

Holland Township Board of Adjustment
Regular Meeting
Minutes of the May 28, 2014

The meeting was called to order by the Chairman, Ginger Crawford:

“I call to order the May 28, 2014 Regular Meeting of the Holland Township Board of Adjustment. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary on December 12, 2013 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 12, 2013 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes

Flag Salute:

Chairman Crawford asked all too please stand for the Pledge of Allegiance.

Identification of those at the podium for the benefit of the recording machine:

Present: Wilson “Bo” Baker, Jerry Bowers, Laura Burke, Ginger Crawford, Bill Ethem, Peter Kanakaris, Les Gallipeau, William Martin, Gail Rader, Todd Bolig, Esq., Robert Martucci, Engineer, Planner Elizabeth McKenzie, Susan Barber for Lucille Grozinski, CSR, and Maria Elena Jennette Kozak, Secretary.

Absent: Laura Burke

Let the record show there is a quorum.

Minutes: A motion was made by Wilson “Bo” Baker and seconded by Bill Martin, to dispense with the reading of the minutes of the meeting on April 30, 2014 and to approve as submitted. All Present were in favor. Motion carried. All were in favor of the motion. Les Gallipeau requested that the minutes be submitted approximately 48-hours prior to the meeting.

Completeness

- Wesley Schnorrbusch – Block 6 Lot 53.13 – 4 Deer Court – Variance Application – received into our office on April 9, 2014. The 45-day completeness deadline is May 24, 2014. On the April 30, 2014 agenda. Board Action Needed. Extension granted till May 28, 2014. A letter was received by Secretary Kozak requesting that the application be withdrawn. A motion to accept the letter formally withdrawing the application submitted by Wesley Schnoorbush was made by Les Gallipeau and seconded by Gail Rader. All present were in favor of the motion. Motion carried. Secretary Kozak to start the close out process.
- Spring Mills LLC – Block 6 Lot 62 – Little York Road – Amendment or Revision to an Approved Site Plan Preliminary Major Site Plan/Final Major Site Plan Checklists – received into our office May 9, 2014. The 45-day completeness deadline is June 23, 2014. On the May 28, 2014 Agenda. Board Action Needed. If application is deemed complete then a public hearing is to follow – see PUBLIC HEARING – an email was received from Attorney Wilson dated May 28, 2014 asking to table the completeness review of this application until next month. The email also acted as an extension being granted for completeness review. Attorney Bolig and Attorney Bolig have had discussions and the applicant is aware that they would have to re-notice as there was a defect in the notice sent for this meeting. Notice would also need to go to the 200’ list for the block and lot of the school. Attorney Wilson will advise Secretary Kozak as to when the application will appear on the agenda.

Public Hearing

- Jane E. Beale – Block 27 Lot 11 – Old River Road – Bulk Variance Application - received into our office on March 6, 2014. The 45-day completeness review deadline is April 20, 2014. On the March 26 2014 agenda. Deemed Incomplete 032614. New material submitted April 16, 2014. The 45-day completeness deadline is May 31, 2014. Deemed complete April 30, 2014. Public Hearing scheduled for May 28, 2014.
 - Attorney Guy DeSapio (filling in for Attorney Michael DeSapio) was present. Attorney DeSapio stated that the applicant is seeking a bulk variance so that a building permit can be obtained. The property is for sale and someone is interested in building a home on the property. The lot is an isolated lot and no land is available for the applicant to acquire. Although this is listed as Block 27 Lot 11 the deed also covers property to the westerly side of River Road known as Block 18 Lot 14. All is owned by one owner ad in one deed. The property is closer to 3.5 acres. They will show that the lot is a buildable lot and that the applicant has made efforts to acquire property from the neighbors. Testimony will reveal that the adjacent lot is deed restricted prohibiting further

subdivision of land. Testimony will also show that the property to the north is already undersized so that landowner is not able to give up any land either.

- For the record, Attorney Bolig has determined that the Board has jurisdiction.
- Witness #1 – Jane E. Beale – Sworn in by Susan Barber. Owner of Block 27 Lot 11 and Block 18 Lot 14. Both parcels are marked on the map.
- Witness #2 – John Seidler – Sworn in by Susan Barber – husband to Jane Beale
- Board Planner Elizabeth McKenzie and Board Engineer Robert Martucci were sworn in by Susan Barber. Both are Holland Township professionals.

