

Dover Township
Planning Commission Minutes
October 7, 2020

Chairman Wayne Hoffman called the regular Planning Commission meeting to order at 7:00 p.m. Members present: Anthony Pinto, Eric Harlacher, Justin Bigham, Michael Curley; alternates Brian Kimball, Mark Miller, and Stephen Stefanowicz. Also present: Solicitor Charles Rausch, Zoning Officer John McLucas, Engineers Terry Myers and Cory McCoy, Recording Secretary, and three citizens.

I. **Minutes**

Mr. McLucas noted that for the September meeting, Mr. Harlacher was actually a voting member and Mr. Kimball was an alternate. Mr. Harlacher arrived a little late, after the start of the meeting, but Mr. Kimball had already been appointed as a voting member.

Motion by Harlacher, second by Bigham, to approve the minutes of the meeting of September 2, 2020, noting the correction in the voting member/alternate. All members voted aye; motion carried.

II. **Zoning Cases**

None this month.

III. **Plans**

None this month.

IV. **Other Business**

Public comment: Nothing at this time.

Draft Solar Ordinance discussion

Chairman Hoffman noted that the staff issued a memorandum to give guidance to the discussion. Mr. McLucas noted that the staff had basically the same questions and reservations that the Planning Commission had in its meeting of July 1, 2020. Mr. Harlacher clarified that revisions by the applicant and the revisions/questions by the Planning Commission “crossed in the mail,” so to speak, so essentially the revisions from one document haven’t been conformed to the revisions in the other document.

Mr. McLucas gave a brief overview of the presentation/discussion by the Planning Commission on July 1, 2020.

For tonight’s meeting, the Planning Commission referred to the applicants’ revisions (in blue) and the staff comments on the Memo dated September 30, 2020.

Blue copy comment: Section 10 – staff recommended that the definition of PSES be removed from the ordinance. Attorney David Jones, for the “applicant,” explained that the reason the definition is IN the ordinance is to provide for a solar farm use on a large portion of a person’s lot without subdivision or dedicating the sole use of the farm as the solar farm use. It is to eliminate the consideration of multiple uses on the same property. Mr. Myers requested that this paragraph be worded much better than it is. Make the PSES an accessory use, not a principal use. Discussion was held on how a PSES might affect neighbors, screening-wise. If the 40-acre farm with a residence on it

rents out 30 acres for a PSES, if the classification of the 40 acres is still a farm, then the same screening requirements would apply to the PSES as the 40 acres – if no screening were required for the 40 acres, then no screening would be required for the PSES. IS that what is desired? And to some of the Planning Commission members, using most of the lot for a PSES pushes it into the realm of principal use. Attorney Jones said that sometimes a PSES will stretch over two lots with two different owners. Surely screening would not be required between the properties. Correct. Attorney Jones said that the offending paragraph can certainly be reworded to everyone’s satisfaction.

If a person were to construct “a solar situation” to power his chicken houses, say, would that require screening? Mr. Bigham said it only applies to the solar situation being the principal use on that property and the power going offsite.

On the blue copy, Section 10, ~~remove the first blue paragraph~~. At least for now.

Next sentence, “This section 27-?? Shall control over any inconsistent regulations in the Dover Township Zoning Ordinance.” Mr. Rausch noted that if there’s any inconsistency in the ordinance, the ruling goes in favor of the property owner anyway. Specific requirements will override any general requirements. Mr. Myers and Mr. McLucas feel that it should be kept, as it can be helpful. **Leave it in.**

For the locations: **use the staff recommendations:** Conservation, no; Village, no; residential districts, no; business Park, no; Commercial, yes, by SE; Industrial yes by Special Exception; Agricultural yes by Special Exception **with classification of prime soils use.** NOTE: there was discussion on allowing a PSES in CV and Residential Districts on parcels that are being farmed as of the date of enactment of the ordinance.

Discussion was held on good planning and the conversion of residential lands/uses to some other use.

Section 10, (2); **panels could be placed at 35’.** (fence 25’ from property line, panel 10’ from fence)

10, 2, b, Panels/equipment: Fifty (50’) from all property lines or public street/road ROW lines. [add “lines”] **CHANGE TO 35’ from all property lines; 50’ from public street/road ROW lines.**

Mr. Hoffman gave a scenario in which a property owner puts a “solar situation” out in the middle of his lot, close to another property owner, how does that affect the hunting rights of the property owners? Discussion was held. The fencing would be required, to keep people out of the solar farm. Is there any difference in the fencing required around a solar farm in the middle of open agricultural land and the fencing that would be required around a solar farm that is located closer to the street or residential lots? The fencing requirements are addressed in a later section in the proposed ordinance. From the audience, Brittany Staszak of Enel Green Power said they are addressing permeable fencing for smaller “critters” to come and go, but they don’t want larger animals like deer to be inside the fencing.

Back to the blue draft –

Section 10, 4 -- maximum impervious coverage. This proposal would override the requirements of each zone and have 25% impervious coverage take precedence. Discussion was held, after Mr. McLucas checked the requirements, on the Interactive Zoning Map, as to why would a property owner in a particular zone be required to have one percentage of impervious coverage, and the solar farm in that same zone would be

permitted to have 25% coverage. Is it necessary to be at 25% for the entire property? Attorney Jones noted that they, of course, want to minimize impervious surfacing. Apparently, staff had no problem with this paragraph.

Solar panels, per DEP, are considered DIA – disconnected impervious area, meaning not connected to the ground. Mr. McLucas noted that the water drains off the panel onto the ground and is absorbed or whatever. That would certainly differ from a large roofed structure or a macadam driveway, etc.

