

**MEETING MINUTES  
BOARD OF ZONING APPEALS  
FOR CAROLINE COUNTY, MARYLAND**

**DATE:** February 20, 2018

**PLACE:** Health & Public Services Building  
403 S. 7<sup>th</sup> Street, 1<sup>st</sup> Floor, Room 110  
Denton, Maryland 21629-1335

**BOARD MEMBERS  
(PRESENT):** Bryan Saathoff, Chairman  
René Swafford, Member  
Mary Leavell, Member

**ALSO, PRESENT:** Bob Merriken, Attorney  
Crystal Dadds, Assistant Director of Codes  
Melanie Smith, Board Administrative Assistant

Chairman Saathoff called the Caroline County Board of Zoning Appeals to order at 6:00 p.m.

## **PUBLIC HEARING**

### **GROUNDSTAR – CANNON HOUSE - Special Use Exception Application (#201700015)**

Chairman Saathoff read the notice of public hearing into the record.

The following documents were introduced as exhibits and accepted into evidence:

#### **BOARD'S EXHIBITS**

- 1 Department of Planning & Codes Staff Report
- 2 (Intentionally Blank)
- 3 Application for Special Use Exception
- 4 Real Property Data Sheet & Tax Map 67, Grid 9, Parcel 2
- 5 Aerial Photographs with Features Overlay
- 6 Photographs of Property
- 7 List of Notified Adjoining Property Owners
- 8 Notice of Hearing to Applicant
- 9 Notice of Public Hearing Published in Times Record on 2/7/18 and 2/10/18

#### **APPLICANT'S EXHIBITS**

- 1 Professional Site Plan Prepared by Ground Star
- 2 Response to Code Requirements §175-142 & §175-85

- 3 Environmental & Historic Mapping
- 4 Response to TAC & Staff Comments
- 5 Decommissioning Plan
- 6 Operations, Maintenance and Vegetation Management Plan
- 7 Impervious Surface and Forest Conservation Calculations
- 8 Fence Proposal/Contract from Arcadia Fencing, Inc.
- 9 Module & Racking Details
- 10 Mapping of Residential Parcels within a 1/4 Mile

Ms. Dadds reminded them that this application was before them more than a year ago. The applicant was unable to obtain the building permit within the one year of receiving the Board of Zoning Appeals approval. When they did come in to reapply the Solar Moratorium was in effect and they had to wait for it to be lifted. The new regulations were effective as of December 12, 2017 and define solar projects as commercial and non-commercial as well as small scale versus large scale. The Ground Star application is for a small scale commercial photo voltaic solar array. The applicants have been before the Technical Advisory Board and the Planning Commission thus far. If approval is received by the BZA they will go before the Planning Commission a second time for approval of a final site plan.

Chairman Saathoff swore in the following representatives:

Finn McCabe, 12905 Harbor Road, Ocean City, MD 21842;

Robert Light, 12905 Harbor Road, Ocean City, MD 21842.

Ms. Swafford asked about the total acreage that is allowed in the County and how much has already been claimed. Ms. Smith informed them that 2,000 acres has been allotted and Ground Star is the first application thus far.

Mr. McCabe explained that they are applying for a Special Use Exception to erect a 1.3 MW photo voltaic solar facility that sells power directly back to Choptank Electric on a parcel located on the Southern tip of the County. He differentiated photo voltaic solar as pulling energy from the sun, while solar gathers energy from heat. The panels have single axis tracking to follow the sun. No concrete foundation is necessary. Once the panels are erected, traffic to the site will include mowing the grass 3-4 times a season and occasional inspections although this will normally be monitored remotely.

Mr. McCabe explained that because he has been before the Board already with this application he will simply summarize the changes that were made to their application due to the new ordinance. They have increased the vegetative screening to the new compliance standards. The setback has been increased and they will require a written agreement from those adjoining property owners where the project does not meet the new setback giving approval to do so. Mr. McCabe confirmed that they have received State Highway Administration (SHA) approval and expect to receive written permission for the project soon.

Ms. Leavell noticed the project states it is a 5.3-acre project while the staff report states it is a 7.3-acre project. Everyone agreed that the 5.3 acres represented the disturbed footprint, while the 7.3

acres include the surrounding property that is part of the setback. Mr. McCabe estimates the level off year for payment of loans and possible profit to occur in the sixth year of the project.

## **DELIBERATIONS**

### **GROUNDSTAR – CANNON HOUSE - Special Use Exception Application (#201700015)**

Chairman Saathoff and the Board discussed Article XVI and §175-85 of the Caroline County Zoning Ordinance (see Ordinance #2017-2) to permit the construction of a small scale commercial solar energy system that is engineered and designed to produce up to two megawatts (2MW) of power which is permissible within an R (rural) zoning district with the approval of a Special Use Exception application.