Exhibit List

- A1 – affidavit of service – notices in order –
- A2 – survey site dev. plan
 - Attorney DeSapio asked Jane Beale some questions. As stated she is the owner of the land. She said the parcels are shown on the map in this exhibit. The proposed location of the house, septic and driveway are shown. All are consistent with the township zoning. The ordinance requires 5 acres and this lot is 3.5 acres. Jane Beale stated that she understands that they are before the board asking for a variance to permit building on the property.
- A3 – deed dated 10 2014 - handed out
- A4 – copy of septic design approved by Hunterdon County Board of Health
- A5 – March 19 approved soil erosion plan
 - Some discussion took place about the need for a Soil erosion and sediment control plan
- A6 – permit to NJDEP
 - Jane Beale stated that the lot is close to the river and she has been in touch with the NJDEP to construct a house.
 - The applicant was advised that the property might need a Highlands permit.
- A7- letter from Highlands April 22 2014 saying no review is needed
 - The applicant was advised that the property might need a Highlands permit.
- A8 – picture o elevation that could be built at the property showing height at 36’ –
 - The conceptual house drawings provided were only given to show that a house could be constructed in accordance with the rules of Holland Township. Jane Beale stated that she had someone prepare this for review.
 - Attorney Bolig questioned the height as the ordinance says 35’ and if the board approves this then acceptance as evidence does not grant a height variance.
 - Planner McKenzie state that the roof line could be altered.
 - Jane Beale agreed that she would change the height as a condition of approval.
- A9 – possible floor plans for interior of house.
- A10- copy of sheet of HT tax map sheet 18.01
 - Shows the parcel and adjoining parcels of land
 - Jane Beale was asked by Attorney DeSapio if she was advised to check with property owners of adjacent land to see if she could acquire land to make her lot a buildable conforming lot. Jane Beale instructed Attorney DeSapio to follow up with that.
- A11 – letter to neighbor lot 12 to see if interested in selling a portion of their land.
- A12 – historic and conservation easement Oct 1979 legal description recorded at county –
 - Lot 12 is about 24+ acres and is to the south east of her property.
 - Attorney DeSapio read into record a restriction of the deed. The parcel known as Lot 12 cannot be subdivided.
 - While the parcel is 24+ acres – with this restriction it is off the table for discussion.
- A13– letter to Jones lot 25 asking about selling portion of land
 - Property to the north
 - 3.5+ acres with a house on the property.
 - If the property owner sold her the property then it would further undersize the existing lot.
 - No response was received by the owner of Lot 25 but is also off the table since it is an existing undersized lot.
- A14 – 13 (abcdefghijklm)pictures
 - pictures by John Siedler
 - John Siedler took pictures of the neighborhood. He started at the one end of River Road. Lot 18 is 0.65 acres and has a house on it. Lot 16.01 is 2.35 acres and has a house on it. Lot 16 is 3.56 acres and is similar in size to his wife’s property but has a house on it. Lot 16 also has a barn on it. Lot 13 is 4.3 acres which is another parcel under 5 acres. Lot 13.02 is 4.48 acres. Lot 13 is 9.65 acres and shows a house. Lot 12 is 24 acres and has a house on it. Lot 11 is the property owned by his wife and is wooded. One picture shows the Old River Road view while picture 14j shows the clearing of the building envelope where a house could be built. Lot 25 is 3.58 acres and has a house. Lot 10 is 29.40 acres

and has a factory on the property. The pictures show you moving north on River Road from Church and show what the neighborhood looks like.

- All were asked if there were any questions. Jerry Bowers asked if this was a buildable lot before zoning change. Attorney DeSapio stated that the title search shows that the lot has been in existence for many years. When zoning changed no one got a letter from zoning stating that this was a buildable lot hence why they are before the board now.
- A15- cover sheet may 22 2014 report of title 60 year search....deed October 7 1925 shows property
 - The land was transferred in 1921.
 - Attorney Bolig mentioned that Holland Township does not have a grandfather law.
 - Betsy McKenzie presented some history on the zone change that took place in the 90's.
 - Betsy McKenzie also reminded the board that they need to decide this application based on law.

Betsy McKenzie has some questions about the easement on Lot 13 which developed into a conversation about the outbuildings and the ferry house. Discussion took place about the historic district along the river. Some more conversations took place about the neighbor and the pool and other structures located on lot 12. It was suggested that maybe the historic commission look at this application but after positive discussion it was suggested that a prospective buyer do a historic review.

Discussion then took place about a neighbor selling property to the applicant and how case law states that the applicant must also see if the neighbor is also interested in purchasing the land from the applicant. The letter that was sent by Attorney DeSapio did not mention this.

John Siedler mentioned that the property has been on the market for many years. It is listed and a sign is on the property. No one has expressed interest. It has been listed for 3 to 4 years.

