

**7:30 PM**

<b>PRESENT:</b>	R. Dodds	<b>ABSENT:</b>	D. Haywood
	P. Lubitz		T. Kratzer
	J. Mathieu		J. Strasser
	S. McNicol		
	E. Niemann		
	L. Senus		
	M. Szymick, Alt #1 (left mtg. @11:15 PM)		
	D. Banisch, Planner		
	T. Decker, Engineer		
	D. Pierce, Attorney		

**CALL TO ORDER**

The meeting was called to order by R. Dodds at 7:31 PM.

**NOTIFICATION**

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

**NEW AND PENDING MATTERS**

Sundance – Block 24, Lots 4 & 7 – Barbertown Point Breeze Road/Muddy Run Road – Preliminary Approval

R. Dodds stated the applicant will come forward and present their case. Their professionals will testify, the Board members will be able to ask questions of the professionals and then the public will be offered the opportunity to ask questions of the professionals.

W. Harrison, attorney for the applicant, stated the application was deemed complete at the June 9, 2011 meeting of the Planning Board. Based on the comments of the Township's professionals, the applicant submitted revised plans. The applicant met with the professionals again on July 22, 2011 and changes to the original landscaping plans were requested by the Township's Planner. The applicant has retained a new landscape architect who met with the Planner at the site and discussed the Planner's comments. The landscape plan contains a significant improvement over what was originally submitted.

R. Dodds stated the materials received by the applicant will be placed on the overhead screen.

D. Pierce stated the applicant has satisfied the notice requirements and the Board may open the hearing.

R. Pelizzoni, engineer, was sworn in by D. Pierce. R. Pelizzoni provided his credentials and professional background. The Board accepted R. Pelizzoni as an expert witness.

R. Pelizzoni described the proposed development to the Board using the overhead. He stated the site is Block 24, Lots 4 & 7. He stated Lot 4 fronts on Barbertown Pt. Breeze Road and Lot 7 fronts on Muddy Run Road. Currently there are two farms, one on each of the lots. The structures are located in the northern portion of Lot 4 and on the eastern portion of Lot 7. The properties contain the Lockatong and Muddy Run Creeks. The site is currently being used as hay production fields. Lot 4 contains 83 acres and Lot 7 contains 54 acres. The sites are traversed by streams and have environmental constraints. There are wetlands on the properties. Solar array layout is a fixed mount system. Since it is fixed mount system, the require access from both Muddy Run Road and Barbertown Point Breeze Road. One access will be utilizing the current farm access and will provide a turn around for the fire department. The northern area is cut off from the southern area so another access will be required. The application is for a photovoltaic site. The panels absorb sunlight and produce dc electricity. The dc electricity is converted to ac for use by the power companies. There is an easement which runs in the north/south direction to JCP&L, which will enable them to tie into to transmit the power generated on the site. He stated, typically, most systems do not have that luxury. Most systems tie into the power lines at the road. They are in preliminary discussions with the power company. The design provides for the inverters to be located along the front of the lot. The location of the inverters conforms to the ordinance setback requirements of the front of 75' and the side one of 50'. The panels themselves are connected and go into an inverter. The inverter converts the dc to ac power. The ac power goes through the system. There are no power lines on the lot. There are no telephone poles. The wiring will go underground into the northern part of the site and pick up the inverters and bring them all together into the switch gear. All the electricity goes together and ties into the grid. He stated the shaded areas on the plans are the wetlands areas. The panels encroach into the 50' buffer. The applicant is requesting a buffer transition waiver from the DEP, which would allow them to make the buffer less than 50' if they put some area back. The only relief they are requesting from the State is for the wetlands. The access from Muddy Run Road will require a permit to cross the wetlands for the access point. The application contains a lot merger of the two lots. The application will contain a 25' ROW dedication on both roads for future road improvements. The access road is 20' of gravel but the fire official has requested a 30' clear area. Where there are panels are both sides, they are proposing to have a 20' gravel drive with 5' clear on both sides. They have it on 95% of the site and will be adjusting the remainder of the site to adhere to the request. The applicant will meet the requirements of access of the fire department. He indicated the original farm houses and structures on the overhead. The applicant proposes to demolish all the building except for one garage. The applicant will utilize the garage for the storage of some equipment to maintain the site. The site is unmanned. It is remotely monitored. There is an 8' security fence around the paneled area. The maintenance crew will have the same access as the fire department. They visit the site with a pick up truck about once a month to trim the grass, maintenance of the panels and/or check the equipment. There is 14' between panels so access can be gained with the pick up truck. There are no full time employees and do not propose any potable water or sanitary facilities on site. All the mechanical equipment will be located on a concrete pad, as well as the switch gear. The equipment is made to be outdoors so there will be no sheds. Since the wiring is underground, the only access for maintenance is to the inverters, switch gears or panels. The facility will be surrounded by an 8' high black vinyl coated chain link fence. There will be gates on the driveways with knock boxes for the fire and emergency personnel. There are no lights and it is remotely monitored. There will be temporary security and the security fence will be installed prior to the installation of any panels. There will be two staging areas, one off of Muddy Run Road and one of Barbertown Pt Breeze Road. There will be temporary site lighting because the fencing materials are easily transported. Once the security fence is installed around the site, the fence will be removed. He does not envision round the clock monitoring of the staging areas, unless there was a need. The lighting will be subject to the Township engineer's review of its placement. The southern section has its own fencing. The facility will not have any monitoring with security cameras.

