

PLANNING BOARD MEETING OF OCTOBER 8, 2020

MINUTES

7:30 PM

PRESENT:	T. Ciacciarelli	ABSENT:	L. Frank
	C. Ely		J. Mathieu
	D. Haywood		L. Voronin
	S. McNicol		S. Harris (Alt. #1)
	L. Riggio		
	M. Syrnick (7:47 PM – Call In)		
	K. Kocsis, (Alt. #2)		
	W. Ingram, Engineer		
	D. Pierce, Attorney		

CALL TO ORDER

The meeting was called to order at 7:30 PM by L. Riggio.

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. To ensure everyone's safety, please keep your mask on during the meeting and adhere to social distancing. Any comments from the board members who are not seated on the dias or public must be made through the microphone provided at the podium.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News on January 23, 2020, and has been posted in the Kingwood Township Municipal Building on January 23, 2020 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

ForeFront Power – Community Solar – Block 19, Lot 3.03, 990 County Road 519 & Block 19, Lot 6, 2 Fitzer Road

Present at the meeting was D. Vitali, Optimus Partners, LLC, who represented the owner of the property. By phone, R. Peichel, representative of ForeFront Power, was at the meeting. R. Peichel made the following presentation to the Board:

COMMUNITY SOLAR BACKGROUND

Community solar projects enable greater access to solar energy. Electric utility customers who have previously been unable to go solar, due to a variety of factors including cost, unsuitable roof, or lack of roof control, can now access this renewable energy.

New Jersey established a 3-year Pilot Program. For each of the three program years, Board staff will conduct an annual competitive application process pursuant to the Clean Energy Act using criteria developed by the Board. Applications will only be accepted during a designated period. The application period for PY1 went from April 9, 2019, through September 9, 2019. A total of 252 applications were received by the BPU. On December 20, 2019, the Board granted conditional approvals to 45 community solar projects.

What is community solar?

A community solar project is a solar array whose output is virtually divided among multiple participants, known as subscribers. Participants receive a bill credit on their utility bill for their participation in a community solar project. These subscribers are often, but not necessarily, close to the array they are subscribed to. Subscribers are not directly connected to the solar array. They can be down the road, across town or even all the way across the state. All subscribers must be in the same utility service area as the project to which they have subscribed.

A project cannot be larger than 5MW. For reference 5 MW could power up to 1,250 houses and an array could cover approximately 20-25 acres. There is no minimum size. Each project must have at least 10 subscribers, with no more than 250 subscribers per 1MW.

There are three primary roles for any community solar project:

- Site Host
- Developer
- Subscriber

Site Host

A site host has available land that is well positioned to capture solar energy. The site may never have had a solar array or it may have additional square footage available adjacent to an existing array. A site host can partner with a developer and rent or sell the land used for the solar project.

Developer

The solar developer will be responsible for the application, building, and maintenance of the solar array. The developer and/or its partners are also responsible for signing up subscribers.

Subscriber

A subscriber can be a home or business that wants to use renewable energy but does not have an array on site. This may be because they are a renter or because their site is not optimal for an on-site solar system. A subscriber can either pay a monthly subscription or purchase a piece of a system upfront. Every project will have its own fees and contract. Be sure you read the contract and understand its terms and conditions before signing up.

Potential Benefits to Subscribing

Access to Local Clean Energy • Potential Savings on Electric Bill • Local Jobs & Economic Development

KINGWOOD PROPERTIES

Kingwood property owner Allen Blumberg partnered with Forefront Power, LLC, to apply to the New Jersey Board of Public Utilities (“the Board”) as part of the Community Solar Pilot Program (“the Program”).

ForeFront Power has more than 15 years of renewable energy industry experience, serving business, public sector, and residential power customers around the world. ForeFront developed over 900 MW of capacity across more than 1,000 projects, targeted to assist public sector agencies and C&I firms deliver the most impactful behind-the-meter, community solar, and wholesale solutions.

The properties involved are:

- Kingwood I — Block 19, Lot 6: 2 Fitzer Road, Kingwood, NJ 08825
- Kingwood II — Block 19, Lot 3.02: 970 State Route 12, Kingwood, NJ 08825

At Kingwood I, Blumberg and ForeFront propose a 3.25MWac/4.64MWdc solar facility that will occupy 23 acres of the property’s ~54 total acres. At Kingwood II, the partners propose a 4.125MWac/4.998MWdc solar facility occupying ~34 acres out ~95 total acres. For both properties, the partners propose a subscriber pool that is 51% residential and 49% commercial with at least 51% of the residential subscribers being low- and moderate-income residents. All subscribers will be drawn from Hunterdon and adjacent counties within JCP&L’s service territory. Subscribers will receive an approximate savings of 10-20% on their community solar bill credit.