More discussion took place about the building envelop and it will be up to the DEP to approve the building envelop.

Betsy McKenzie asked if consideration was given to an alternate access in case of a flood. Jane Beale said that you can walk to the house to the south and walk from front to back. There are train tracks. The floods have happened and have lasted a day or two before they receded. Safety and evacuation was discussed.

Bill Ethem asked about the hardship and what happens if the board does not grant the variance. In simple terms it was explained that if this is not a residential lot then this is thrown to the Township Committee to see if they want to purchase the land.

More questions and comments

- The rendering provided shows a building envelope slightly smaller than what was approved by the DEP
- A DEP permit would need to be put in the resolution if the application was approved
- Outside agency approval would also be needed
- Flood rules discussed and the need for a house to be elevated.

No other comments or questions were presented by the board members.

Planner McKenzie left the meeting to go to another meeting.

Public Comment –

- Eric Starosielski – 115 Old River Road – sworn in by Susan Barber – Moved in September 2013. Bought house and land for historic. Loved the neighborhood. He expressed his opinions on why the applicant should not be granted the variance with a strong point being that the applicant is destroying the nature of the lands and the beauty of the location. While Mr. Staroseilski presented some history of his property and his clear love the beauty of this area and some facts on the historic nature of the area, his strongest opinions expressed were that the variance should not be granted. He also stated that he did not receive a copy of the letter that Attorney DeSapio said was sent. He also stated that he is interested in discussing the purchase of the property. He also presented an exhibit for consideration.
 - O1 - National Registry of Historic Places
 - Mr. Starosielski also read a paragraph from Exhibit O1. He admitted that he has checked the listing and saw the price as \$69,000.00. There was discussion about ownership of land and how Jane Beale owned one property and John Siedler owned the other property (the one that is now owned by Pat Jones).
- Pat Jones – 97 Old River Road – Sworn in by Susan Barber. He purchased his home from John Siedler. He is interested in discussing a purchase price. Price discussion took place. He expressed that he wished the applicant had discussed the issue with him before putting in an

application. He never received the letter that was sent from Attorney DeSapio's office. He asked the board to postpone making a determination tonight. He also questioned if another letter could be sent from the attorney about buying and selling land. Chairman Crawford asked Mr. Jones if the property has been for sale for 3 to 4 years why did he wait to make an offer until tonight at a public hearing? Mr. Jones stated that the obligation is on the applicant to seek him out and the variance triggered his interest. He wants the opportunity to discuss it with the applicant.

At 9:25 there was a break and at 9:40 the board returned.

Attorney DeSapio asked the board to carry this public hearing until next month. His office will improve communication with the property owners and ask prospective buyers to pay fair market value. All this will take place before the next meeting. All present were in favor of the idea. A motion to carry this application was made by Bill Martin and seconded by Gail Rader. All present were in favor. Motion carried. This application will be on the next agenda as continued public hearing.

Resolution

- Garden Solar LLC-Clean Generation Solar Energy Farm W4-097 – Block 6 Lot 62 – Spring Mills Little York Road – Application for Final Site Plan Approval – Received into our office on April 9, 2014. The 45-day completeness deadline is May 24, 2014. The Application for Preliminary Site Plan was approved with conditions August 29, 2012. Board Action needed. Deemed complete with waivers granted on April 30, 2014. Public Hearing held April 30, 2014 and the application was approved with conditions. Everyone received the resolution. Attorney Bolig explained that the Board Engineer and Board Planner have also reviewed the resolution presented.

RESOLUTION 2014-0XX

THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF HOLLAND

RESOLUTION APPROVING THE APPLICATION FOR FINAL SITE PLAN APPROVAL FOR BLOCK 6, LOT 62, AND BLOCK 6, LOT 62.04, LOCATED ON SPRING MILLS - LITTLE YORK ROAD, BY APPLICANT, GARDEN SOLAR, L.L.C.

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- WHEREAS, Garden Solar, L.L.C., 42562 Magellan Square, Ashburn, Virginia (the "Applicant") has applied to the Holland Township Board of Adjustment (the "Board") for final site plan approval for both Block 6, Lot 62, and Block 6, Lot 62.04, each located on Spring Mills - Little York Road, County Road 614, in the Township of Holland, County of Hunterdon, State of New Jersey (the "Subject Property");
 - WHEREAS, Spring Mills, L.L.C., 225 Road 202, Basking Ridge, New Jersey (the "Owner") is the title owner of Block 6, Lot 62, and Block 6, Lot 62.04, both of which lots are situated in Holland Township's Residential "R-5" zone;
 - WHEREAS, the application for Final Site Plan approval, dated April 9, 2014, was filed on or about April 9, 2014 (the "Application") with the Board;
 - WHEREAS, the Applicant previously sought and obtained the following relief from the Board:
 - A. The grant of variance relief from §100-43 of the Township of Holland Zoning Ordinances pursuant to N.J.S.A. 40:55D-70d pertaining to the permitted uses in the Township's R-5 Zone with said variance relief being memorialized by the Board's Resolution dated February 29, 2012;
 - B. The Board's approval of a Preliminary Site Plan for Block 6, Lot 62, with said approval being memorialized by the Board's Resolution dated April 25, 2012;