T. Decker reviewed the portion entitled “Technical Review” of his review as follows:

**Technical Review**

1. Applicant proposes to demolish the existing farmhouses and most farm structures. We recommend that a Phase I Site Assessment be conducted on the property to identify any potential site contamination and submitted to the Board.
2. Applicant should identify the proposed use of the existing 38’ x 48’ equipment building to remain.
3. Testimony should be provided regarding shielding of any electric equipment from interfering with radio or television reception at the lot line in accordance with §132-54B.  
*R. Pelozzini stated there should not be any interference to radio and television from the electric equipment. R. Dodds requested the information be submitted to the Board.*
4. Testimony should be provided regarding safety and security associated with the proposed improvements.
5. The interconnection location with the grid should be added to the plans. *Testimony was already given and it will be added to the plat.*
6. Pursuant to §132-60A(2), a note should be added to the plans restricting the removal of soil from the site and that no concrete footings for the solar racking systems shall be placed in prime farmlands or farmlands of statewide significance. *Applicant will add to plans.*
7. Prime farmlands or farmlands of statewide significance should be noted on the plans. *R. Pelozzoni indicated all the soils on the site are of statewide significance.*
8. Pursuant to §132-60A(2), a note should be added to the plans that grading within prime farmland and farmlands of statewide significance is limited to only that necessary to construct access roads and for the construction of inverter and equipment pads. *T. Decker stated it should be noted that they are prohibited from concrete footings and only driven or helical screws will be utilized.*
9. Applicant should discuss if any grading is proposed in the vicinity of the buildings to be removed or the proposed access drive. *R. Pelizozni stated the grade will be releveled after the removal of the structures. They will adhere to the geotechnical report regarding the grading after the removal of the structures. The geotechnical report will let them know what type of soils are present on the property and their capacities to hold the racks. The geotechnical report will be geared to this type of development and foundation. It will be very detailed.*
10. §132-60A(3) requires permits from NJDEP for installation within NJDEP regulated areas. The applicant has identified the following activities requiring permits:
  - a. General Permit for a Driveway Crossing
  - b. Freshwater Wetland Transition Area Averaging
  - c. Filling of an isolated wetlands
  - d. *Utility crossing from southeast field to major field (added)*
11. The following design standards from Supplemental Regulations, Ordinance §132-60A have been previously commented on under the Conditional Use section of this report and are repeated for the purpose of additional ordinance citation.
  - a. §132-60A(6) regards site visibility from adjoining residential uses.

