy designing and planning solar systems for homeowners and small businesses. When asked if he is an engineer, Mr. Hodgson responded in the negative. Mr. Hodgson noted that he performs the electrical design and layout of the array on the site and the Civil Engineer then finalizes the plan. When asked what he factored into the location of the array, Mr. Hodgson explained that the first thing he does is look at a clients electrical bills to try to maximize the system to reduce or eliminate their electric costs. Originally the roof was looked at but they have heavy shading on the west roof and the roof mainly faces west. Mr. Hodgson provided photos that showed significant trees that would have to be removed to eliminate the shading (marked as **Exhibit A-1**). He noted that the roof could be used but the system would be much less efficient and trees would need to be removed. He went on to explain that the north side of the property is sloping and shady. The best site that was found was in the south end of the property facing in the southerly direction. When asked about moving it outside of the setback into the grassy lawn area, Mr. Hodgson explained that there is a set of trees that would render the array inefficient. Mr. Hodgson used some of the photographs submitted as part of the application material to describe the location and the shading that would interfere with the efficiency of the array. Mr. Wilson noted that the area is also raised and therefore would be more visible from adjoining properties and the Becker's residence. When asked if anyone will see it at the location proposed, Mr. Hodgson responded in the negative and noted that there are significant mature trees along the southern boundary that will buffer the array. When asked by Mr. Wilson how the mature trees don't cause a shading issue for the proposed location, Mr. Hodgson explained that due to the topography of the property it slopes so dramatically that the trees don't impact the array but do serve as a buffer. When asked to describe the layout of the array, Mr. Hodgson explained that the panels are roughly 66 inches long x 40 inches wide and they will be mounted in a landscape fashion; a landscape position (vs a portrait position) keeps the profile lower. The maximum height proposed is 7 feet 9 inches. When asked what will be underneath the array, Mr. Hodgson explained that shade tolerant grass will be planted. When asked what the racking system consists of, Mr. Hodgson explained that the tubes in the ground are 2 inch galvanized pipe with a series of racks that run from the front to the back of the array and the panels are mounted directly to the racks with clips. When asked to describe the conversion from DC current to AC current, Mr. Hodgson explained that there are inverters that are mounted to the back of the array. When asked if there are any raw electrical connections exposed, Mr. Hodgson responded in the negative and noted that they are encased and have built in disconnect switches and automatic shut off's if there are any problems within the array. When asked where and how the electricity connects to the house, Mr. Hodgson explained that the client's meter is located under the stand of trees shown in the photo and so the line will run to that meter. When asked if there are any trees in the area of the proposed array that will need to be removed, Mr. Hodgson responded in the negative and noted that there are just some overgrown scrub bushes that will be removed. Mr. Hodgson displayed for the Board each of the photographs that were submitted as part of the application (which he took). When asked by Mr. D'Armiento why the array couldn't be moved further to the east, Mr. Hodgson noted that because of the grade there would be a significant amount of re-grading/disturbance. When asked by Mr. Burr why the panels couldn't be moved closer to the pool area, Mr. Hodgson explained that there is

still some significant shading from existing trees. When asked about fencing around the array, Mr. Hodgson explained that no fencing is proposed but to comply with the NEC electrical code they will install netting on the back of the array. When asked if there are dangers to anyone, Mr. Hodgson responded in the negative and explained that there are no exposed wires or circuits. The electrical panels will be marked and there will be a sign at the entrance of the Becker's driveway indicating that there is a solar array on the property.

Mr. Bernstein pointed out the deviations from the newly adopted solar ordinance noting that the proposal does not comply with the fencing and height regulations. When asked if all other aspects of the ordinance have been complied with, Mr. Hodgson responded in the positive. Mr. Bernstein noted that the application was filed prior to the ordinance and so the applicant isn't required to comply. When asked by Mr. Wilson the angle of the proposed array, Mr. Hodgson replied 20 degrees which is not the optimum angle of 35 degrees. When asked if they would agree to a condition that there be no light or glare on adjoining properties, Mr. Wilson agreed to the condition. When asked how high the lowest portion is off the ground, Mr. Hodgson responded 2 feet. When asked why it is not positioned at the ground, Mr. Hodgson explained that it is positioned at 2 feet due to snow loading in the winter. When asked if the panels need to be manually cleared of snow, Mr. Hodgson explained that a 20 degree angle allows the panels to self clean. He noted that there are 1 inch gaps between the panels which allows air and water to flow between the panels.

