

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, April 16, 2018 at 7:00 pm in the Municipal Building, Seabrook, N.J.

Chairman: Ed Overdevest called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The Daily Journal and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

Present:

Chairman Ed Overdevest,

Vice Chairman Russell Vanella

Members: Jack Waselik, Terry O'Neill, Joseph Spoltore, Anthony Buono, **Staff:** Engineer J Michael Fralinger, Jr. PE, CME, Planner Randy Scheule, PP, AIC,

Solicitor Matthew Ritter, Esq. and Acting Secretary Roy Spoltore

Absent: Robert Comer, Scott Smith, Kenneth Jackson alt 2, Wayne Sabota alt 3, Laura Hayes alt 1, Solicitor Theodore H. Ritter, Esq.

On motion of Joseph Spoltore seconded by Anthony Buono minutes of March 19, approved.

On motion of Russ Vanella seconded by Terry O'Neill the following resolution was memorialized.

Resolution 9- 2018

TOWNSHIP OF UPPER DEERFIELD PLANNING BOARD

Applicant's Name: Solar City D/B/A Tesla, Inc.

Application No.: P-1-18

Property Owner: KMT BRRR, Inc.

Property Address: 1042 Parsonage Road

Block: 901; **Lots:** 4, 5, 6, and 7

Zone: General Industrial

Application for: Preliminary and Final Major Site Plan Approval for Solar Array Accessory Use with bulk variances

Public hearing dates: February 22, and March 19, 2018

Findings of fact:

1. The Board repeats the findings of fact contained in its Completeness Resolution #7-2018 adopted on March 12, 2018.

2. The public hearing commenced on February 22, 2018. Applicant's first witness was Beth-Ann Grasso, a professional Engineer with Pennoni Associates. Ms. Grasso was deemed qualified as an expert witness

3. Counsel for applicant noted that the solar array is deemed by the State of New Jersey as a *per se* inherently beneficial use.
4. Engineer Grasso testified that the KMT parcel is 32.57 acres. She explained the reasons that the variances were being sought.
5. The proposed site for the solar array is an open field in a partially forested area adjacent to a stream. All areas considered for development are beyond the wetlands and flood hazard zone boundaries.
6. The engineer explained that the panels cannot go on the roof of the building as the structure will not accommodate the load.
7. The Engineer mentioned that KMT will give a road widening right of way to Cumberland County for Parsonage Road.
8. The applicant introduced as exhibits the following:
 - A1: The preliminary and final site plan
 - A2: The stormwater management report
 - A3: The glare analysis report
 - A4: The lots consolidation plan
 - APP-B: Arial view of the KMT solar array
 - APP-C: August 9, 2017 letter from the NJDEP regarding freshwater wetlands verification.
 - APP-D: November 20, 2017 letter from the NJDEP regarding flood hazard area verification.
9. The vegetative screening will grow from 6 to 8 feet in height.
10. The solar panel's array highest point is 8 feet above grade.
11. The solar field will be planted in grass and maintained by Solar City.
12. There is no need for a buffer to the rear of the site because the use at the rear is a farm field and there is an existing buffer.
13. Applicant is seeking a tree replacement waiver. There is a very little area in which to plant replacement trees due to the planned solar array and the already developed site. Some trees will be planted on a small, currently vacant lot that is part of the site.

14. The 6-foot high fence is required by the electrical code and is needed for security of the site.

15. Applicant does not wish to put slats in the chain-link fence to make the fence opaque due to the potential for wind damage to the fence.

16. Engineer Grasso discussed the lot consolidation plan.

17. Applicant next called Becky Koze who was qualified as an expert witness. She is employed by Solar City. She testified regarding the roof load capacity.

18. There was discussion with witness Koze regarding the Board's desire to have the array moved further away from Parsonage Road, to allow a buffer of greater depth.

19. The Board discussed with witness Koze the front buffer. Interaction with the Board and witness Koze indicated the Board's interest in deepening both the buffer adjacent to Parsonage Road as well as the setback from Parsonage Road.

20. Ms. Koze introduced the glare study analysis prepared by the late Mr. Sande.

21. Ms. Koze testified that the KMT use consumes 5.5 megawatt hours per year. This array would produce 3.3 megawatt hours per year.

22. Applicant's next witness was professional planner Dr. Joseph Luste, who has been with Pennoni Associates since 1999. Dr. Luste testified as to the variances and waivers sought. He explained how the variances and waivers complied with the Upper Deerfield Masterplan Review Report.

23. Dr. Luste also compared the positive and negative criteria and concluded that the granting of the waivers and the three variances would have no major adverse significant impact in this general industrial zone.

24. Planner Scheule next commented from his February 14, 2018 report. Applicant offered testimony of Engineer Grasso during the discussion of Planner Scheule's report regarding the topography of the site which varies 2 to 3 feet over the entire site. This constitutes a very gentle slope and which would not have significant impact regarding visibility of the solar array.

25. Planner Scheule recommended that a condition of approval be that there be no advertisement display in conjunction with the solar panels.

26. The Board next heard from Board Engineer, J. Michael Fralinger, Jr. Mr. Fralinger noted that applicant, through counsel, confirmed that applicant consents to comply with technical

comments 3 through 14 as contained in Mr. Fralinger's February 14, 2018 Review Report.

27. Both Planner Scheule and Engineer Fralinger were satisfied with applicant providing to the Board and its staff copies of the applications filed with the New Jersey Department of Environmental Protection, which lead to the DEP's issuance of applicant's exhibit App-C, the August 9, 2017 DEP letter regarding freshwater wetlands verification, and applicant's exhibit APP-D, the November 20, 2017 letter from the NJ DEP regarding flood hazard area verification.