- b. §132-60A(6) addresses the need for a maintenance plan.
  - c. §132-60A(10) addresses glint and glare.
  - d. §132-60A(14) regarding wind.
12. Applicant should advise as to the method of anchoring the racking systems (driven piers, helical screws or concrete) and if a geotechnical report has been performed on the property. *The testimony given this evening indicates the project will be mostly done with driven piers and possibly helical screws.*
  13. Ordinance §132-60A(6)(a)[2] requires a seed mixture of native, non invasive shade tolerant grasses in areas occupied by the solar facility. Applicant should provide testimony regarding the proposed seed mix, its viability and future maintenance needs.
  14. Ordinance §132-60A(7)(b) requires a continuous berm within the landscape buffer.
  15. Ordinance §132-60A(7)(c) requires that each access gate include a sign identifying the responsible parties for operation and maintenance of facility. Signs as proposed do not identify nor provide contact information for the responsible parties. *Applicant has agreed to revise the signage to comply with the ordinance requirements.*
  16. A note should be added to the plans stating that the ground beneath the solar facilities and structures shall not be covered with stone in accordance with Ordinance §132-60A(11).
  17. Conformance with Ordinance §132-111.1 regarding conservation easements and marker is required. Marker locations and details should be added to the plan set.
  18. In accordance with Ordinance §132-110H, every development application is subject to review and approval by the Kingwood Township Fire Company (KTFC) as to the adequacy of fire protection features.
  19. The applicant’s engineer has demonstrated that the project as currently designed does not exceed a quarter (1/4) acre of additional impervious. By State statute, the elevated panels are not classified as an impervious structure. However the disturbance associated with installation of underground electric lines, solar racking systems, concrete pads and access ways will exceed one acre, thereby triggering requirements for stormwater management. Supporting calculations have been provided demonstrating that stormwater management requirements will be satisfied as there is minimal change in ground cover.
  20. Review of deeds and descriptions for the 25 foot road right of way dedications. Conservation easement and deed of merger is required.

R. Pelizzoni stated there is no issue with running the power lines through wetlands since they will be installed a sufficient depth down and will be waterproof. The monitoring of the system would indicate if there was a problem. Utility maintenance will be allowed in the wetlands area. He does not envision any blasting. In response to a concern of a Board member, he stated a note can be added to the plans to require directional drilling in the wetlands. D. Pierce stated the Board can make their preference know but the excavation is allowed by state regulations. W. Harrison suggested the wording “if it is feasible”. The Township engineer can make the determination by the information provided to them. In regard to the demolition of the house and structures, he stated all the materials will be removed. The foundations will be taken out to 3’ below grade. If the Board requires the foundations to be removed in their entirety, a note can be added to the plans. If the structure has a flood on grade, it will be removed. If posts are to be installed in those areas, everything might be removed. The geotechnical report will indicate what will be required for that particular area.

T. Decker stated the notes on the plan should include that the well will be capped, the septic removed and all materials will be disposed of in a licensed facility and according to DEP regulations. He stated he does not see a farm cultivating 3' down and encountering a foundation. He would like to see the geotechnical report as well as the Phase I study. He stated the removal will be

R. Pelizzoni stated he will have them specifically review those issues as well as the foundations. S. McNicol requested a report be provided to the Township supplying the manner in which the above items will be handled.

In regard to stockpiling, R. Pelizzoni stated it was provided on the plans but there might not be a need for one. T. Decker stated the intent is to utilize the top soil stripped for the access drives for the berming material and landscaping screening.

R. Pelizzoni stated the transformers are boxed for outdoor use. All the wires will be underground. The switch gear will have a box around it. The transformers and switch gear will sit on concrete pads. The switch gear is governed by the power companies. They have control over the inverters. There is a certain requirement of an inverter for "x" number of panels. They have not gotten that far to know what the switch gear will look like. The inverters have a hum similar to a junction box in a subdivision. No noise will be heard from the property lines.

W. Harrison stated the lots will be merged after site plan approval. They have been in discussion with the Hunterdon Land Trust Alliance on deeding some of the property to them. The applicant is in the process of obtaining DEP approvals. Due to the cutting of the fields, the flags were removed and now will have to be reinstalled. They have had extensive discussions with the DEP on the general permits and the fill of wetlands for utility and road crossing. The applicant has agreed to provide 30' clear access for emergency vehicle access.

F. Floyd, Chief of the Kingwood Township Volunteer Fire Company was sworn in by D. Pierce. He testified he had met with R. Pelizzoni. Their concerns have been addressed and noted on the plans. They are requesting the facility located on the smaller farm have a separate address so identifying it in the case of an emergency is easier. R. Pelizzoni was in agreement to the request. F. Floyd requested, if available, they would like to train on the structures prior to demolition.

R. Pelizzoni stated the review letter indicates that there is gravel access around the perimeter fence. It is not their intention to install a gravel access but provide a clear area of 20' between the panels and fence. F. Floyd was in agreement.