When asked by Mr. Burr about maintenance, Mr. Hodgson explained that nothing is required of them or the homeowner. When asked if there will still be a buffer in the winter months, Mr. Hodgson opined that there is still a buffer significant enough to shield the view of the array. When asked if the electricity generated will be enough for the entire house, Mr. Hodgson responded that it will generate 95 to 100% of the electricity for the house. When asked if the panels will have a safety mode, Mr. Hodgson responded in the positive noting that there are multiple disconnects.

When asked by Mr. Mackie if his company will be installing the array, Mr. Hodgson responded in the positive. Mr. Mackie noted that the plan calls for a 30 degree angle and asked if it was a mistake to which Mr. Hodgson responded in the positive and confirmed that it would be at a 20 degree angle. Mr. Wilson noted that it was a typo and not a change on the plan and will not impact the height of the panels.

When asked by Mr. Becker the kilowatts for the panels, Mr. Hodgson replied 18.4 kW for 22,000 kW hours. When asked if they are capped by the State, Mr. Hodgson responded in the positive and noted that they are capped at 105% over usage. When asked if over 10 kW is considered a commercial installation, Mr. Hodgson responded in the negative. When asked the total square footage of the panels proposed, Mr. Hodgson responded approximately 1,200 sq. ft. When asked if there is 1,200 sq. ft. of southern roof area, Mr. Hodgson responded in the negative. He noted that most of the roof area faces east and west. When asked if he knew the elevation of the house to the south, Mr. Ingram opined that it was 30 to 40 feet lower. When asked if there will be any glare into

that residence due to the angle, Mr. Hodgson responded in the negative and explained that they have installed arrays on similar terrain and not had a problem with glare. He noted that based on the shade analysis prepared there will be no glare impact. Mr. Becker expressed concern about the recourse the Board would have if a neighbor has trouble with glare after the panels are installed. Mr. Bernstein noted that it is tough to enforce after the arrays are installed and it is also very difficult for a Zoning Officer to prove that there is glare. Mr. Burr reminded the Board that in the past conditions were included authorizing the Board Engineer or Landscape Architect to meet with the applicants professionals in the field to inspect the property. Mr. Wilson entered into the record a 2014 aerial photograph of the property (marked as **Exhibit A-2**). Using Exhibit A-2 Mr. Ingram demonstrated for the Board that there will be substantial tree cover in both the westerly and southerly direction and he opined that there will never be any winter glare.

When asked by Mr. Rahenkamp why the array has to be 8 feet high when the ordinance calls for a maximum of 6 feet, Mr. Hodgson noted that the ordinance is very well written and explained that to accommodate the tiers 8 feet is necessary but because it is tiered the panel will not appear like it is 8 feet tall. When asked if it could be made to comply with the 6 foot provision, Mr. Hodgson responded in the negative.

When asked by Mr. Larsen why the panels are not counted towards the impervious coverage, Mr. Burr explained that the State treats solar panels as inherently beneficial uses and they do not allow municipalities to include the area of the panels towards impervious coverage. When asked about installing the panels on the roof facing west, Mr. Hodgson explained that when panels face west they do not operate at full efficiency so additional panels must be installed to make up for that and the Becker's do not have enough roof space for the number of panels required for full efficiency. When asked if it would work if the trees were trimmed, Mr. Hodgson noted that they did not look into that approach. When asked if there would be battery storage, Mr. Hodgson responded in the negative. When asked what type of height gap there would be if the panels were moved 20 feet to avoid the setback variance, Mr. Hodgson opined that there was concern about erosion. When asked how high the posts would be if the panels were moved east 20 feet, Mr. Hodgson opined approximately 12 feet. When asked if everything on the lot was built in the 1980's, Mr. Ingram noted that from the aerial photographs it appears that everything was constructed at the same time. When asked if she built the house, Mrs. Becker responded in the negative and noted that she is the third owner. When asked if she has added any of the improvements, Mrs. Becker responded in the negative. When asked if she had a survey done when she bought the property that defined lot coverage, Mrs. Becker responded in the positive but noted that it did not specify the amount of lot coverage (the percentage). When asked if a Continuing Certificate of Occupancy was issued by the Township, Ms. Goodchild noted that the Township did not issue those certificates in the 1990's when Mrs. Becker purchased the home.

