

Dover Township
Zoning Hearing Board
December 15, 2021

Chairman Jane Ginter called the meeting to order at 7:07 p.m. Members present: Steve Barkdoll, Phillip Brown, Robert Wright, and Richard Pope. Also present: Zoning Officer John McLucas, Solicitor Mike Craley, Attorney Samantha Craley, Stenographer Tammy Rinehart, Recording Secretary, and 100 or more citizens.

I. Minutes

Motion by Wright, second by Barkdoll, to approve the minutes of the meeting of November 17, 2021. All members voted aye; motion carried.

II. Zoning Case

- A. ZHB 21-3, Dover Energy 1, LLC; request for Special Exception for principal solar energy system on various parcels in the Ag, Industrial, and R1 Zoning Districts. Parcels include lands of D&D Bismark Partnership, Lamparter, Fissel, and Glen-Gery Corporation.

Solicitor Craley read definitions and case law regarding applications for a Special Exception. He noted that objectors must present specific instances that indicate that the application poses a threat to the health, safety, and welfare of the neighborhood. He also noted that any disruptors may be asked to leave the meeting. Questions will be accepted after the applicant presents the case, then testimony will be permitted.

In answer to Solicitor Craley's question, Attorney Chad Julius, present in the audience, announced that he was counsel for Larry Baer. Solicitor Craley offered to let Attorney Julius have first opportunity to ask questions after the applicants presented their case.

Attorney David Jones was present on behalf of the applicant and was sworn in along with eight applicants' representatives. Brittany Staszak, Enel Green Power, spoke first. Enel Green Power owns Dover Energy 1, LLC. Ms. Staszak presented information via powerpoint outlining the review and conception of the project. She noted some project benefits.

Project Engineer Kyle Spayd, WSP, USA, spoke, outlining the site plan. He noted the setbacks which include 75' from non-participating residential structures; 35' from property lines (excluding contiguous participating parcels), and 50' from the county/state ROW. Fencing will be 25' from all property or ROW lines. He noted that the substation will be located in the Industrial area, in proximity to the existing transmission lines. This project will be in the Industrial, Agricultural, and R1 residential zones.

Ms. Staszak spoke again, outlining the specific requirements of the ordinance and how the applicants plan to comply. A PSES is a permitted use in the Township within the zones or districts proposed.

There will be only two principal uses on each of the lots involved.

Each of the parcels that are included in the project area in the R1 area are currently in agricultural use.

Minimum lot size: no less than 25 acres of contiguous land.

Perimeter fencing will be at least 25' from all property or public street ROW.

Panels and equipment will be 35' from all property lines and 50' from all public street ROWs.

Minimum setback requirement is 75'. The applicant will maintain or exceed this requirement.

Curtis Hudson, Project Engineer, spoke, estimating 9 months of construction. He outlined the process of the development. On the height requirement, 25' height maximum. Mr. Hudson testified that the height of the panels or racks will be 10' or so, well under the maximum height permitted. The substation equipment will be 40' high.

Maximum impervious coverage: up to 25%. Mr. Spayd testified that the impervious coverage will be maybe 10%. He also noted that the panels themselves are not included in that impervious coverage estimation. The project will comply with the maximum impervious coverage of 25% according to DEP, York County Conservation District, and the Township.

Screening: the project will be screened from any non-participating adjoining residences, in accordance with the ordinance requirements. The applicant will maintain as much existing vegetation as possible. Wetlands and streams will be maintained as well.

Mr. Hudson corroborated that the screening will be installed as required.

Slides were presented showing visual simulations of how the screening might look in five years.

Mr. Spayd noted that the maintenance roads will not be paved or gravel; they will be grass. There will be access for emergency vehicles; a Knox box will also be provided. There will also be 24-hour monitoring of the site. There will be 8' high chain link fencing and locked gates; there will be additional fencing around the substation.

Stormwater management will comply with the Township's stormwater ordinance requirements. The applicant will meet all requirements for stormwater for DEP and York County Conservation District as well as the Township.

Mr. Hudson testified that the applicant will comply with all applicable industry standards.

Justin Bailey, Burns and McDonald, spoke about the environmental concerns for this application. Wetland delineation studies have been done on the site. There should be no issues with the applicant complying with all requirements for wetlands and wildlife preservation. Historic resource studies have also been done and the applicant will comply with any findings. How about glint and glare? No significant glare was found at any receptor points. The FAA has agreed that there is no hazard posed by this project. Determination letters from the FAA were entered as Applicant's Exhibit F1 (panel 7), 2 (panel 8), and 3 (panel 9). It was also noted that the applicant will provide a Certificate of Occupancy from RTO confirming intent to interconnect PSES to existing facilities.

