

WEST CALDWELL BOARD OF ADJUSTMENT PUBLIC MEETING MINUTES

January 14, 2016

A Public Meeting of the Board of Adjustment of the Township of West Caldwell was held on January 14, 2016 at 7:30 P.M. in the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey. Vice Chairman Edward Malia opened the meeting and read the opening statement.

ROLL CALL

Members Present: Mr. Dolan, Mr. Adriaenssens, Mr. Rankin, Mr. Backfisch, Mr. Malia, Mr. Shannon and Mr. McDonnell

Members Absent: Mr. Schott

Advisors Present: Larry I. Wiener, Esq. and Tamara E. Bross
James Massaro, Zoning Officer, Ralph Tango P.E., Darlene Green P.P.

REORGANIZATION MEETING

ELECTION OF OFFICERS

Mr. Wiener administered the Oath of Office to Mr. Steven Backfisch and Mr. Kenneth Dolan.

Mr. Malia called for and nominated Mr. Backfisch for Chairman for 2016. Mr. Adriaenssens seconded the nomination. There were no other nominations and Mr. Backfisch was elected Chairman by a 6-0-1 vote, with an abstention by Mr. Backfisch.

Mr. Backfisch then became the presiding officer of the Board. Chairman Backfisch called for nominations for Vice Chairman. Mr. Backfisch nominated Mr. Malia as the Vice Chairman and Mr. Rankin seconded the nomination. There were no other nominations for Vice Chairman and the nominations were closed. The nomination was approved 6-0-1, with an abstention by Mr. Malia.

Mr. Backfisch called for nominations for Secretary for 2016. Mr. Backfisch nominated Tamara Bross as Secretary and Mr. Malia seconded the nomination. There were no other nominations and nominations were closed. The nomination was approved 7-0.

APPOINTMENT OF 2016 BOARD ENGINEER AND PLANNER

Mr. Backfisch nominated Ralph Tango as Engineer and Darlene Green as Planner, both of Maser Consulting. Mr. Rankin seconded the nomination. There were no other nominations and nominations were closed. The nomination was approved 7-0. Mr. Tango and Ms. Green are now considered present.

APPOINTMENT OF 2016 BOARD ATTORNEY

Mr. Backfisch called for nominations for Board Attorney. Mr. Malia moved that Mr. Larry Wiener be appointed Board Attorney for 2016. The nomination was seconded by Mr. Rankin. There were no other nominations and nominations were closed. The nomination was approved 7-0.

ADOPTION OF 2016 REGULAR MEETING SCHEDULE

The motion to adopt the 2016 regular meeting schedule was made by Mr. Adriaenssens and seconded by Mr. Shannon and approved 7-0.

ADOPTION OF 2016 RULES AND REGULATIONS

A motion to adopt the 2016 Rules and Regulations was made by Mr. Malia and seconded by Mr. Adriaenssens. The motion was approved 7-0.

HEARINGS

Z15-26 PSE&G, 19 Pine Tree Place (Caldwell Sewer Treatment Plant); Block 3101, Lots 3&5, R-3 Zone

Seeks N.J.S.A. 40:55D-70d Use variance and preliminary & final site plan approval to install a solar array on above lots. The Township Ordinance does not permit this use in this single family residence zone. The solar array will be installed using a racking system of either concrete ballasts that rest on the surface of the property or on driven steel posts. The project will also include other solar equipment including transformers, inverters and electric switch gear that support the sewer facility as emergency backup energy source.

Present was Glenn Kienz Esq. Ms. Bross stated that the application was properly noticed. Mr. Kienz made a brief opening statement for the applicant. Evidence marking list was accepted **A-1** through **A-10** and added five (5) more exhibits as follows: **A-11** Google Earth map of facility; **A-12** site plan; **A-13** yellow line on rendering shows flood zone; **A-14** typical solar array from other sites; **A-15** cross section map of site plan for proposed landscaping.

Noted is a court stenographer on the floor hired by the applicant.

Mr. Kienz stated the following:

- This is a pilot program and is endorsed by the Board of Public Utilities.
- New Jersey is far ahead of acquiring and endorsing solar energy.
- The solar panels for this application are a direct tie in to the main grid.
- Will provide emergency energy in the event of a power failure by charging batteries stored at the facility.
- The site has been in existence since 1911 and is in a residential zone.

- Will be providing testimony in regards to the change of use variance.
- Applicant looking for preliminary and final site plan approval.

