

**Alexandria Township
Land Use Board
Meeting Minutes July 20, 2023**

Chair Rochelle announced that adequate notice of this meeting has been provided in accordance with section 3(d) of chapter 231 or the public laws of 1975, commonly known as the “Sunshine Law”. The meeting was called to order at 7:31pm.

Members Present: Chair Rochelle, Papazian, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Giannone.

Members Absent: Committeeman Pfefferle, Kimsey, Hahola, Savacool.

Professionals Present: Attorney-Dragan, Engineer-Decker, Planner-Banisch

Others Present: Patrick Mullaney-Attorney for applicant, Thomas Heimgartner-applicant, William Kaufmann- architect for applicant, Laurie Troy, resident.

Flag Salute

Minutes Approval

A motion to approve the minutes of the June 15, 2023, meeting of the Land Use Board was made by **Papazian** and seconded by **Committeeman Kiernan**. **Vote: Ayes: Papazian, Pauch, Canavan, Committeeman Kiernan. Abstain: Chair Rochelle, Freedman, Tucker. No Nays. Motion Carried.**

New and Pending Matters

- Windy Knoll –Use Variance Application – Completeness review
66 Sky Manor Road
Block 21 Lot 44

A motion was made by **Pauch** to deem the application complete per the engineer’s review letter dated July 18, 2023. The motion was seconded by **Papazian**. **Vote: Ayes: Chair Rochelle, Papazian, Pauch, Freedman, Canavan, Tucker, Giannone. Abstain: Committeeman Kiernan. No Nays. Motion Carried.**

- Heimgartner –Variance – Public Hearing
15 Airport Rd.
Block 12 Lot 1.15

Dragan stated for the record, the notices for the application were reviewed and the Board has jurisdiction to proceed. Attorney Mullaney was present on behalf of the applicant, Tom Heimgartner. He advised the applicant is requesting two “c” variances, for side yard and rear yard setbacks for the installation of ground mounted solar arrays consisting of 110 panels on two parallel racks separated 12 feet apart. The applicant owns the two adjoining lots to the south and east and will be using the ground mounted solar installation for his home and personal use.

The position of the arrays is in the rear and side yards and are behind an existing utility barn. Mullaney stated that it would be economically infeasible to place this installation anywhere else on the property. The Ordinance requires a 50-foot setback from all property lines whereby the applicant is proposing 3 feet.

Dragan swore in the applicant Thomas Heimgartner. Heimgartner and his wife have owned the house for 15 years. He explained that he purchased the home and adjacent lot so that it would not be developed. There was an addition to the house of an indoor pool which requires humidity and temperature control. The applicant stated when starting the addition, they decided to use a geo-thermal system. He stated that while the system does not use fossil fuel, the electricity usage has gone up significantly and the first electric bill was \$1,600. The size of the proposed solar array is to negate some of the electricity costs.

Pauch asked if the wells are depicted on the plan. The applicant confirmed they are. Heimgartner stated the two adjoining lots are farmland assessed with corn growing on these lots. Heimgartner stated that there is no plan to develop the other two lots.

Banisch asked if locating the solar array as recommended in **Decker's** report would create a drop in voltage. Heimgartner stated this is his understanding. In addition, it would be closer to the road and more visible.

Dragan swore in William Kaufman, the applicant's architect. Kaufman stated his qualifications, and the Board deemed him to be a qualified expert.

Kaufmann referenced exhibit C101 labeled Solar Array, dated April 27, 2023, that was submitted as part of the original application. He stated the system is a 52.8 KW system, which translated to electricity usage is about \$1,000 per month. He described the dimensions of the system and the distance from the property lines. He stated the reason for the 12' distance between the arrays is that the sun needs to hit the solar panels equally. If they are too close together the front panels will shatter the panels located behind.

He stated the solar panels are located at the southern end of the lot which will allow for the maximum efficiency of the panels and will also allow for screening behind the detached garage. Along the westerly lot line, there are two setbacks of 4' & 3' and the easterly lot line setbacks are 3' & 6', creating the need for a variance. There were other designs considered. There were additional requirements imposed by JCP&L with regards to size and demand loads. The system was downsized from three arrays to two.

Kaufmann stated the positive criteria is met by promoting the general welfare to the public. The panels will not be visible from the public right of way, and any other location on the site will be difficult to screen in the short term. He stated the proposed location will create a desirable visual impact. In addition, there is a hardship due to the cost. To upgrade the service from 200amp to 300amp was \$20,000 in cable alone due to the cost of copper. To get to the alternate location on the northern part of the site, not only brings it closer to the road, but also would require more panels since there would be line loss going another 300 to 400 feet to the transfer box and back to the house. In addition, the cost of the additional cable would render the system economically infeasible.