When asked by Mr. Becker how the upper most panels will be turned off by emergency personnel, Mr. Hodgson explained that the disconnect will be mounted to the rear so it is more accessible.

When asked by Mr. Moriarty if the panels rotate or change in direction, Mr. Hodgson explained that they are fixed tilt. When asked if the power audit included the pool and the heater for the pool, Mr. Hodgson responded in the positive and noted that they have to review the homeowner's electric bills for the last 2 years as part of the application process with the State. When asked if she spoke to her neighbors about the project, Mrs. Becker responded in the positive and noted that they didn't have a problem with the project.

When asked by Mr. Bernstein how far the adjoining houses are from the project, Mr. Ingram responded 160 feet to the house to the south and approximately 200 feet to the other home.

When asked by Mr. Burr if any of the house or other improvements drain into a drywell, Mr. Ingram responded in the negative. When asked if he anticipates any runoff impacts from the panels, Mr. Ingram responded in the negative and explained that it is sheet flow that will continue to drain as such. When asked by Mr. Mackie where the water goes from the driveway that has Belgium block curbing, Mr. Ingram explained that it drains down the driveway to the grate and into the brook.

When asked by Ms. Goodchild if there is any noise associated with the inverter, Mr. Hodgson responded in the negative. When asked the size of the sign that will be at the entrance to the driveway, Mr. Hodgson indicated that they would comply with the sign ordinance. Ms. Goodchild noted that a size is not specifically mentioned in the ordinance. Ms. Hodgson agreed to a 12 inch x 12 inch sign or preferably smaller.

When asked by Mr. Larsen why there isn't a battery backup storage, Mr. Hodgson explained that it adds a considerable amount of cost to the project and adds a maintenance responsibility. When asked what the lifespan of the panels are, Mr. Hodgson responded 25 years. When asked who makes them, Mr. Hodgson noted that they are made in Germany.

Mr. Moriarty asked Mr. Bernstein to list the possible conditions which were as follows:

1. Conditions as outlined in Mr. Burr's report.
2. No mature trees will be removed.
3. Netting will be affixed to the rear/underside of the panels for safety.
4. No light or glare on other properties.
5. Either Mr. Burr or his Landscape Architect will meet with the applicant to determine if there are evergreen trees required as a buffer. If they are required, they will be shown on a plan and the plan shall be permanently maintained and dead/diseased trees will be replaced to Mr. Burr's approval.
6. The Construction Official will need to determine if there is a pool fence that meets code; if it does not a pool fence will be installed.
7. No noise at property line.
8. Payment of fees and escrows.
9. Approval from all other agencies.

10. The approval is valid for one year.

A discussion ensued regarding the site meeting for the buffering. Mr. Wilson noted that he and his professionals will assist by providing a very rough model of the glint and glare impact for the property. Mr. Bernstein suggested Mr. Burr also visit the site after the panels have been installed to determine if there is any issue with glare or light.

A discussion ensued regarding the existing fence that meanders onto adjoining properties. Mr. Bernstein didn't feel that the Board should require the fence to be relocated unless there is a complaint from the impacted neighbor. Mrs. Becker noted that the fence was there when they purchased the property and they have not received any complaints about the location.

Mr. Moriarty opened the meeting up to the public for questions or comments. There being none, Mr. Moriarty closed the public portion of the meeting.

Mr. Mackie made a motion to approve the application with the conditions outlined by Mr. Bernstein. Mr. Becker seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Mackie, Mr. Becker, Mr. D'Armiento, Mr. Rahenkamp, Mr. Larsen and Mr. Moriarty

Those Opposed: None

INFORMAL DISCUSSION

➤ Robert Thompson re: In-law Suite

Robert Thompson presented the Board with pictures and plans depicting a proposed addition on his existing home. He noted that the pictures depict the barn that was destroyed during a storm a few years ago. He explained that he is the owner of the farm at 2 Logan Drive which consists of livestock and field crops. His children have grown and moved on and there is too much farm for just he and his wife. Because of the lack of workforce in Tewksbury he is proposing a dwelling unit for part time farm labor. He explained that after the building collapsed he hired an architect to prepare plans to rebuild the structure which includes an apartment/mother-daughter unit. He noted that Ms. Goodchild interpreted it as a 2 family home but he did not believe that was the intent. When asked by Mr. Becker if the area over the garage is the farm help residence, Mr. Thompson responded in the positive. When asked how they will access the unit, Mr. Thompson explained that there is a common door that will be used by the occupants of the unit as well as those that reside in the main house. He noted that he was under the impression from past meetings with the Township that it was a permitted use as long as there was a common entrance. When asked by Mr. Becker if the occupant of the unit would be part of the family, Mr. Thompson responded in the negative.

