

**MOUNT JOY TOWNSHIP SUPERVISORS
WORKSHOP MEETING**

**Thursday, December 2, 2021
7:00 P.M.**

Present: John Gormont, Chairman; David Updyke, Vice Chairman; Bernie Mazer, Judy Morley; Terry Scholle via StartMeeting

Also Present: Susan J. Smith, Solicitor; Melissa Zirkle, Administrative Assistant; Shannon Hare, Zoning Officer and Code Enforcement Officer and Secretary

Meeting was held live; remote participation was available through StartMeeting platform.

Roll Call

Public Comment David Updyke 165 Updyke Rd Ethics Commission cleared him of any wrongdoing related to solar amendments and Brookview.

Business

- American Rescue Plan Act Update. Solicitor Smith reported that Treasury Department as still not issued the final rules. She reported that she would be meeting with the Township Treasurer and the Assistant Treasurer to discuss reporting and financial requirements. Solicitor Smith also stated that if the Board decided to use the funds for stormwater management projects, that Township Engineer Erik Vranich would need to be involved.
- Storage and Warehouse Use Zoning Ordinance Amendments. Solicitor Smith said that at the last meeting she reported that, after five months, the Planning Commission completed and recommended a Zoning Ordinance amendments on storage /warehouse and trucking uses and had distributed copies to the Board for review. Solicitor Smith briefly discussed the proposed amendments. The Board decided to table the amendments until the December 16, 2021 meeting. There was some discussion related to the storage facility use.
- Solar Energy System Zoning Ordinance Amendments. Supervisor Mazer led a discussion on possible amendments to the utility scale solar energy use provisions. He started the discussion with edits to previous comments. Transmission lines buried a minimum of 36 inches in depth. There needs to be a report generated if a catastrophic event should occur. There were no batteries proposed in the Brookview plan, but there should be prompt removal of batteries. Supervisor Mazer picked up where he left off at the last meeting with section 402.II.10(i) Identify POC for emergency contact. He is proposing the following change; prepare an incident response plan for responders and have necessary equipment and training. Along with an escrow fund that will be used to reimburse all local emergency responders for any necessary equipment or training required by a solar incident. Supervisor Mazer proposed a change to section 402.II.10(j) which is to notify the Township in writing immediately upon the cessation and/or abandonment within 10 days. The change would be

to notify the Township 6-months prior to the cessation or abandonment. Also, in the event of project abandonment or at the end of the life of the solar fields, the ground must be restored to its pre-solar state to include the removal of any underground cabling and footers. After a lengthy discussion, the consensus is to remove all and not leave it up to the landowner to decide. Supervisor Mazer proceeded to the next section 402.II.10(k) performance security. His proposed change is a revision to read “as determined by the Board of Supervisors...” The decommissioning plan should describe how structural and array materials will be disposed of, how the site will be restored, as well as anticipated life of the SES. The estimated decommissioning costs including the contingency costs of at least 20% (in current dollars), as provided by an appropriately experienced licensed engineer. A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use, such as a letter from the electric utility stating that it will notify the BOS within ten (10) business days if electricity is not received from any array within the SES for any thirty (30) consecutive days. The applicant’s plan to dispose of all hazardous waste contained in the SES. A method for ensuring that funds will be available for decommissioning and restoration. SES Surety for Removal, when decommissioned: the applicant shall place with the Township an acceptable letter of credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of each SES array’s useful life, as detailed in the decommissioning plan. A surety of at least \$10,000 for each acre of solar array. The BOS may approve a reduced surety amount that is not less than 150% of a cost estimate that is certified by an engineer, salvage company, and other expert acceptable to the BOS. This calculation will not take into account any estimated salvage values. The amount of the bond or security shall remain in full force and effect until the necessary site restoration is completed to return the site to a condition comparable to what was prior to the SES, as determined by the BOS. There was discussion on an appropriate formula for bond. Reviewed every five years \$100,000/megawatt plus 20% contingency. Supervisor Mazer suggests that the decommissioning provision in the ordinance be amended to require a decommissioning plan, including update requirements, as an application informational requirement and containing the following. Defined conditions upon which decommissioning will be initiated (e.g.; end of land lease; no operation for a period of 12 months; intended abandonment, etc). Removal of above-ground facilities, roads, fencing, etc. with provision for landowner to request that roads/fencing remain. Restoration of property to pre-development condition, specification of and time frame for decommissioning activities, cost of decommissioning, identification of entity responsible for decommissioning and requirement for written notice of a change in project ownership/decommissioning responsibility and recording of the decommissioning plan with the Recorder of Deeds. Other states adopted models/guidelines on the issue of the amount of financial security for decommissioning, there remains considerable uncertainty. Supervisor Mazer also suggests that the ordinance include a mandate for use of native perennial vegetation to attract pollinators for a percentage of the surface area, excluding the buffer area. Supervisors Mazer proposed some other additions to the ordinance. Third party should establish pre-construction baseline groundwater measurements to determine the concentration of metals in the soils where panels are to be placed and the properties immediately adjacent to the solar field. These measurements should be conducted yearly and reported to the Township for the life of the project. If at any time the concentration of any heavy metal increases by more than 5%, the panels will be removed within three