28. Applicant's counsel indicated applicant's intention to fully comply with Board planner Scheule's report comments 4 through 7.

29. Counsel for applicant indicated applicant's consent to fully comply with Board engineer Fralinger's technical comments 3 through 14.

30. The Board next opened the hearing to the public.

31. Members of the public Joseph LaCotte, Dean Hawk, and Sandra Morrissey, each gave testimony aimed at protecting the environment, open space, and the nearby stream corridor.

32. The owner of KMT, Michael Williams, next testified regarding the roof load and the inability of the roof to accommodate the solar array.

33. At that point the Board adjourned the hearing to continue on March 19, 2018.

34. The public hearing resumed on March 19, 2018. Counsel for applicant furnished a revised Exhibit List adding three additional Exhibits:

Exhibit E - Revised Existing Site Constraints Map updated March 2, 2018

Exhibit F - Revised Site Layout and Utilities Plan updated March 2, 2018

Exhibit G - Revised Existing Site Constraints Map showing County

Easements updated March 14, 2018

35. Professional Engineer Beth-Ann Grasso was recalled to testify. She testified that the solar array had been moved back an additional 20 feet from the edge of Parsonage Road. The first panel will be 83 feet from the edge of the pavement (60 feet from the right-of-way line). The new rear setback is 45 feet.

36. The fence setback from the property line is 32 feet from the front property line.

37. The planting buffer adjacent to Parsonage Road will now be 20 feet wide. The buffer plantings are to be predominately evergreen, set in a zig-zag pattern, in multiple rows.

38. Applicant next called Mechanical Engineer Qais Feroz who is an employee of Solar City. Engineer Feroz supervised the revision of the location of the solar array. Mr. Feroz gave efficiency testimony explaining that more efficient panels were available but that cost considerations ruled them out.

39. Mr. Williams next testified regarding the temporary truck staging area shown on the site plan indicating that this area was not available for solar collectors.

40. Dr. Luste was recalled to the stand and testified that the changes to the site plan did not change his opinion regarding the variances. He still believes that the bulk variances were justified based upon the evidence presented to the Board at the previous hearing.

41. The Board next heard from Board Planner Randy Scheule whose revised report was dated March 16, 2018.

42. The Board then heard from Planning Board Engineer Mike Fralinger who had no new technical comments.

43. Beth-Ann Grasso again returned to testify regarding the species called for in the buffer. Applicant agreed to work with the Township Planning Board Planner regarding placement and selection of male vs. female evergreen plant species within the buffer adjacent to Parsonage Road.

44. Both Engineer Grasso and Planner Luste gave additional testimony regarding the impact of solar panels versus existing trees in the context of emissions.

45. Becky Koze of Solar City testified that approximately 60 percent of the property's electrical demand would be provided by the solar array.

46. The hearing was opened to the public. Two members of the public testified. Sandra Morrissey asked whether trees could be planted elsewhere in mitigation of trees being removed to provide space for the solar array. Lynn Maun testified requesting the use of native grasses under the solar array.

47. The Board also received and considered data submitted to the State of New Jersey Department of Environmental Protection for flood hazard area verification approval and for fresh water wetlands letter of interpretation line verification, respectively. The Board professional staff agreed that the information supplied to the D.E.P. was the equivalent of an environmental impact statement.

48. The Planning Board has carefully considered this matter and finds that good cause exists for the granting of the bulk variances and that such variances can be granted without substantial detriment to the public good. The Board further finds that the granting of such bulk variances will not substantially impair the intent nor the purpose of the zone plan nor the development ordinance of the Township of Upper Deerfield.

49. Similarly, the Planning Board has considered and approved the Major Site Plan as revised and modified.

BE IT FURTHER RESOLVED that the Planning Board of the Township of Upper Deerfield does hereby grant bulk variances and design waivers to applicant for:

- a. Maximum fence height;
- b. Front yard setback;
- c. Rear yard setback;
- d. Minimum buffer width; and
- e. Reforestation and restoration.

And, Furthermore, grants preliminary and final major site plan approval, subject to the following conditions:

- A. That compliance be had with all applicable requirements of the Upper Deerfield Township Development Ordinance and Building Code.
- B. That applicant file a perfected Plan prior to commencing work.
- C. That applicant will fully comply with Board Planner Scheule's report comments #4 through #7, to the extent not modified herein.
- D. That applicant will fully comply with Board Engineer Fralinger's technical comments #3 through #14, as contained in Mr. Fralinger's February 14, 2018 Review Report.
- E. That applicant's professionals shall work in collaboration with the Planning Board Planner and Engineer to finalize details of plantings in the buffer and the selection of the grasses to be planted under the solar array.
- F. The applicant must obtain approvals from all other agencies having jurisdiction.
- G. That the applicant provide the Board Secretary with proof regarding a deed recorded with the Cumberland County Clerk consolidating Block 901, Lots 4-7 into a single lot.
- H. The Planning Board Planner and Planning Board Engineer are hereby delegated the

authorization to approve minor site plan changes requested by applicant or applicant's professionals, provided that such minor changes are consistent with the Planning Board's approvals rendered herein. Any such changes will be reported to the Planning Board at its next regular meeting.

Solicitor Ritter announce since no one was in the audience to come before the Board the public portion of the meeting did not have to be opened.

Being no further business on motion of Jack Waselik seconded by Joseph Spoltore the meeting was adjourned.

Respectfully Submitted

Vicki Vagnarelli