- C. The Board’s approval of a two-lot minor sub-division of Block 6, Lot 62, to create one new lot (Block 6, Lot 62.04) and remaining land (Block 6, Lot 62) and for variance relief pursuant to N.J.S.A. 40:55D-70c(1)(a), with the Board’s approval of said sub-division and relief being memorialized by the Board’s Resolution dated November 28, 2012;
- WHEREAS, the current Application was the subject of a completeness hearing on Wednesday, April 30, 2014, at which time the Board, on recommendation of the Board Engineer, deemed the Application complete, subject to the grant of three temporary waivers, to be fulfilled as conditions of final approval;
- WHEREAS, the Applicant having satisfied all jurisdictional requirements and the Board having jurisdiction to proceed, on April 30, 2014, the Application was the subject of public hearing at which appeared the Applicant, Garden Solar, L.L.C., through the Applicant’s professionals, Walter N. Wilson, Esq., and Christopher Nusser, P.E., of Engineering and Land Planning Associates, Inc.;
- WHEREAS, the following **Exhibits** were submitted and moved into evidence by the Applicant:
- A-1 Application for Final Site Plan approval dated April 9, 2014, and filed as of April 9, 2014, including the following: April 9, 2014, Addendum to Application for Final Site Plan containing Applicant’s Financial Disclosure Statement; Certification of Ownership; Site Walk Authorization; Escrow Replenishment Agreement; Section “E” of the Holland Township Board of Adjustment’s Checklist for Determining Completeness; and Holland Township Tax Collector’s “Certification of Paid Taxes” dated February 4, 2014 referencing the Subject Property’s current property tax status;
- A-2 Final Site Plans entitled “Clean Generation Solar Energy Facility W4-097”, consisting of 18 pages, prepared by Engineering and Land Planning Associates, Inc., signed by Christopher Nusser, P.E., dated April 4, 2014, containing the following:
 - Sheet 1 of 18: Cover Sheet
 - Sheet 2 of 18: Existing Conditions Plan
 - Sheet 3 of 18: Overall Site Plan
 - Sheets 4-7 of 18: Site Plan / Grading & Utility Plan
 - Sheet 8 of 18: Overall Landscaping & Soil Erosion and Sediment Control Plan
 - Sheets 9-12 of 18: Landscaping & Soil Erosion and Sediment Control Plan
 - Sheet 13 of 18: Construction Staging Area
 - Sheet 14 of 18: Existing Drainage Area Plan
 - Sheet 15 of 18: Proposed Drainage Area Plan
 - Sheets 16-17 of 18: Site Details
 - Sheet 18 of 18: Site and Solar Array Details
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- WHEREAS, the following **Exhibits** were submitted and moved into evidence by the Board of Adjustment:
- B-1 Report of Elizabeth C. McKenzie, A.I.C.P., P.P., dated April 30, 2014, consisting of 3 pages; and
- B-2 Engineering Review and Completeness Determination Report of Robert Martucci, P.E., dated April 24, 2014, consisting of 9 pages.
- WHEREAS, no testimony was presented by any member of the public.
- WHEREAS, on April 30, 2014, the Board of Adjustment of Holland Township voted with respect to Applicant's Application and attendant requested relief as follows:
- **TO GRANT FINAL SITE PLAN APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:**
- 1. All conditions as set forth in the Resolutions of the Zoning Board of Adjustment of the Township of Holland for Variance Relief, dated February 29, 2012, and for Preliminary Site Plan Approval dated April 25, 2012, shall apply to both Block 6, Lot 62, and Block 6, Lot 62.04, and shall remain in full force and effect unless otherwise amended by the within approval;
- 2. Temporary Waivers are hereby granted with respect to Section E of the Holland Township Checklist for Final Site Plan Application for the following specific checklist items: E-9, E-17 and E-18;
- 3. The Deed of Restrictive Covenant is to be approved by the Holland Township Board of Adjustment and submitted to and adopted by the Holland Township Committee within ninety (90) days of the date this Resolution is adopted and shall thereafter be filed for each lot covered by the terms of this Final Site Plan Approval;
- 4. Applicant shall submit revised plans to evidence compliance with the mounting height and setback requirements of the Holland Township Land Use Ordinance for any and all signs;
- 5. The signs that are required to be mounted at eye level on each gate along the fence(s) surrounding the arrays shall be mounted so that the top of the sign is placed five and one-half feet (5 1/2') above the bottom of the gate;
- 6. The two (2) "post" signs shall be set back twenty-feet (20') from the Spring Mills – Little York Road (a/k/a County Road 614) right-of-way, and shall not be situated within the required sight triangle easement area as set forth in the Sight Triangle Easement between Spring Mills, LLC, and the County of Hunterdon (the "Sight Triangle Easement") and as recorded in the Hunterdon County Clerk's Office on or about March 28, 2014 in Book 2328, at Page 299, except as may be expressly permitted by the County of Hunterdon;
- 7. The location of all site signage shall be approved by the Hunterdon County 9-1-1 coordinator, and if the Hunterdon County 9-1-1 coordinator mandates the placement of the post signs within the road right-of-way, the Sight Triangle Easement, or in a location that is not permitted by any Holland Township Land Use Ordinance, then the Applicant and/or its successors and/or assigns shall seek appropriate variance relief for the location of said signage;
- 8. Street addresses must be assigned by the Township's 9-1-1 Coordinator prior to construction;