Mr. Hudson spoke about the sign requirements. The only sign on the premises will be one with contact information on it. There will be continual monitoring during the operation and construction phase.

Mr. Spayd confirmed that the project will comply with the requirements to avoid stormwater conveyance systems.

It was noted that there are no agricultural preservation restrictions on any part of this site.

How often will someone be onsite during operations? Weekly or maybe twice per week, in an identified vehicle with proper identification and recognizable clothing.

Ms. Staszak spoke to decommissioning of the project, when and if this happens. She noted that the Township Planning Commission was quite concerned with the details of this

section of the ordinance. The Township and each property owner would have the right to enforce the decommissioning requirement if need be.

Dr. Amy Williams, Exponent, discussed electromagnetic radiation issues. She said that any electromagnetic radiation diminishes with distance and, for this project, the closest the source would be from Canal Road residences would be 350'. She showed guidelines for EMF Exposure at 60 Hz, showing that this project are well below the maximum exposure for the general public. The National Cancer Institute has stated that "no consistent evidence for an association between any source of non ionizing EMF and cancer has been found." The World Health Organization corroborates that statement, but states that further research is needed.

Richard Kirkland, appraiser, testified that he has studied solar farms and surrounding areas in many states for impact on property values. He noted that the Dover proposal is a very typical site. His findings: no impact (+ or – five percent) on property values for properties with a solar farm nearby. He feels that this project will have no impact on the property values of the surrounding properties. Mr. Kirkland's positive impact statement was entered into the record as Applicant's Exhibit G. Positive impacts include protection from future development of residential developments or other intrusive uses; reduced dust, odor, and chemicals from former farming operations; protection from light pollution at night; it's quiet; and there is minimal traffic.

Attorney Jones noted that that the applicant received several letters of support. At 8:47 the hearing recessed for a break. At 9:06, the meeting reconvened.

From the audience, Mary Hamme, 1501 East Canal Road, asked "how did the ordinance get created?" Attorney Jones: the company worked in conjunction with the Township to create the ordinance. The Planning Commission added quite a bit to the ordinance. Ms. Hamme would rather see homes built on the land.

Matthew Forry, 2000 Temple School Road, asked how much will he save in electricity? This is a project that will sell electricity back to the electrical grid, so realistically, maybe none. Maybe some. This remains to be seen.

Donna Moyer, 4851A Nursery Road, asked if this company approached other municipalities in this area. Conewago Township is currently underway, 500 acres or so. Has anyone successfully fought the project? Every municipality has a different ordinance. There's a challenge of one project in Adams County, but not this company. She appreciated the completeness of the presentation. Enel Green Power has no plans to expand this proposal in Dover Township. They'd have to come back before the Township for approval at any rate.

Monica Love, 1540A Butter Road, asked if any mass grading is planned for placement of panels. Requirement is 10 percent or less for slopes. Trying to stick to the areas that are already suitable. Doesn't anticipate mass grading (Spayd). What is the Township's maximum steep slope protection? Mr. McLucas would have to check. Two principal uses for lot? The property owner will use as he/she sees fit. How about sheep? Ms. Staszak would like to explore that option. Impervious coverage is calculated but the panels don't count – is there a typical coverage? The applicant will use whatever area available. Mr. Spayd said that the company is looking for a 40% ground coverage, with vegetative cover beneath the panels. How about creek

crossing? Haven't fully identified all creek crossings just yet. Permits will be obtained during the land development phase.

Judy Forry, 981 East Canal Road, had a question on the bonding. Attorney Jones explained that once the project is completed, a bond will be figured and the money will be set aside for decommissioning if need be. Every five years, the bond will be re-figured to keep pace with possible rising costs. The bonding is to be done through a third party. The Township isn't getting any money to do this project. It can produce 80 megawatts. How about the noise associated with these transmissions? How much sound will she hear on her property? How can the noise NOT affect property values? Dr. Williams doesn't know the dB level. Mr. Hudson – 80 dB at the inverter, which falls off quickly. By the time the noise gets to the fence, it would be as loud as the sound from a road. The questioner is also concerned about 9 months of construction on the busy Canal Road. Mr. Hudson admitted that yes, during construction, the traffic will increase on the road. Also, as a realtor, Ms. Forry knows that potential sellers must disclose information – should they disclose the presence of a solar farm with noise, etc.? Mr. Hudson answered a question that there is no lead or other dangerous chemicals in the panels.