months at the applicant's cost. The BOS reserve the right to obtain engineering, economic impact, environmental impact, or other professional services to aid it in the review of any submitted SEF application. These costs (and any other expenses incurred by the Township) are reimbursable from the Escrow Account. The applicant shall assure the Township that there will be no loss in real property value for any property within 1000 feet of the SES. The applicant shall consent in writing to a Real Property Value Protection Agreement that shall provide assurance to non-participating property owners near the SES some protection from SES-related real property value losses. The applicant will defend, indemnify, protect, save, hold harmless, and exempt the Township, its officers, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages. Prior to operation, the application must provide a certification that the project complies with applicable codes, industry practices and conditions of approval. The Township may inspect permit holder's, renter's, lessee's, or licensee's placement, construction, and maintenance of such facilities, including all solar arrays, buildings, and other structures constructed or located on the site. The Board indicated its intent to further consider the proposals and took no official action.

Supervisor Mazer started a discussion about solar energy system as an accessory use, a use already provided for in the Zoning Ordinance. The [solar] alternative energy system shall be primarily utilized by the principal use of the lot upon which it is located, and energy generated must first be used to meet the demand on-site. Surplus energy may be exchanged, transferred and/or sold to a public or private utility company, if the applicant submits written expert documentation that the proposed alternate energy system is designed not to exceed the following energy generating parameters. A. The maximum energy generated for a residential use shall not exceed 1.5 times the annual energy needs or the principal residential use upon whose site the alternative energy system is location. B. The maximum energy generated for a commercial use shall not exceed 2.0 times the annual energy needs of the principal commercial use upon whose sit the alternative energy system is located. C. The maximum energy generated for a manufacturing use shall not exceed 3.0 times the annual energy needs of the consumer of the principal use upon whose site the alternative energy system is located. D. The maximum energy generated for a governmental, school, hospital, church and/or other similar institution use shall not exceed 4.0 times the annual energy needs of the consumer of the principal use upon whose site the alternative energy system is located. The Board discussed the existing standards in the Zoning Ordinance. The Board indicated its intent to further consider the proposals and took no official action.

Supervisor Mazer proposed adding a section for Community Solar Facility as an accessory use. The use shall be accessory to existing or proposed developments in the Township: (i) one or more multi-dwelling units or residential developments or (ii) two or more non-residential uses. Energy generated must first be used to meet the demands of such developments. Surplus energy may be exchanged, transferred and/or sold to a public or private utility company, if the applicant submits written expert documentation demonstrating that the system is designed to principally serve the developments in the Township. Supervisor Scholle suggested no more than 1 Megawatt per community solar site). The use is proposed as a permitted by right use in all zoning districts when it complies

with all the specific requirements. There should be a term added permitting the facility to be located on a lot not improved with a residence or commercial structure and/or not located within the development itself. The Board indicated its intent to further consider the proposals and took no official action.

The Board requested that the Solicitor prepare for its consideration a draft of the proposals in ordinance form.

Adjournment. With no further business to be discussed by the Board, Supervisor Morley moved, seconded by Supervisor Scholle to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 8:59 p.m.

Respectfully submitted by,

Shannon M. Hare
Secretary