- 9. An un-conditional approval must be obtained from the Hunterdon County Planning Board prior to construction;
- 10. Stormwater management for the site shall conform to the plans submitted to and the permit issued by the NJDEP;
- 11. The landscaping for the project is subject to post construction approval from the Board Engineer's office as well as certifications from the applicant's Arborist or Landscape Architect;
- 12. A performance guarantee shall be posted in accordance with Section 100-151 of the Land Use Ordinance and shall be based on the estimate of probable construction costs attached to the Board Engineer's letter of April 24, 2014, which guarantee shall be ten percent (10%) cash or certified check, with the remaining guarantee to be in a form acceptable to the Township Attorney;
- 13. Should the plans be amended, a new estimate shall be requested of the Board Engineer and the amount of the performance guarantee shall be amended accordingly;
- 14. All inspection costs and maintenance bonds are to be paid and maintained by the Applicant as required by law;
- 15. All required building and building sub-code permits shall be obtained prior to the start of construction;
- 16. All notices of the start of construction required in connection with the issuance of permits by outside agencies must be sent out, with copies of such notices provided to the Board Engineer's office and to the Board.;
- 17. A preconstruction conference shall be scheduled with the Board Engineer's office prior to the start of construction, with attendees to include the Applicant or his authorized representative, the design engineer, the general contractor responsible for all site improvements;
- 18. The Applicant must comply with all of the detailed requirements of all of the ordinances of the Township of Holland;
- 19. The within approval, and the use of all property subject to the within approval, is conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval is also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or conditions of the within approval and any approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application;
- 20. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The Applicant shall be under a

continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. This memorializing Resolution shall not be released to the Applicant unless and until all outstanding escrow fees have been paid and the Applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.

- A motion was made by Les Gallipeau and seconded by Ginger Crawford to accept the resolution for Final Site Plan of Block 6 Lot 62 and Lot 62.04. At a roll call vote, all present were in favor of the motion with the exception of Bill Ethem and Peter Kanakaris who abstained. Motion carried.

Old Business

There was no Old Business to be discussed.

New Business:

- Garden Solar LLC-Clean Generation Solar Energy Farm W4-097 – Block 6 Lot 62 – Spring Mills Little York Road – Deed of Restrictive Covenant discussions – Board Action needed. If approved then the Township Committee will need to review/adopt/enforce. The deeds were distributed to the board members for review but all were reminded that they can only submit comments to the secretary or professionals and not to discuss amongst themselves. The deeds are working documents. Due to the applicant not being present for the meeting all discussions were tabled till the next meeting. The township attorney was involved in reviewing this document and this caused a delay in forwarding the proposed deeds to the board for review. Attorney Bolig reminded everyone that this is not an application process but that the deeds are a subject of the condition of approval. It's a collaborative effort to create the document. If anyone has any comments, attorney Bolig will review them and work on revisions. Please forward your comments immediately and attorney Bolig will try to have revised documents if necessary to the board 10 days prior to the meeting,

Public Comment

Ted Harwick thanked everyone.

Les Gallipeau made a motion to adjourn. Motion carried.

Meeting ended at 10:05 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak

Secretary