In response to a Board's member inquire about the excavating schedule, D. Banisch responded the phasing plan would be for the road to be installed first then the berm and then the fence. T. Decker stated the requirement is for the fence is that it has to be fully installed before the electrical components are installed. He stated while they are putting in the fence, they can put in the driveway and driving the piers. They will have to install a silt fence anywhere draining goes off site.

R. Dodds opened the hearing to the public for questions for the engineer.

K. Garay inquired about the time frame for the project. R. Pelizzoni stated six months from start to finish.

J. Grimes, 49 Muddy Run Road, stated if you drive down Route 12, the project is raping the land. If he had to live next door to that during construction he would be very unhappy. He inquired if this project is just as involved, ugly and drawn out as the project on Route 12. R. Pelizzoni stated he is not familiar with the project on Route 12 and does not know what the problems are with that site. The installation process will be the

installation of the temporary staging areas, the installation of the fence and berms. As the fence is constructed, the piers for the panels will be installed. By the time the fence is installed and the posts and electrical components assembled, the underground electrical work will be done. The project will build an area at a time with an ongoing progression. He stated construction times, in the summer, would be 7 to 7, as the ordinance requires. He stated work will be done on weekends if the township does not have a prohibition against it. In regard to offsite noise during construction, it will depend on what the geotechnical report states. If they hit rock, there is a possibility drilling will be required. As far as forest clearing, there will be some on the edge of the property and the trees around the old farm will be removed. D. Banisch stated all the growth in the interior will be removed. R. Pelizonni stated the corridors along the streams and 300' from each side of the streams will be in the conservation easement. The easement also encompasses all of the environmental sensitive areas. The existing tree line will be in a conservation easement. He indicated the area on the overhead.

J. Grimes inquired about the historical significance of any of the buildings on the site. W. Harrison responded they are not on the state registry. D. Pierce stated the Township does not have any ordinances for a historic district that would govern the use and destruction of historic buildings. W. Harrison indicated he would be willing to contact the local historian to see if the structures had any historic significance. D. Banisch suggested possibly a plaque marking the site. W. Harrison was in agreement. In response to a comment by a Board member in a past instance of when historic buildings were removed, a photographic documentation of the building before destruction was done. W. Harrison was in agreement to provide the photographs to the Township.

J. Keller inquired if the temporary lighting would be present for the entire phase of the construction, of the amount of traffic on Muddy Run Road and parking. R. Pelizzoni indicated the staging area on the overhead which would be the starting point of the facility. Once the security fence is up the temporary lighting would be removed. The lighting should be on for about a month. The location of the lighting will be reviewed with the Township engineer. The workers would park within the permanent fencing. The work will start in the interior and work towards the outer edges. He stipulated the parking will be in the staging areas and will provide a revision for the parking plan. T. Decker stated the Township would require more detail on the staging area. The applicant may be able to utilize the existing buildings as a shield to help buffer the lighting from the residents on Muddy Run Road. R. Pelizzoni stated the staging areas should hold 40 cars in each area. The construction equipment will be parked on site. He is reviewing the possibility of necessity of having a third staging area. J. Keller inquired if the system would contain 46,000 panels. T. Decker stated he does not recall the number of panels on the site on Route 12. Each panel is 250-280 watts, which is the industry standard. The site on Route 12 is a 3 megawatt system and this one is a little over 13 megawatts. The layout of the system is based on topography. In response to J. Keller's inquiry of how many employees there will be, R. Pelizonni stated he is not the contractor but twice the size would require twice the employees.

In response to a Board members inquiry of the difference between the Route 12 solar park and this facility, D. Pierce responded at the time the Route 12 application was approved there were no ordinances governing major solar facilities in the Township. The applicant applied to the Board of Adjustment. The ordinance was in development and was relied upon by the Board of Adjustment. The Township now has an ordinance that governs the standards for these types of facilities and provides for more stringent requirements in terms of construction and impact. The ordinance addresses the visual impact and the impact to the surrounding area in regard to the intensity of the development. In regard to the work day, D. Pierce responded, the Township's noise ordinance allows certain noise levels between 6:00 PM and 8:00 AM. The applicant had indicated, in prior testimony, the work day would be from 7:00 AM to 7:00 PM. He stated his expectation based on the noise ordinance is that they would only be able to install the posts from 8:00 AM to 6:00 PM. J. Keller inquired, once the project commences, can he have his property reassessed. He was informed by a real estate person that the value would drop. He stated Route 12 is an industrial area and Muddy Run is a residential area.