Paul Drake, the professional planner for the applicant was sworn in and accepted by the Board as an expert and offered direct testimony:

- This is the only solar project in the country on a treatment plant and offers a unique converter system to supply energy in the event of power failure.
- The energy is supplied by a battery backup system for the treatment plant in an emergency power failure only.
- The fuel powered generators are the main source of emergency backup.
- Property is owned by Caldwell in a residential zone in the Township of West Caldwell.
- Facility is in operation and Applicant proposes to use remaining property for installation of solar panels.
- The remaining property was previously developed as part of the treatment plant and abandoned as technology and renovations brought it to where it operates today.
- Presented A-11 and stated there will be no change to plant.
- Presented A-13 which shows flood hazard
- Permits were applied for at DEP: flood hazard permit; flood hazard verification; letter of interpretation; special activity waiver.
- DEP was impressed that solar panels are planned to be installed on land formerly developed and abandoned by treatment plant through the years.
- No trees will be cleared.
- This benefits the Public by maintaining water quality.
- A few rows will be in the flood plain but not in the wetlands pockets.
- Presented A-14, a photo of previously built solar arrays on other sites- shows racking system that will be installed at treatment plant.
- Solar panels, inverters and transformers will be installed.
- Electricity will be collected and then exported into the main grid; can be used anywhere.
- In an emergency, solar panels will switch from main grid to charging battery packs to help run treatment plant.
- Racking system is tilted; seven (7) feet high at the tallest to three (3) feet high on the low side.
- A landscaping plan will be provided.
- Applicant will maintain panels every couple of months and cut grass twice a year or as needed; will be remotely connected at all times via internet.
- Applicant is leasing the property for 20 years and possibly an additional 10 years after that.
- Presented A-12, site plan with proposed solar array.
- A 4-5 month construction schedule is proposed.
- Positive criteria are A- inherently beneficial use; J-promote energy resources and N-promotes renewable energy resources.

- Applicant feels that this variance can be issued without substantial detriment to the public good; using a solar facility to service a sewer treatment plant, there will be no impact on traffic after construction, using existing entrance and facility will be secured with a fence.

Mr. Wiener asked that the setbacks be discussed.

Mr. Tango stated that testimony was given to satisfy his concerns; will review landscaping plan.

Ms. Green asked about the height stated in the letter dated 1/4/2016; conflicts with testimony.

Mr. Drake confirmed that panels will be **5 ½ feet high and 2 feet high at its lowest point** as discussed in letter.

Ms. Green asked that corrections be made to plans stated in her memo specifically items 3,4 & 5.

Mr. Massaro asked that construction hours be included in conditions, and about noise from panels.

Mr. Drake stated that noise will be minimal.

Questions were asked of Mr. Drake from the Board and answers are as follows:

- Panels will be fixed; no movement.
- Transformers and inverters will be stored in two 20 foot container sized buildings and fenced.
- No toxic materials in batteries.
- A Special Activity Permit was applied for and will be specific to the wetlands transition area for redevelopment; an area that was formerly developed for the treatment facility, is no longer used in the updated facility and now will be used for solar energy.
- Panels will not change area temperature; can touch the surface of panels.
- Panels are black therefore no glare.
- Site will be decommissioned if the panels are no longer used.
- Lighting plan proposes lighting around the project on motion detectors; surrounding neighborhood will not be impacted.
- Snow maintenance is not required as snow will melt on tilted panels with the sun.
- Cameras will be mounted and maintained by PSE&G for internet use.
- Panels are grounded and safe from lightning strikes.
- Permits are pending from DEP and expect to be approved within 3 months and will include soil testing.

Ann Marchioni, residing at 85 Brookside Ave., Caldwell, asked about student participation from the school district and Caldwell University since it is a pilot program and research tool.

Jack Condon- residing at 25 Lombard Drive, West Caldwell, acknowledged PSE&G for educating the neighbors and asked what Caldwell is getting for solar panel approval, number of panels, height of containers on knoll and asked that the dirt under containers be tested. Very concerned about the view of containers on berm from his back yard.

Mr. Drake replied that Applicant will work with Mr. Tango to add additional plantings to address concerns of Mr. Condon's view, if needed.

Ray Gajewski, residing at 24 Whitaker Place, West Caldwell, asked how many times the Treatment Plant has lost power and if this application is truly necessary for back up emergency power. He is against this application.

Dorothy Gajewski, residing at 11 Pine Tree Place, West Caldwell, feels that the Treatment Plant cannot take care of itself and is very much opposed to this application.

Mr. Kienz offered a summary.

Motion to close hearing was made by Mr. Malia and seconded by Mr. McDonnell.

Members discussed application.

Chairman Backfisch eloquently summed application and land use law defining a D variance. Motion was made by Mr. McDonnell to approve application with conditions, including all recommendations made by Township Professionals and the Fire Department. The Board finds that the noncompliance of the side yard combination setback is insignificant and offers relief to the C variance. The motion was seconded by Mr. Shannon and approved by a vote of 7-0.

INVITATION FOR PUBLIC DISCUSSION

The annual report was discussed and recommendations for any changes to be forwarded will be the Planning Board on February 4th, 2016.

ADJOURNMENT

The meeting adjourned at 10:16 p.m.

Respectfully submitted,

Tamara E. Bross Board of Adjustment Secretary