Most notably, both Kingwood I and Kingwood II properties carry farmland assessments that the partners hope to maintain through a combination of woodland management and the potential use of a cutting-edge land use strategy called “agrivoltaics”. Agrivoltaics co-develops the same area of land for both solar photovoltaic power and agriculture. In this case, both properties might be used to graze sheep in and around the solar facility installation among other potential uses. Combined with the deed restricted open space required by Kingwood ordinance for both properties, this means that the entire ~150 acres will either be deed restricted open space or assessed farmland.

ForeFront Power is committed to be an environmental steward by designing their projects to preserve and enhance the site including landscaping, land enhancements, pollination support, Stormwater management, and soil conservation activities. Landscaping and land enhancements are a standard part of ForeFront Power’s project installation plans; they believe it is a priority to build the projects in a way that limits viewshed encroachment. Pollinator planting areas have the capability to prevent and eliminate invasive species while supporting abundance and diversity of flora and fauna in surrounding areas; ForeFront is enthusiastic about the positive effects that pollinator support can create and plan to incorporate pollinator support into their project design. Stormwater management and soil conservation efforts during construction and operation are standard business practice for ForeFront Power and their partners. In communication with the NJDEP, they understand and share the State of New Jersey’s emphasis on addressing, curbing, and limiting the pollution

caused by stormwater runoff as well as supporting soil conservation by preventing erosion and loss of productivity.

There were no questions from the Board members after the presentation.

D. Vitali stated in addition to trying to cooperate with the Township they would like to be creative and restrict further uses of the 50% set aside property. He stated right now the property is farmland assessed and they would like to keep the property in a dual use, both agricultural and solar. They are entering into conversations with local labor unions and will be using local labor to build the facility. Designed into the State program is the recommendation to make these projects as attractive to the working public, municipality and neighbors. He stated he looks forward to cooperating in the future with the Township.

K. Kocsis stepped down from her position on the Board for the following matter.

Kocsis – Agricultural Subdivision – Block 6, Lot 18 – State Route 12

K. Kocsis stated the plat provided to the Board was the one that the SADC gave to them when they preserved the property. They intend to separate the severable exception area from the rest of the farm.

M. .Syrnick called into the meeting at 7:47 PM.

D. Pierce stated the Board would have to adopt a resolution granting agricultural subdivision determination. There are no new streets being created by the subdivision. Under the MLUL, an agricultural subdivision is not considered a subdivision that requires board approval. In the past the Board has adopted a resolution specifically finding that the purpose fits and constitutes an agricultural subdivision.

It was moved by T. Ciacciarelli, seconded by C. Ely and carried to grant an agricultural subdivision determination to the application.

S. McNicol inquired how it could be an agricultural subdivision if the several exception areas contain a business. D. Pierce responded the subdivision is not for purposes of further development of either lot and is not adding a new dwelling unit.

K. Kocsis stated there is no farming on the proposed new lot. The lot contains 11 acres.

D. Pierce stated it is not a requirement of the MLUL that both parcels can be farmed or are being used for an agricultural purpose, which is the reason then must contain over 5 acres. This is an existing use and they are not proposing to change it. The subdivision is not for further development of the property.

All members present voted **AYE** on **ROLL CALL VOTE**.

K. Kocsis resumed her seat on the Board.

Accessory Structures – Farmland Preserved Properties

M. Syrnick stated that there was a preserved farm in Kingwood that was building a barn on the property. The zoning officer referred to the Township ordinance which did not permit an accessory structure to be built prior to the principal dwelling.

D. Pierce stated it was resolved last month. The ordinance allows agricultural use as a principal permitted use in the AR-2 zone and a barn for agriculture or horticulture use is considered a principal structure even though there is no principal dwelling on the lot.

Declaration of Encumbrance and ROSI Certifications

L. Riggio stated, when COVID first broke out, the Township needed a signature on the document prior to it being reviewed by the Board. It is being listed on the agenda just for the information of the Board and to provide full transparency to the Board.

D. Pierce stated it is a requirement for the Planning and Incentive Grant.

Farmland Preservation Element of the Master Plan

D. Pierce stated D. Banisch was working on the review of the Farmland Preservation Element of the Master Plan.

M. Syrnick stated the Township has applied for a grant for the review. If the grant is approved, the Township will have two years to update their Farmland Preservation Element.