Kaufman stated with respect to the negative criteria, he doesn't find any discernable detriment. Neighbors would not be affected since the owner owns these lots. A future owner would be aware of the solar system already. He stated the relief could be granted without any substantial detriment.

Chair Rochelle asked about the existing lots, and the acreage requirements of the zone. He asked if the owner considered a lot line adjustment. Kaufman stated regarding a lot line adjustment, the property would fall into a major subdivision and would require additional waiver requirements and an undue burden upon the applicant. **Banisch** confirmed the acreage requirement of the zone is 6 acres. The Board discussed there may be a possible deed restriction on the minimum lot size.

Banisch explained the applicant would need to state the reasons to grant a variance based upon 40:55D-2. He pointed out that the architect's argument fits purpose m. of the MLUL, stating to encourage coordination of the various public and private procedures activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land. Based upon the reasons as outlined by the MLUL, the application would be advanced by purposes m., g., i., and n.

Giannone asked for reasons why a minor subdivision would not be viable. It would eliminate the need for variances. **Papazian** asked if this would be considered a minor or major subdivision. **Dragan** read the definition of major subdivision. The Board determined that a major subdivision would be required in which case would be more costly.

Canavan asked about the 3' setback and if there would be another configuration in which the panels would be more compact to provide better access for maintenance of the panels. **Banisch** suggested an alternate configuration. Kaufmann stated the racks have structural limitations and are pre-engineered to be cost effective and comply with snow and wind loads. A custom configuration would be costly. **Banisch** asked to what end the applicant explored other options. Kaufmann explained a lot line adjustment was considered, along with alternate locations however, due to existing property constraints this configuration made the most sense for efficiency and cost.

Chair Rochelle opined the applicant has provided testimony that the location makes sense for aesthetics and the cost involved with a major subdivision would be cost prohibitive inhibiting the ability for the applicant to construct the solar array. **Banisch** suggested an easement area for the 3' setback to allow for emergency access. **Giannone** stated from a fire safety standpoint, the layout is not conducive for emergency access. Kaufmann stated the 3' is a consideration for emergency access. He stated the egress requirements for fireman for buildings, hotels, homes, and schools are 36". Specifically to be able to drag hoses, carry tanks, and pull people out.

Canavan asked where the inverters are located. Kaufman stated there are microinverters mounted underneath each panel. Each panel delivers DC power to the microinverter underneath. **Canavan** asked about the voltage of each inverter. Kaufmann stated either 240amp or 110amp. **Chair Rochelle** summarized that the detriment is to the owner himself, since it is his adjoining lots in which the panels will be located next to. In addition, the location is preferred compared to other locations which can be seen from the street in the public's view. He also stated that the use of solar arrays is promoted by the state.

Dragan asked the applicant if they have had a chance to review the conditions of the engineer's review letter dated July 11, 2023. Kaufmann stated they have, and that the applicant will comply with the conditions as stated in the review letter. **Banisch** advised the Board that the applicant has demonstrated the necessary requirements for a C1 – variance promoting the purposes of the MLUL.

Chair Rochelle asked if there were any questions from the public. There were none.

Papazian made a motion to approve the application with the condition of placing a sign indicating that the energy facility exists on site as stated in engineer **Decker's** letter dated July 11, 2023. **Canavan**

seconded the motion. **Vote: Ayes: Chair Rochelle, Papazian, Pauch, Freedman, Canavan, Tucker. Nays: Giannone. Ineligible: Committeeman Kiernan. Motion Carried.**

Correspondence

None

Approval of Bills

A motion to approve the bills for the Land Use Board was made by **Tucker** and seconded by **Papazian**. **Vote: Ayes: Chair Rochelle, Papazian, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Giannone. No Nays. Motion Carried.**

Comments from the Board/Public

Canavan asked about the engineer reviewing the ordinance for accessory structures in the front yard and as it pertains to the front yard setbacks. He noted the ordinance states any structure from the street up to front of the house is considered the front yard even though some homes are well past the required front yard setback. **Banisch** stated amendments for this ordinance along with other revisions as discussed in prior meetings, could be addressed in a reexamination report of the Master Plan.

At 8:54 Committeeman Kiernan left the meeting.

Giannone suggested revising the ECHO housing section of the land use ordinance to allow for additional flexibility of providing housing for families. He mentioned an article in which the units are referred to as an ADU, additional dwelling unit. **Banisch** advised he would bring an ordinance used in Bernards Township and Long Valley. These ordinances allow for 25% of the floor area for a family member as a conditional use application.

Motion to Adjourn

A motion to adjourn was made by **Tucker** and seconded by **Pauch** at 9:02pm. **Vote: All Ayes: No Nays. Motion Carried.**

Respectfully Submitted,

Leigh Gronau, Board Secretary