J. Grimes stated some people want to bring an industrial operation into a residential area. Does the Township agree with that statement? The Board responded yes. J. Grimes stated every home south of him has young children under the age of 10. They like to ride their bikes on Muddy Run Road. Is it expected that parents and their children will have to change their way of living to accommodate the heavy traffic? Will anything be in place that will address the fact that Muddy Run Road will be an unsafe roadway for the kids to ride their bikes? His concern is why would the residents have to change what they like to do as part of their lifestyle to accommodate this industrial complex in their residential area. D. Pierce stated there is nothing in place to address his issues other than the requirements on the hours of construction and the staging of the vehicles. The Township cannot control the migration of these facilities into different areas of the Township. The Township adopts an ordinance and the state legislature provides that these types of facilities are an inherently beneficial use. The one on Route 12 is not in an industrial zone and the applicants applied to the Board of Adjustment. The applicants would have a very low threshold of proof to satisfy the Township to grant them an approval. The Township has taken the initiative to develop a comprehensive ordinance. It is an unfortunate fact of life that the state has deemed these installations important to the state. The Township has addressed the issues that have been brought to them through the ordinance. The residents will be inconvenienced for a relatively short period of time. J. Grimes stated he wondered if the people involved would want to see this in their backyard. It does not add to the quality of life. He stated he is here because he likes to be here. He loves living here and does not want to see it change. He is not for stopping progress. There needs to be a balance of where people live and work. If everything is kept in balance, everyone is happy. R. Dodds responded the choice has been taken away by the State. He agrees with his comments.

J. Keller inquired what is to stop him from putting up a pole building and making products. P. Lubitz responded that would not be an inherently beneficial use. D. Pierce stated there is state legislation that defines this industrial use as inherently beneficial. The designation requires the Township, when it evaluates applications for that use, to apply a much more relaxed standard, just like hospitals and schools. It requires a streamlined approval.

K. Garay inquired why are the residents here this evening. D. Pierce responded the application is for site plan approval and even though it is permitted, the applicant has to satisfy certain conditions on how the facility is to be constructed. The Township can make sure it does not have a visual and traffic impact. P. Lubitz stated the hearing is the best way the Township can satisfy the concerns of the citizens. He has picked up some good comments and suggestions from the citizens, such as traffic, hours of operation and parking.

J. Mathieu stated the development is permitted but the Township, through their ordinances, can limit the size, hours of construction, insure the berming is the best it can be and what trees should be used for the screening. The Township is trying to make it as palatable and safe as possible.

R. Dodds closed the public portion of the hearing.

J. Mazzucco, landscape architect, was sworn in by D. Pierce. J. Madzucco provided his credentials to the Board.

J. Mazzucco reviewed the landscaping plan for the Board members on the overhead. The following is a chart of the types of plantings planned for the project.

Native	Quantity	Common Name	Size
N	21	October Glory Red Maple	1.75" – 2" caliper
N	113	Shamrock Inkberry	24" – 30"
N	96	Winterberry	3' - 3.5'

N	88	Northern Bayberry	24" – 30"
N	13	Black Tupelo	1.75" – 2" caliper
	173	Norway Spruce	6' – 8'
	54	Norway Spruce	8' – 10'
N	162	White Spruce	6' – 8'
N	60	White Spruce	8' – 10'
N	86	Eastern White Pine	6' – 8'
N	28	Eastern White Pine	8' – 10'
N	15	Red Oak	1.75" – 2"

He stated one type of the plantings is not native due to the fact that it is drought and deer tolerant. All of the proposed species are on the Rutgers list of tolerant species. They will be intermixed with some shrub material to break up the vertical height of the screening. There is an electrical easement into the property. The screening eliminates views into the property along the electrical easement.

D. Banisch expressed a concern that the proposed landscaping at the switch gear at the second curve might not actually shield the view from that piece of equipment. J. Mazzucco testified he can work with the engineer to provide additional screening if necessary. D. Banisch suggested the switch gear could be located so that it can be removed from public view. W. Harrison stated either relocation or additional landscaping will be done so it is effectively screened from public view.