Mr. Bernstein noted that Section 709 d.3 permits low and moderate income housing which includes farm labor but the lot must be a minimum of 20 acres (along with other stipulations). When asked by Mr. Larsen the size of the farm, Mr. Thompson responded 6.2 acres. Mr. Bernstein noted that for there to be a unit on a 20 acre farm the principal use must be the farm. Mr. Bernstein opined that in Mr. Thompson's case the house is the principal use and the farming activity is the accessory use. When asked by Mr. Larsen what he produces, Mr. Thompson explained that he has hay and livestock. When asked if he is farmland assessed, Mr. Thompson responded in the positive.

When asked what the uses of the buildings are, Mr. Thompson indicated that they are used as farm storage or for livestock (goats, sheep, pigs, llamas and donkeys).

Mr. Bernstein noted that currently the Township is not interested in creating affordable housing units because they may not count towards the COAH requirement since the regulations are in flux.

When asked by Mr. Becker what his septic system is sized for (# of bedrooms), Mr. Thompson noted that it was built and designed for a 5 bedroom house and he currently only has 4.

Mr. Moriarty opined that the affordable housing/farm unit doesn't apply since the lot is less than 20 acres. He then noted that if a second unit was requested as a COAH unit Mr. Thompson would need a density variance for 2 dwelling units on an undersized lot. Mr. Bernstein opined that if the Board granted the density variance it would have to be deed restricted as a low income unit so the Township would get Mt. Laurel credit.

Mr. Bernstein explained that it has not been the Board's policy to grant a second dwelling unit for properties. He noted that one variance was granted for the Rothpletz family along Rockaway Road because there was enough land to subdivide and create 2 conforming lots.

Mr. Thompson explained that he came before the Board so that he would be "above board" and thought that if he removed some component of the kitchen (stove or refrigerator) that it would be an acceptable scenario. Mr. Bernstein wasn't sure if the Zoning Officer would approve the unit just because the stove or refrigerator is removed noting that it would be easy to install them after the fact.

Mr. Mackie suggested that Mr. Thompson determine whether he would be willing to accept the deed restriction of an affordable housing unit and then consider moving forward with the Land Use Board process. When asked by Mr. D'Armiento if the unit would be acceptable if family lived there, Mr. Bernstein responded in the negative and explained that it is a separate dwelling unit because it is separate from the rest of the house and contains eating, sleeping and bathing facilities.

When asked by Mr. Larsen who helped him farm before, Mr. Thompson responded his children. When asked if he has his own hay equipment, Mr. Thompson responded that he

has some equipment but he has a gentleman from Beacon Light Road that cuts the hay and he has the rakes and the wagons.

Mr. Moriarty opined that he felt that the burden was on Mr. Thompson to determine whether he is willing to deed restrict to get a low income rental unit. Ms. Goodchild suggested that Mr. Thompson speak to Jess Landon, Affordable Housing Officer to understand the regulations and process.

Mr. Thompson thanked the Board for their time.

ESCROW CLOSINGS

Mr. Becker made a motion to close the following escrow accounts and return the balance to the applicant. Mr. Mackie seconded the motion. The motion carried by the following roll call vote:

Roll Call Vote:

Those in Favor: Mr. Mackie, Mr. Becker, Mr. Moriarty, Mr. D'Armiento, Mr. Rahenkamp and Mr. Larsen

Those Opposed: None

- Sean Murray - \$28.00
- Sprint (Ridge Road Landscape Bond) - \$348.00
- Nextel Communications - \$838.75

ADJOURNMENT

There being no further business, the meeting adjourned at 9:37 p.m. by motion of Mr. Becker and seconded by Mr. Mackie.

Respectfully submitted,

Shana L. Goodchild
Land Use Administrator