

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR

Thursday, October 24, 2013

Mr. Alan Duke, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, October 24, 2013 ("Hearing") at 7:00 p.m. in the 1st Floor Hearing Room in Winchester Hall, Frederick, MD. In addition to the Chair, present were Board members Mike Bowersox, Robert Fenimore, John Capoccia and Wayne Robinson. Also present were Mr. Michael Chomel, Assistant County Attorney, and Community Development Division staff Mr. Larry Smith, Zoning Administrator, and Mr. Craig Terry, Planner.

Site visits for the Cases listed below were made on Wednesday, October 16, 2013. All Board members attended. Mr. Smith and Mr. Terry also attended the Site visits.

Official Minutes of the Board of Appeals' meetings are kept on file in the Community Development Division.

Introductions

The Chair welcomed attendees and requested that all cell phones be turned off.

Approval of Minutes

On a motion from Mr. Bowersox, seconded by Mr. Capoccia, the Board approved the minutes of the September 26, 2013 Hearing (Yea 5, Nay 0).

Rules and Procedures

The Chair stated the rules and procedures for the hearing and swore in all persons who expected to testify at the meeting.

CASES

B-13-14 Susan Sanders and Solis Energy Solutions

The Applicant, Susan Sanders and Solis Energy Solutions, filed a request for a Special Exception to establish a Nongovernmental Utility Solar Farm, located on the south side of Taneytown Pike (10700 block of Taneytown Pike, Tax Map 9, Parcel 11), Planning Region: Thurmont, Zoning District: Agricultural (AG). Applicable Zoning Ordinances are:

- Section 1-19-3.210, Special Exceptions
- Section 1-19-5.310, Use Table
- Section 1-19-8.339, Nongovernmental Utility

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant met the requirements of Sections 1-19-3.210 (General Criteria) and 1-19-5.310. Upon further discussion regarding the requirements of Section 1-19-8.339 (Specific Criteria), the Board determined the following:

- Part (B) of Section 1-19-8.339 requires screening and landscaping as approved by the Board. Since the Applicant has not finalized design and construction plans for screening and landscaping, the Board deferred to the Frederick County Planning Commission (FCPS) for review and approval of Applicant's plans for these items.
- Part (H) of Section 1-19-8.339, (1) through (3), requires the Board to determine mitigation requirements as required. After further discussion, the Board found:
 - (1) The proposed building or structure at the location selected will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

- (2) The project will not have adverse effects on the character of the surrounding area including impacts from sound, light, visual appearance, impervious surfaces, traffic impacts, and on forest and wildlife impacts.
- (3) All applications for nongovernmental utilities before the Board shall be forwarded to the Historic Preservation Commission (HPC) for review and comment. This project is not in an historic district or location and, therefore, this requirement is not applicable.

Based on the above, the Board approved Applicant's request for a Special Exception to establish a Nongovernmental Utility Solar Farm at the subject location. Motion by Mr. Bowersox, second by Mr. Robinson, vote: Yea 5, Nay 0.

B-13-15 Owen Schwartz, Linda Franklin and Solis Energy Solutions

The Applicant; Owen Schwartz, Linda Franklin and Solis Energy Solutions; filed a request for a Special Exception to establish a Nongovernmental Utility Solar Farm, located on the east side of Rt. 15 on the north side of Orndorff Road (8518 Orndorff Road, Tax Map 14, Parcel 272), Planning Region: Thurmont, Zoning District: Agricultural (AG). Applicable Zoning Ordinances are:

- Section 1-19-3.210, Special Exceptions
- Section 1-19-5.310, Use Table
- Section 1-19-8.339, Nongovernmental Utility

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant met the requirements of Sections 1-19-3.210 (General Criteria) and 1-19-5.310. Upon further discussion regarding the requirements of Section 1-19-8.339 (Specific Criteria), the Board determined the following:

- Part (B) of Section 1-19-8.339 requires screening and landscaping as approved by the Board. Since the Applicant has not finalized design and construction plans for screening and landscaping, the Board deferred to the Frederick County Planning Commission (FCPS) for review and approval of Applicant's plans for these items.
- Part (H) of Section 1-19-8.339, (1) through (3), requires the Board to determine mitigation requirements as required. After further discussion, the Board found:
 - (1) The proposed building or structure at the location selected will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.
 - (2) The project will not have adverse effects on the character of the surrounding area including impacts from sound, light, visual appearance, impervious surfaces, traffic impacts, and on forest and wildlife impacts.
 - (3) All applications for nongovernmental utilities before the Board shall be forwarded to the Historic Preservation Commission (HPC) for review and comment. This project was forwarded to and reviewed by the HPC at its public meeting on October 9, 2013. The HPC found that the proposed activity, as described by the Applicant, would not adversely impact the historic character of the [Thornbrook] home and its immediate surroundings.

In its letter to the Board (Mr. Duke) on October 22, 2013, the HPC noted its issuance of a Certificate of Appropriateness (COA 13-01) for this property. Further in its letter, the HPC noted that while it did not condition its issuance of the COA, HPC members did discuss the design and construction of the perimeter security fence proposed (but not illustrated) by the Applicant. In its letter, the HPC encouraged the Board to require that the Applicant provide evidence that the proposed fencing be of a type and material that prohibits or minimizes the use of bare metal surfaces.

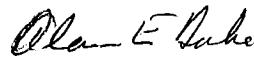
As stated in Part (B) above, the Board defers to the FCPC the review and approval of Applicant's design and construction plans for screening and landscaping for this project, and recommends that the FCPC consider HPC's request as part of its review and approval.

Based on the above, the Board approved Applicant's request for a Special Exception to establish a Nongovernmental Utility Solar Farm at the subject location. Motion by Mr. Fenimore, second by Mr. Bowersox, vote: Yea 5, Nay 0.

Closing

The next Board meeting is scheduled for November 21, 2013. Being no further business, the meeting adjourned at 8:05 p.m.

Respectfully submitted,
Robert Fenimore
Recording Secretary



Alan E. Duke
Chair