Lindabury, McCormick & Estabrook – Permit Extension Act Memo

D. Piece stated he provided the memo to alert the Board members that the State Legislature adopted an amendment to the Permit Extension Act due to the COVID pandemic. The amendment provides an extension of approval for applications that were to expire during the State of Emergency.

Proposed Ordinance No. 20-14-2020

D. Piece stated the proposed Ordinance is a referral from the Township Committee. It has been introduced on first reading by the Township Committee. The Board needs to make a recommendation to the Township Committee regarding the adoption of the Ordinance. He stated that on page 2, Section 2, Subsection 1(b)(2) dealing with the track of lands less than 40 acres in size it was the Board’s intention was to match the two provisions. The second provision could be interpreted, the way it is written, that only the 30% of preserved land be unconstrained rather than 30% of the entire tract. He doesn’t believe it is a substantive change but an intent to clarify the requirements.

ORDINANCE AMENDING CHAPTER 132, ZONING OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY

WHEREAS, Kingwood Township has identified revisions that should be made to the zoning requirements with respect to commercial solar facilities to better protect the Township’s residents, as well as its rural and agricultural nature,

NOW, THEREFORE BE IT ORDAINED by the Township Committee of Kingwood Township as follows:

Section 1. Chapter 132, Zoning, Article IV, Supplemental Regulations, Subsection 132-60, Solar and/or photovoltaic energy facilities and structures is hereby amended as follows:

A.

- (1) – (5) No Change
- (6) (a) [1] No Change
- (a) [2] Soil erosion control, soil stabilization. All ground areas occupied by the major solar or photovoltaic energy facility or structure installation that are not utilized for access to operate and maintain the installation shall be planted and maintained with native, non-invasive shade tolerant grasses and native, non-invasive shade tolerant wildflower mix for the purpose of soil stabilization and providing forage for pollinators. A seed mixture of native, non-invasive shade tolerant grasses and native, non-invasive shade tolerant wildflower shall be specified in a landscaping plan that shall be submitted to and approved by the applicable land use board. The use of stone shall not be permitted for soil erosion control and soil stabilization. The components of this plan may be combined with the requirements of the grading and drainage Plan in §132-60A(9) below.
- (a) [3] No Change
- (7) – (10) No Change
- (11) Except for areas of the tract (or tracts) that may be forested or farmed, areas not occupied by solar or photovoltaic energy facilities and structures, berms and landscaping shall be planted with suitable ground cover consisting of native, non-invasive grasses and native, non-invasive wildflowers for soil stabilization and to promote forage for pollinators. Ground areas beneath the major solar and photovoltaic energy facilities and structures and alternative energy systems shall not be covered with stone.
- (12) – (16) No change
- (17) Solar and photovoltaic energy facility inverters and switch gear equipment shall be fully enclosed within an acoustical enclosure that will provide a minimum transmission loss (TL) of approximately 34 dBa and shall be set back from all property lines by not less than 150 feet. Such acoustical enclosures shall include at least two means of ingress and egress for emergency response. The final design of the enclosure will incorporate appropriate materials to achieve the minimum TL requirements. Consideration will be given to acoustical properties of doors and penetrations in the enclosure such as air intakes and exhausts. Acoustical grade louvers shall be utilized at these openings. All exterior surfaces of such structures shall be neutral tones.
- (18) No change.
- (19) The solar facility shall be subject to inspection by the Township Engineer on an annual basis. An escrow shall be established with the Township to perform this inspection. The facility owner will be provided with written notice within 14 days of any deficiencies identified during the inspection. Correction of any deficiencies identified shall be completed within 60 days after receipt of such notification. The following items will be subject to inspection:
 - (a) Landscaping:
 - [1] Landscape buffer plantings shall be properly maintained. Necessary pruning on an as-needed basis shall be implemented to promote the viability of the plant material and to maintain solar access;
 - [2] The grass in the array fields shall be maintained at a height no greater than 24 inches and no less than 6 inches;
 - [3] The grass within the array fields shall be inspected annually for the following:
 - a. bare areas: the grass cover shall be maintained, and any bare areas shall be covered with topsoil, mulched and seeded as required;
 - b. erosion: any eroded area shall be restored to its approved condition, as required;

[4] Any dead or dying shrubs or trees shall be replaced by the owner throughout the life of the facility.