J. Mazzucco testified deciduous trees will be planted along Barbertown Point Breeze Road because of the lack of a hedgerow at this point. He reviewed the location of the screening on the overhead. All the planting he reviewed will be at the 8-10' height at installation. The panels are a little more than 9'. The landscaping is proposed in two different heights, 6-8' and 8-10'. The best time to plant the trees is late summer or fall. July and August are the worst times because of a lack of water. Some trees respond better to spring planting rather than fall planting. On some it depends on the time of year it was removed from the ground. They have to be dug prior to being leaved out. On evergreen trees, they need to be dug prior or after the light colored growth on them. W. Harrison stated the planting schedule can be required as part of a final site plan approval. J. Mazzucco stated an evergreen tree is faster growing than a deciduous tree. On the corner of Barbertown Point Breeze Road and Muddy Run Road, there is an existing hedgerow so berming will take place. They do not want to interrupt any natural drainage patterns. In order for some areas of drainage to get through the berms, the berms will overlap. They are proposing the 8-10' evergreens at the hedgerow ends. There will be deciduous trees intermixed with the evergreens. The height of the berm is 4'. They cannot plant into the wetlands or transition areas. Grasses can also be planted and cut once a year, which would require maintenance. The note indicating the removal of the existing shrubs and trees along Muddy Run Road can be removed. W. Harrison stated it was a trade off since they had discussed the suggestion of a second access by the fire department in that area. J. Mazzucco stated the berm will be topped off with evergreen trees.

D. Pierce stated the Township requires a performance bond for five years to make sure the screenings are maintained. The maintenance requirement is required throughout the life of the facility. If one should die, it would have to be replaced.

J. Mazzucco testified the plantings will be inspected when they arrive on the site with a periodic drop in to see that the planting is properly done. He reviewed the sheet on the overhead that showed the excavation for the installation of the proposed trees. The trees will be staked for stability purposes. The watering system for the trees will be a bag that wraps around the trees, gator bags. He stated he has walked the site with D. Banisch and reviewed the areas needing heavy screening. The berming is schematic and was developed with the applicant's

engineer and the Township engineer so that drainage patterns can continue. T. Decker will review the drainage pattern. The berm can be installed to put in an angular break. The berm narrows on one side. It allows for proper drainage without losing any of the screening of the berm. Part of the maintenance plan will be if there are certain growth species in the easement area that will shade the panels, they will be trimmed. Further into the easement area, which have no impact on the panels, will be left to grow.

W. Harrison stated one of the potential things the applicant can do with buffer averaging is to return it to be returned to its natural state and having an area that would be maintained around the perimeter of the panels and have the rest of the area left to turn natural. It would allow the wetland's buffer area to revegetate. On most of the site, there is a fairly extensive area between the wetlands area and the facility.

D. Banisch stated a standard in the ordinance is that the solar facility cannot be visible from a height of 30' above the adjoining properties. J. Mazzucco stated initially the visibility will be less than 30' but in time the screening will be according to the ordinance requirements.

R. Dodds open the hearing up to the public for comments.

J. Grimes stated they will not have to irrigate as it is known as kingwood swamp. They have a problem with drainage in the area. He advised them to be aware the facility may affect some of the other property owners. They are losing about 100 acres of habitat. R. Pelizzoni indicated there are approximately 70 acres that are fenced. J. Grimes asked what will happen after the initial five or ten year to maintain the vegetation, trees and shrubs. J. Mazzucco responded soil testing will be done. After the soil testing, they can address any problem areas. The plantings will be bermed and an underdrain will be installed for the plantings. There will be a perforated pipe system for the trees.

P. Lubitz inquired, if after the facility has been installed, a problem develops as a result of the berming on a neighboring property, how will it be handled. J. Mazzucco testified the plans will be reviewed. The drainage is towards the south with the water draining towards the center. There is some lateral movement of water at the lower end. There should be no issues regarding drainage to the surrounding property owners.

T. Burke, corner of Barbertown Point Breeze and Muddy Run Roads. He stated he will be able to see the entire facility. J. Mazzucco stated, with the berming and height of the trees, there will be a minimum of 14' elevation at the time of installation. Norway spruce grow 6-8" per year and white pine grow 4". He estimates the view will be blocked in three to five years.

D. Banisch stated due to the type of homes in the area the 30' standard seems a little bit out of place on this property. A site by site analysis could be done to address specific concerns.