Mr. Hoffman asked what the applicant would do about the multiflora roses, mulberry trees, and locust trees that will inevitably come to live there, with all their cousins. Ms. Staszak noted that they hope to have sheep for vegetative maintenance and they have a ground crew who would use trimmers, etc., to keep the weeds down if the sheep can't handle it all. It was also asked if the applicant will need to have some sort of animal maintenance and monitoring so that the vegetative cover is maintained for proper runoff – if the sheep chew the grass down to nothing, the runoff will be certainly affected.

Discussion of 4a and 4b: discussion was held on adding the DEP guidelines into the ordinance to assure stormwater compliance. Attorney Miller and Ms. Staszak were fine with that. **Restore 4a and 4b for the time being, AND add language to indicate compliance with the current DEP guidelines relating to solar farms.**

Section 10, 5, screening – **restore** per staff recommendation and add that **“Type 3 screening be required per Planning Commission minutes of July 1, 2020.”**

5 (new) b – leave as is, except **omit “reasonably.”** BUT, perhaps the SALDO should be changed, per Mr. Miller's comment about too many non-native trees being used within the Township. *Make a note of that for the next round of ordinance revisions.*

Add e., **“screening that abuts a residential use shall be completed prior to any structures being built.”**

Section 10, 6, go with the staff recommendation of **25'**. The item should read, **“Access. At a minimum, a twenty-five (25') foot wide access road or driveway must be provided from a state or township roadway into the site within twenty-five (25') of the street ROW line. Such...”**

New discussion of never-covered ground...

7 – Maintenance access – why is the Township worrying about how close the panels are to the access road? **Change the 20' to 10'.**

8 – **already addressed.**

9 – design and Construction – **a, b, c, d, all okay;**

10 – prohibited locations – **okay.**

11 – fencing/Security/Emergency Management – a, All PSES shall be completely enclosed by a minimum **8'** high fence and gates shall have locks. **Make the 6' fence an 8' high fence.** The utility company will erect the fencing around the substation, as that will be its bailiwick. What kind of fencing? **Chain link typical fence.** 11c, “... York County Office of Emergency Management prior to the issuance of a **building permit.**” **[change certificate of occupancy to building permit]**

12 – lighting – okay

13 – Complaints/Contact information --- The PSES owner and/or operator shall ~~make reasonable efforts to~~ respond to the public’s inquiries and complaints within 48 hours of notice of the same. ~~Delete “make reasonable efforts to...”~~

14 – Decommissioning/removal – in the first paragraph, “... if no electricity or thermal power is generated by such system for a period of ~~six (6)~~ continuous months.” ~~[change 12 months to 6 months]~~

Discussion was held on batteries, etc., being currently classified as hazardous materials. What happens at decommissioning time? Is the ground underneath it all affected? Good questions. Attorney Jones feels that this would be no different than a contractor certifying the removal of asbestos. Also, there would be a bond in place for this and there would also be insurance coverage. It would also affect the property owner in terms of clean-up and leasing, etc.

Back to 14a, in the blue comments, change the following: “... shall notify the PSES owner of its decision within ~~forty-five (45)~~ business days of receipt of the PSES owner’s notice.” ~~[change 10 days to 45 days]. Also, the township can toll the 6-month period. [conform to the previous paragraph]~~

14b, remove all ~~reasonable~~ or ~~reasonably~~ references. Discussion was held on the decommissioning process, bonding, and how that would work. Chairman Hoffman was concerned that if the use goes kaput, and the Township has to finish the removal process, how much is known about any hazardous conditions that might exist in that removal? Attorney Jones noted that there’s a decommissioning clause in the lease as well. Mr. Hoffman feels that the Township should be removed from the act of having to clean up the site. Removing the Township from that responsibility will likely better ensure that the solar company will handle it all properly. Attorney Rausch feels that the Planning Commission and Board of Supervisors and staff have done as much as possible to assure a fair guideline for everyone involved.

14c, “removal of PSES facilities in decommissioning shall be completed ~~in its entirety.” to a depth of three 3’ feet below grade.~~ ~~[change “to a depth of 3 feet below grade” to “in its entirety.”]~~ Also, make 14c and 14d one paragraph.

Mr. Curley offered to submit research and Ordinances from other states and provide to the Planning Commission

Mr. Curley sees nothing in this proposal about remediation. Any hope of including this? And did the Planning Commission look at solar ordinances from other eastern United States municipalities?

Before the Planning Commission can make any sort of recommendation, please, please, please conform the drafts into one proper and final form so that the members can take a final look. Mr. McLucas will provide to Attorney Jones the minutes/changes from tonight’s discussion, and Attorney Jones will provide the proper conformed copy. One question, though, about the wording near the beginning of Section 10 (outlining the zoning districts in which the PSES is permitted) -- the ~~“additional requirement considering the use of prime soils.”~~ Attorney Jones has no idea what the Planning

Commission wants in that respect, and he doesn't feel comfortable drafting that part of the language. *Attorney Rausch will work with Attorney Jones on the language.*

Also, from Mr. Myers, on the screening and line of sight. This is not feasible, per Mr. Myers. There's no way that the line of sight can be adequately screened so that the solar panels aren't visible from everywhere. This use will need to come before the Planning Commission, then the Zoning Hearing Board, once a plan is actually presented. Perhaps the screening can be determined better during the Special Exception process, not within this proposed ordinance. Mr. Myers can adjust the language accordingly.

The next meeting will be held on November 4, 7 p.m.

Motion by Harlacher, second by Bigham, to adjourn. All members voted aye; motion carried. The meeting adjourned at 10:27 p.m.

Respectfully submitted,

Julie B. Maher,
Recording Secretary