Debra Herman, 4581 Nursery Road, in favor of solar energy but would rather see it on rooftops. Concerns about habitat: any removal of woodlots? Mr. Hudson indicated that yes, the applicant would remove some trees but would keep to a minimum, as it doesn't benefit them to remove all the trees and/or vegetation on the site. Ms. Carmen is also concerned about the fencing that will keep deer, coyotes, etc., out of the site, but may well direct them right to her garden! Mr. Hudson testified that there will be pathways in some areas which wildlife will likely use. What are the crops on the fields now? Corn and soybeans. DEP says no herbicides may be applied after initial growth. She requested native plants as the vegetation. Attorney Jones noted that the Subdivision And Land Development Ordinance requires and the Planning Commission was adamant about insisting on native plants. Ms. Staszak said they are looking at the best options for seed cover, using PA agencies. Ms. Carmen was disappointed that the neighbors only got notice of this project in November. Why in Dover? Because of the proximity to the transmission lines. Tax benefit? Attorney Jones explained that the ag use will be changed to a commercial base/use and assessed appropriately. The land use is returned to pre-solar farm use after decommissioning. Solicitor Craley noted that the Zoning Hearing Board must follow the law for notification. Public notice was given in accordance with state law. All was done properly. Ms. Carmen just wishes that more people knew earlier. All meetings were advertised as usual (Planning Commission and Supervisors).

Darrel Peters, 4490 Nursery Road, noted that the process to make solar panels is not "carbon neutral." They might be after they're installed, but the making of them isn't. He's concerned with harmful chemicals leaching into the ground over time. Mr. Hudson: no leaching and any broken panels are replaced quickly. Mr. Peters noted that he's not opposed to solar power in general.

Attorney Jones reported that, according to new state law, solar power must be purchased within Pennsylvania, not from any other state. That's why we're seeing more solar power projects.

Holly Stevens, 1721 Temple School Road, fears loss of the view and the quiet in her area. She wanted earlier notice. Solicitor Craley said that, unfortunately, no advertising on the Township website is permitted by state law. How long do the solar panels last? Hopefully 30 to 50 years.

Heidi Campbell, 3656 Fox Chase Drive, is concerned about adverse health effects especially in people who are susceptible. Dr. Williams recommended that she check the website for the World Health Organization or similar reputable organizations. Studies have shown that symptoms are not related to exposure to electromagnetic fields. In our homes, the electromagnetic exposure is more than is generated by the solar panel project. Ms. Campbell feels that this proposal is an injustice to the homeowners in the area.

Jeffrey Shoener, 2881 Sky Top Trail, asked how many more solar farms are planned by this company in Dover. None at this time. He accused Enel Green Power of not being open and transparent with the public. How much tax revenue for the Township? Fletcher Mangum – the project will generate revenue from property reassessment, rollback clean & green taxes, and 1% transfer tax. Discussion was held on the numbers possible. The project will apply for the ITC tax credit. *Correction* to earlier testimony: there *will* be herbicides applied to control noxious weeds as required. Mr. Shoener feels that this business does not build long-term equity in the Township and community.

Cody Lefevere, 4583 Nursery Road, asked are the panels made in the USA? Every component? No. And would you let your children play close to the panels? Yes. Can't eat solar panels, but can eat corn. It's obvious that the people don't want to see this project. How can they protest? She was advised to contact an attorney privately.

David Hykes, 1950 Temple School Road, asked about soil or ground water testing. Not that Mr. Hudson knows of. Can the ZHB attach conditions to any approval? Please consider doing so. Is there a ballpark number of inverters for this project? Not at this time, but perhaps 10 to 20. They will be located near the centers of the rows, not near homes. Also, stormwater question – only impervious areas will be the pads for the substation, etc. Mr. Heights is also concerned that the panels will shed water more than the vegetation can absorb. Mr. Spayd gave information on how the vegetation can help with stormwater runoff and absorption.

In response to questioning by Attorney Jones, Mr. Spayd denied ever seeing or being aware of any panel breakage or leakage. How many years of projects? Whether this company or not, he has no knowledge of breakage or leaking.

Solicitor Craley announced that this hearing will be continued until January 19, 2022, and anyone who hasn't spoken may speak then. He suggested that interested parties go to the Township Office and see the paperwork, etc., to be prepared for the next meeting.

III. Other Business

Nothing at this time.

Motion by Pope, second by Wright, to *recess* this meeting until January 19, 2022. At 10:45 p.m., the meeting was *recessed*.

Respectfully submitted,

Julie B. Maher,
Recording Secretary

DRAFT