- (b) Access roads shall be inspected annually for rutting and erosion and repaired as required; and
- (c) All fencing, solar panels, equipment buildings, access roads, and security measures shall be inspected annually for their condition and appearance.

Section 2. Chapter 132, Zoning, Article VI, Conditional Uses, Subsection 132-102, Standards for approval is hereby amended as follows:

A. – O. No Change

P.

(1)(a) No Change

(1)(b) In the AR-2 Zone, the minimum lot size shall be 20 acres, and there shall be provided open lands, which shall not be occupied by any component of the major solar or photovoltaic energy facility, and shall be permanently deed restricted from further development, subject to the following regulations:

[1] On all tracts of land 40 acres or greater in size, or a tract or tracts of land of any size adjacent to land which has been deed restricted for farmland or open space preservation, or a tract identified as or adjacent to greenway or open space lands in the Kingwood Township Master Plan, Open Space Plan or Farmland Preservation Plan, no major solar or photovoltaic energy facility shall occupy more than 50% of the gross tract area, provided that the remaining 50% of gross tract area shall be dedicated as open lands, which shall contain a minimum of 30% of the unconstrained tract area.

[2] For all tracts of lands less than 40 acres in size developed for major solar or photovoltaic energy facilities, the developer shall preserve, as lands preserved for farmland use, through transfer of the development rights to Kingwood Township equal in area to the area of land dedicated to use in connection with the solar or photovoltaic energy facility. Not less than 30% of the land preserved for farmland use shall be unconstrained lands.

[3] Farm structures and not more than one residential farm dwelling supporting continuing farm operations on the open lands portion of the site shall be permitted; provided, however, that areas occupied by farm buildings, the residential farm dwelling, and appurtenant residential areas shall not be counted toward the open lands requirement set forth in §132-102P(1)(b)[1] and [2] above.

(2)-(12) No Change

Section 3. – REPEALER: All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

Section 4. – SEVERABILITY: Each section, subsection, sentence, clause and phrase of this article is declared to be an independent section, subsection, clause and phase, and the finding or holding of any such portion of this article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this article.

Section 5. – EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication according to law.

**PLANNING BOARD MEETING
OCTOBER 8, 2020**

It was moved by C. Ely, seconded by S. McNicol and carried to recommend adoption of the above proposed ordinance to the Township Committee with the following change:

The land preserved for farmland use shall include an area of unconstrained lands that is not less than 30% of the total combined tract area of the properties being used for the solar facility and to meet the preserved land requirements of this ordinance.

All members present voted **AYE** on **ROLL CALL VOTE**.

D. Pierce stated the ordinance would not affect this evening's presentation as both properties are over 40 acres.

Approval of Minutes

It was moved by T. Ciacciarelli, seconded by S. McNicol and carried to approve the August 13, 2020 minutes and place them on file. All members present voted **AYE**, except S. McNicol and M. Syrnick, who **ABSTAINED**.

CORRESPONDENCE

NJ Planner – July/August 2020

PRIVILEGE OF THE FLOOR

Wesley and Melinda Kollmer were present this evening to discuss Block 6, Lot 7 and the requirements of the well ordinance. They are hoping to build a modular home next year. The property had an existing 30 year old well. They had to go through a three part pump test to obtain a building permit. They performed a yield test in 2019. He stated they had a survey completed of their property that shows their well and proposed septic system. He stated he was requested to survey every property within 200' and identify every well and septic. There are approximately 10 or 12 properties. He asked if he is required to survey every property within 200' of his property.

M. Kollmer stated the requirements are for new wells and their well has been there for 30 years. Does she even have to do this? She wanted clarification if it is necessary on an existing well.

D. Piece stated if he understands their question this is not the Board that can deal with the issue. The Planning Board has jurisdiction over zoning development in the Township. The regulation he was referencing is being imposed by the Board of Health and they have exclusive jurisdiction over those ordinances. The Planning Board cannot do anything. The well permit records are located at the County level. Their longitude and latitude are also recorded on the permits issued by the County. Your engineer should be able to add it to the plat.

W. Ingram advised them to make a records request to the County for the well records on the properties located within 200' of their property. It is really not that much effort, just paperwork.

November 12, 2020 Planning Board meeting

After a brief discussion, it was decided that the November 12, 2020 Planning Board meeting would be held through Zoom with D. Pierce's firm hosting the meeting.

ADJOURNMENT

It was moved by T. Ciacciarelli, seconded by C. Ely and carried to adjourn the meeting at 8:20 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschach, Secretary