

The Dorchester County Board of Appeals met in regular session on Thursday, May 31, 2018 in Room 110 of the County Office Building at 7:00 PM. Present were, Catherine McCulley, Chairperson, Elizabeth Hill, Vice Chair, Lin Spicer, Cindy Smith, Mike Starling, Walt Gunby, Attorney, and Rodney Banks, Deputy Director of Planning  
Absent: Steve Dodd, Director of Planning

An introduction was made by Chairperson McCulley, explaining the procedures of this meeting to the audience. She then asked Mr. Banks to read the first case.

**Case # 2617- Richfield Farms, LLC – Owner  
Invenergy, LLC, One South Wacker - Applicant  
Ryan Showalter -Applicant**

**To request the following Board of Appeals amended application approvals:**  
**(1) special exception approval for the establishment of a utility scale solar energy system on lands leased by applicant along Shiloh Camp Road ("Project"), (2) special exception approval for the installation of a substation on one proposed site to deliver the renewable energy to the electrical grid, and (3) a variance to permit construction of 8' tall security fencing around the project and the substation. Property is located at Shiloh Camp Road, Map 22 Parcel 23 Lot 2, containing 111.91 acres, and Shiloh Camp Road, Map 22 Parcel 24 containing 102.31. 4279 Osborne Road Hurlock, MD 21643 Map 22 Parcel 23 lot 1, containing 88.42 acres, all properties zoned AC- Agricultural Conservation.**

Ryan Showalter, Applicant, McAllister, DeTar, Showalter & Walker, 100 N. West Street, Easton, MD and any other person who would be testifying in this case, were sworn in.

Mr. Showalter reviewed the amended request, noting that map 22, parcel 19, (Hagadorn parcel) was set aside as open space for the Farm View cluster subdivision, limiting uses of this parcel. Mr. Showalter advised there are two changes to the request, (1) the entire Hagadorn parcel is being withdrawn from the application (2) the substation that was proposed to be placed on the Hagadorn parcel has been relocated to the Richfield Farms parcel.

Mr. Showalter advised that a certain amount of generation is required through the PJM, and they may come back to the Board in the future, with another parcel to make up for the loss of the Hagadorn parcel. Mr. Showalter requested that the case in front of the Board now be considered as a stand-alone project so construction can begin.

Ms. McCulley asked if there were agency comments for the amended request. Mr. Banks advised that he had not received any.

Ms. McCulley asked what entrances and exits construction traffic would use. Mr. Showalter pointed out the entrances and exits on C200 and C205 of the site plan.

Ms. McCulley asked if there was anyone in the audience that would like to speak in favor of the amended request. No one spoke in favor of the request.

Several persons from the audience asked if they could speak against the project. Ms. McCulley advised that testimony concerning the project is closed. The only testimony to be taken this evening concerns the amended plan.

There were questions from the audience as to what changes have been made to the project because of the amended request. Mr. Showalter noted the solar array has gone from 296 acres to 234 acres. He advised that the generating capacity will be less; they are looking at panel efficiency for a smaller footprint. Mr. Showalter referred to site plan C250 (cross section of panels), noting that at maximum tilt, the panels would not exceed 14 ft. in height.

There was a question about the County's requirements for entrances/exits for a large-scale project such as this. Mr. Banks advised the Department of Public Works would address this during site plan review. Ms. McCulley noted that the hearing tonight concerns the use; the Planning Commission reviews the site plan.

A question was raised as to whether they would attempt again to include the Hagadorn parcel in the project. Mr. Showalter stated that if they return with another parcel, it would not be the Hagadorn parcel.

Ms. McCulley advised that there are a few issues that were brought up during testimony and asked if they would be amenable to these as conditions to an approval.

1. Graveyard (Sheet C212) – Will comply with state law and access will be provided. Cemetery to be fenced prior to construction. Site to be clearly marked with signage. Mr. Showalter was agreeable to this
2. County Forest Conservation Ordinance – Mr. Banks noted that this will fall under site plan approval; 5,000 sq. ft. or more disturbance of land area requires a grading permit, triggering the Forest Conservation Ordinance.
3. The State encourages pollinator grasses be planted under the panels to enhance habitat value. Mr. Showalter agreed to include pollinator species in the mix.
4. Location of screening and timing of landscaping for buffering. Some plantings to occur in front of existing homes (as indicated on Exhibit 3A – Sheet 200 submitted and initialed by Mr. Showalter) before construction begins, in accordance with the landscaping plans, to include height, density and species; subject to any changes the Planning Commission might make during site plan review.
5. Need for the closest Fire Department to receive additional training should a fire occur on the project site. It was noted that Hurlock Fire Department has had additional training for a solar project within their area. Zachery Nelson, Invenergy, advised that they recently made a donation to the Hurlock Fire Department for additional training and would be willing to give \$2,500 to the East New Market Fire Department for additional training.
6. Ms. McCulley asked how construction noise and dust could be mitigated to lessen the impact to the surrounding neighborhood. Mr. Showalter advised that they would coordinate with the Department of Public Works on delivery routes, staging for deliveries, parking and routes workers will take to get to project. State erosion and sediment control laws dictate how much of the acreage can be disturbed at one time. Ms. McCully advised they would leave this to the other agencies.

7. Delmarva Bays – Meet with USDA Natural Resources Conservation Service to identify any existing Delmarva bays and address any mandated conservation practices. This was agreed to.

Ms. McCulley asked if Mr. Showalter had any further comments. Mr. Showalter stated they would stand on the record they created; the record demonstrates that they comply with the criteria for the special exceptions and the variances as well as the use specific standards in the zoning ordinance for the solar facility.

Ms. McCulley announced the end of testimony and the Board began their deliberations.

At this time, each Board member explained his decisions regarding the criteria, beginning with the solar utility and supplemental criteria, substation and the fence variance.

After all testimony, Ms. McCulley asked for a motion on the utility scale solar energy system. Mr. Spicer made a motion to “approve the utility scale solar energy system with the following stipulations:”

1. Graveyard (Sheet C212) – Will comply with state law and access will be provided. Cemetery to be fenced prior to construction. Site to be clearly marked with signage.
2. A pollinator mix will be used under the solar array.
3. Some plantings to occur in front of existing homes (Exhibit 3A – Sheet 200) before construction begins, in accordance with the landscaping plans, to include height, density and species; subject to any changes the Planning Commission might make during site plan review.
4. East New Market Fire Department will be given \$2,500 for training.
5. Delmarva Bays – Meet with USDA Natural Resources Conservation Services to identify any existing Delmarva bays and address any mandated conservation practices.

Seconded by Ms. Hill and unanimously carried.

Ms. McCulley asked for a motion on the utility scale solar substation. Ms. Smith made a motion to approve. Mr. Starling seconded, and the motion unanimously carried.

Ms. McCulley then asked for a motion on the variance for the fence height. Ms. Smith made a motion to approve. Mr. Starling seconded, and the motion unanimously carried.

Ms. Smith made a motion to adjourn. Ms. Hill seconded, and the motion unanimously carried. Meeting adjourned at 8:25 pm.

Respectfully submitted,



Rodney Banks  
Executive Secretary