K. Garay inquired about their once a month maintenance trip. He stated in bad winters, trees come down and have to be removed. W. Harrison stated the ordinance requires that the plaques have contacts for maintenance issues posted at each of the gates.

J. Keller stated he has a problem. In the fall he can see the barn. From his bedroom upstairs, which is 15 stairs up, he can see the whole barn and horses. He inquired if the applicant walked both sides of the property. J. Mazzucco stated he did not actually walk in the field. He did see some ponding. He is proposing piping on the outside and berming. He does not intend to disturb the draining pattern that exists today. J. Keller stated he will have a lake. J. Mazzucco stated the berm will slow it down. R. Pelozzini testified there will be drainage breaks in the berms. The berms will allow the water to be directed to the lower end by the stream.

P. Lubitz inquired of D. Pierce what recourse J. Keller would have if he finds a lake in his property. D. Pierce stated his recourse would be to bring a lawsuit against the developer. The Board has done what it can do in terms of reviewing the plans and making projections with the help of the engineer. T. Decker suggested creating the berm and hold off on the landscaping until there are some rainfall events to see how the berm will operate. It will result in the plantings of the screenings being delayed. It is much easier for the applicant to make modifications to the berms before they put in the landscaping. Even though we can go through that process, there can still be a problem later.

S. Keller inquired how far from her tree row are these horrible things going to be installed. D. Banisch responded 70' from her property line. She indicated she was not happy.

J. Grimes stated about 10 years ago he had installed an 8' berm on a property. Dirt was brought in 80' wide and 8' high. Today that berm is only 4' high. He inquired if the same thing would happen to the proposed berms. R. Pelozzini testified when that berm was created it was constructed of loose material. Loose material will compact with time and the elements. The proposed berm will be compacted at 4'. T. Decker stated if it is installed properly and compacted, there may be some settling. There are two levels of inspections. One the building and electrical, which basically inspects the panels and conduit. The other one is his office which will inspect the fence installation, grading, access drive and landscaping.

R. Pelozzini testified the material for the berm will come from onsite. If an insufficient is available from the site, clean fill will be brought it. D. Pierce stated the notes indicate the fill will be subject to T. Decker's approval.

R. Pelozzini, with regard to the glare from the panels, testified the panels are made to absorb light. The more the panels absorb the light, the more energy they produce. They will be either dark blue or black in color, which will absorb the most sunlight. They will not have glare. If there is glare, it will be no more than off of a car windshield. R. Dodds requested documentation indicating the amount of glare which will be generated be submitted to the Board.

R. Dodds open the hearing up for public comments.

K. Garay stated the power company gets power and their housing values will be devalued. He inquired how many of you would want to buy a house with solar panels across the street. What do they get from this? He responded they get nothing. The residents who are adjacent to this are getting screwed.

J. Keller inquired if the property will be taxed as farmland. P. Lubitz responded. R. Dodds stated as a Township there will be some tax benefits for the Township as a whole. J. Keller inquired how long has this project been planned. R. Dodds responded four or five months. J. Keller stated it was not fair to the taxpayers that they have only 10 days. R. Dodds responded the application is currently for preliminary and they will need to come back for final. There is a lot of work to be done before final approval.

J. Grimes inquired if they have a chance to come before the Board prior to final approval. D. Pierce stated it depends on what action the board takes tonight. If the Board grants preliminary approval then as long as the applicant demonstrates that the conditions imposed as preliminary approval as complied with, the applicant is entitled to receive final site plan approval, unless some new information comes to light that is not part of the preliminary approval process. The Board cannot change the conditions of preliminary approval unless there is new information. There is no chance to change the conditions the Board imposes as preliminary approval.

T. Burke stated there is no chance to fight so they are screwed.

D. Pierce stated the notice that is provided is what the state requires. The plans were filed in April and there was a lot of publicity about the litigation. They are required to provide notice 10 days prior to the hearing.

J. Keller inquired how the Board can approve if his looking out is not settled. He is not supposed to see any panels. He can see the whole field. D. Pierce stated the Board will have to discuss the issue with D. Banisch. The ordinances does not state a specific time of when it will be accomplished.

S. Keller stated the Board should keep in mind they are 52 and 55 years old.

R. Dodds stated the Board empathizes with them but the Township has been told these facilities have to be permitted to be installed. All the Township can do is shape and make the impact as little as possible.