#### **Article IX §175-85**

*This project is the first application since the new regulations were adopted and utilizes only 5.3 acres of the 2000 acres allowed for solar facilities in the County. The parcels are not located within TDR Receiving Areas nor under Land Preservation Easement and are not identified as “greenbelts” or “growth areas”.*

*Consideration was made to avoid areas with a high potential for biological conflict; to avoid visual corridors and areas of erodible slopes and soils, where concerns for water quality, severe erosion, and/or high storm runoff potential.*

*No trees are to be removed although mitigation is still required by the State due to the lack of tree growth for the life of the project. The buffer will receive final approval prior to receiving a permit. Required minimum setback for a solar energy system is at least two hundred feet from all residentially zoned parcels and existing residences. The remaining modification agreement will be submitted before the permit is approved.*

*The height of the panels is appropriate. The surrounding fence is proposed to be 7 feet high which requires an Administrative Adjustment approval. Ms. Dadds does not foresee that as an issue. Ms. Leavell noted the site plan (HC-1) states the fence height is proposed at 8 feet. Mr. McCabe apologized and stated this would be corrected. A connection agreement must be submitted as a condition of approval. There is no substantial glare nor additional lighting proposed. Fulfillment of all final state regulations and permit requirements will be a condition of approval.*

*An acceptable decommissioning plan is included in the application and a performance bond with Prairie Gold Solar will need to be approved by the County Finance Office prior to receiving a permit. The Cannon House, LLC will have to be a registered business in Maryland with good standing. All state required high voltage signs will be placed around the perimeter of the project. The Board agreed that public safety was sufficiently addressed. Glare is not an issue; FAA approval was received and the project is outside of any protected airspace. The request is not extraordinary or in opposition to County objectives.*

*The site and development plans have been thoroughly researched by the Technical Advisory Board, Planning Commission, Planning and Codes staff and now the Board of Zoning Appeals. All requirements were found to be in order.*

§175-142 the conditions of approval for a Special Use Exception:

(1) A written application for a special use exception has been submitted indicating the specific special use exception being sought and stating the grounds on which it is requested. *See Exhibit #3.*

(2) A duly advertised public hearing has been held as prescribed by § 175-179 of this chapter. *See Exhibit #9. The Notice of Public Hearing was published in the Times Record on 2/7/18 and 2/10/18*

(3) The Board has considered the application in accordance with the following principles and requirements and determined that the granting of a special use exception:

(a) Will not be detrimental to or endanger the public health, safety or general welfare. *Ground Star submitted plans for fencing, a buffer and signage that are sufficient to protect the general welfare of Caroline County citizens. In addition, Mr. McCabe testified that nutrient runoff concerns and offensive fertilizer odors are relieved and replaced with pollinating vegetation planted as a border. Mr. Wright added that the owner has suggested grazing sheep in the field as an added benefit that may be considered later.*

(b) Will not be injurious to the peaceful use and enjoyment of other property in the neighborhood and will not substantially diminish or impair property values in the neighborhood. *The neighbors will only see the surrounding hedgerow. No noise, activity, pollution or odor is a product of the project. Due to state requirements, although no trees are being removed, mitigation is required because no trees will grow due to the project footprint. Furthermore, neighbors are required to sign a modification agreement to approve the limited setback.*

(c) Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district. *The project is considered beneficial due to the points made in (a) and (b).*

(d) Will not overburden existing public facilities, including schools, police and fire protection, water and sewerage, public roads, storm drainage and other public improvements. *The Technical Advisory Board has made their review and submitted their comments which have been satisfactorily addressed in Exhibit 4.*

(e) Conforms in all other respects to this chapter and especially to the applicable regulations of the zoning district in which it is to be located. *Once the project is approved by the Board of Zoning Appeals for the Use, Ground Star must go before the Planning Commission for final approval of their site plan. Furthermore, final documentations must be received by staff before a permit can be issued.*

(f) Will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the critical area and that the granting of the special use exception will be in accordance with the "Critical Area Program for Caroline County," the critical area law and this chapter. *The project is not within the Critical Area of Caroline County.*

Chairman Saathoff noted that they addressed all the concerns of the Board.

**Motion:** Ms. Swafford motioned to approve Special Use Exception application #201700015 to allow Ground Star to construct a small scale commercial solar energy system at 6345 Reliance Road in Federalsburg, on the conditions that all setback modification agreements are filed or that the project remains within the approved 7.3 acre area, the Administrative Variance is approved for the height of the fence, their final site plan is approved by the Planning Commission and all necessary documentation and site plan requirements are fulfilled and a building permit and/or zoning certificate is obtained prior to any proposed development;

**Second:** Ms. Leavell seconded the motion.

**In favor:** The motion was approved unanimously (3-0).

## REVIEW AND APPROVAL OF MINUTES

All members read the minutes of the November 14, 2017 Board of Zoning Appeals meeting. The Board unanimously approved the minutes as written.

## ADJOURNMENT

**Motion:** Ms. Leavell made a motion to adjourn the meeting at 7:04 p.m.

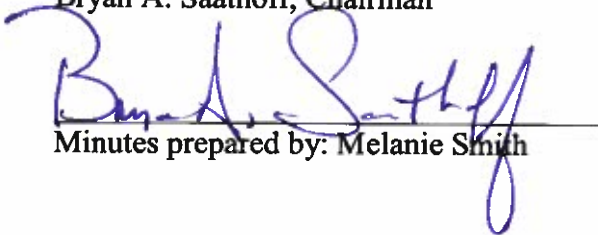
**Second:** Ms. Swafford seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The meeting was adjourned at 7.05 p.m.

BOARD OF ZONING APPEALS

Bryan A. Saathoff, Chairman



Minutes prepared by: Melanie Smith