J. Keller inquired if there is anything in writing that requires they cannot see these panels. D. Banisch states the ordinance does have that requirement and the ordinance is available on line.

J. Grimes inquired what makes Barbertown Point Breeze and Muddy Run Road the most attractive location for this industrial operation as opposed to going on a major highway like 202 and 12. What is bringing these people into where we live? R. Dodds stated it is the “J” line, which is a medium grade line. Every solar developer coming to Kingwood is here for the same reason. D. Pierce stated there are two more coming into the AR-2 Zone. J. Grimes inquired if the matter is still in litigation. D. Pierce stated it has been settled.

P. Lubitz stated he believes the Township has the most aggressive ordinance in the state. The ordinance went to the limits allowed by law. This is not the only litigation against this ordinance. The members of this Board have gone through a lot of what you have gone through. Not only will industrial zones but residential and agricultural zones will be affected. He stated when the facility is decommissioned it will go back to farmland.

R. Dodds stated if the Governor and legislators change, things can change. If the SRECs die, so does the solar facility.

S. Keller inquired what is the probability of this facility happening. D. Banisch stated the ones that have been approved are going through.

R. Dodds closed the public portion of the meeting.

D. Pierce stated the next step would be to consider the design standard waivers. Under the ordinance, several items have been moved from conditions to design standards. Waivers from those, if the Board deems it appropriate, should be considered before any action.

Requirement that the berm be continuous throughout the facility -

*The intention was that the berm can be or might not be continuous if other landscaping features, existing tree cover and buffer areas would make the berm unnecessary in those areas. The Board could find that it is appropriate to grant a waiver for this particular application.*

Ingress and egress for south field of the facility –

*The ordinance requires that each facility have two means of ingress and egress. Each field stands alone. The applicant and Chief Floyd stated they are working together for a possible opportunity to provide two means of ingress and egress. satisfaction to the fire company satisfies the means of ingress and egress. There was discussion with Chief Floyd about a “u” or turn around within the facility and one access point.*

D. Banisch stated there are two existing gates. F. Floyd stated they would prefer two gates. R. Dodds stated if there are two gates, there would be no need for a waiver.

It was moved by S. McNicol, seconded by J. Mathieu and carried to grant a waiver of the design standard to include a continuous berm in the landscaping portion of the facility. All members present voted **AYE** on **ROLL CALL VOTE**.

D. Pierce stated the Board has to consider if it is ready to grant preliminary site plan approval with conditions this evening. If the Board feels there is additional information it deems necessary that has not been provided to the Board's satisfaction tonight, the Board can determine they have that information in hand prior to granting preliminary site plan approval. T. Decker had some concerns that the Board should have some additional information before granting preliminary approval.

T. Decker stated the Board has heard several comments regarding the staging area, parking of vehicles and traffic. Those items are something the Board might want to see. He wants to make sure what gets approved is approved by the Board. There are a lot of revisions on the plan. He can certainly review on his own but if it is reviewed and made as a condition of preliminary approval, when it gets to final approval, it is already there.

W. Harrison stated the Board cannot defer action until the applicant receives DEP approval. The applicant would like to have a listing of the conditions. D. Pierce stated the applicant will be entitled to begin construction once it satisfies the condition of preliminary approval.

T. Decker's concerns are more of the visual items, such as the drainage for the berms. He has not seen any grading for the berms. He feels a little uncomfortable addressing the staging area administratively.

M. Syrnick left the meeting at 11:15 PM.

D. Pierce reviewed the conditions. He stated the Board should review the conditions and inform W. Harrison what items would be critical to the Board's decision on preliminary approval.

The Board found the following items to be outstanding items they would like to see before considering granting preliminary approval:

- Grading plan;
- Staging area details;
- Additional landscaping reviewed by the Burke and Keller properties;

R. Dodds indicated to the W. Harrison that the Board does not need a full set of plans just the revised individual sheets and a new electronic version.

W. Harrison stated the Board will be provided with the revised sheets by noon on August 9<sup>th</sup>.

R. Dodds announced the public hearing has been continued to August 11, 2011, at the Kingwood Township Municipal Building, beginning at 7:30 PM, without the requirement of further notification.

R. Dodds announced the public will be offered the opportunity to comment on the new information.

**ADJOURNMENT**

It was moved by P. Lubitz, seconded by J. Mathieu and carried to adjourn the meeting at 11:37 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenbach, Secretary