

INDEPENDENCE TOWNSHIP LAND USE BOARD

Minutes – September 21, 2020

The Independence Township Land Use Board met for a regular meeting on Monday, September 21, 2020 via the Zoom virtual meeting service. The decision to hold the meeting via electronic means has been made in compliance with P.L. 2020, c.11 given the current circumstances surrounding the COVID-19 health situation, the limitations imposed under the Governor's Executive Orders 104 and 107, the physical limitations of the chambers, and the importance of social distancing. The meeting was called to order by Chairman Ricardo Fernandez at 7:30 p.m. and he stated that the meeting is being held in accordance to the Open Public Meetings Act by posting said notice of this meeting on the bulletin board in the Municipal Building and notifying the Municipal Clerk. Advertisement of notice was placed in the NJ Herald and the Express Times.

ROLL CALL:

Present:	Carmen Feula	James Kelsey
	Robert Neumann	Donald Engels
	Geoffrey Cullen	Ricardo Fernandez
	Mark Rafalko	Glenn Cogle
	Lucy Carvino	
Absent:	Robert Best	George Ulmer
	Melissa Milano	Michael Pennington
Also Present:	Eric Bernstein, Esq.	Michael Finelli, P.E.
	David Banisch, P.P.	

MINUTES:

The minutes from the July 20, 2020 meeting were distributed prior to the meeting. Mr. Kelsey made the motion to adopt the minutes. Motion seconded by Mr. Feula. Roll call vote:

Ayes: Mr. Feula, Mr. Kelsey, Mr. Cogle, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, and Mr. Fernandez
Nays: None recorded
Abstain: Ms. Carvino

OPEN TO THE PUBLIC:

Chairman Fernandez opened the meeting to the public for non-agenda items.

Jennifer DeYong was present to address the current issue that she is having in regards to selling her pre-existing non-conforming two family home, which is located in a one family zone. The Board discussed the matter/procedure at great length and it was agreed that Ms. DeYong should first contact the Zoning Officer to see if there is an existing Certificate of Occupancy. If the issue cannot be resolved with the Zoning Officer, Ms. DeYong, will need to apply to the Board for a certificate of non-conformity, which the Board would then have to evaluate.

Chairman Fernandez asked if there was any further public comments. With there being none, Mr. Cogle made the motion to close the meeting to the public. Motion seconded by Ms. Carvino. Roll call vote:

Ayes: Mr. Feula, Mr. Kelsey, Mr. Cogle, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, and Mr. Fernandez
Nays: None recorded
Abstain: None recorded

OTHER BUSINESS:

RDJ Shell Gas Station, Block 22, Lot 37 R-Zoning Officer Memo

The Board went on to review and discuss the two memos from the Zoning Officer in regards to the restoration of the Shell Gas Station canopy. They also reviewed and discussed the Township Ordinance and the administrative position of the Zoning Officer.

Chairman Fernandez made the motion to have Board Attorney Bernstein respond to Zoning Officer Diehl. Motion seconded by Mr. Cogle. Roll call vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Cogle, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, and Mr. Fernandez
- Nays: None recorded
- Abstain: None recorded

**Land Use Committee-Highlands Affordable Housing
Deferred**

**Master Plan-Discussion
Deferred**

NEW BUSINESS:

#19-002 Pio Costa Enterprises, Block 21, Lot 38

Kevin Krystopik, Esq. was present on behalf of the Applicant. Mark Landgrebe of United Solar LLC was sworn in and he provided an overview of the proposed solar farm on 24 acres. Board Attorney Bernstein asked if any written materials have been provided or will be provided to confirm that the project is being constructed as testified this evening. The Applicants stated that they can provide that information. Board Engineer Finelli questioned the height of the array and the visual impact, which was addressed by Mr. Landgrebe. Board Planner Banisch commented on the view/visual of the roadside installation and its location next to the historic church.

Chairman Fernandez opened the hearing to the public. With there being no public comment, the hearing was closed to the public.

The Board had questions regarding the proposal (noise, health risks, impact to homes on Water Street, underground utilities, glare from the panels, battery storage, life expectancy of the panels) which were addressed by the Applicant. Board Engineer Finelli addressed recycling and a decommissioning agreement. The Board also discussed a possible expansion. Concerns were raised over hearing a bifurcated application, a Use Variance application, without a submitted site plan. The Board continued to discuss the proposal and the Applicant stated that they can provide the Board with details/drawings pertaining to the proposal. They also discussed the approved uses and the proposed use of the property.

Carmen PioCosta was sworn in and he addressed their request and future expansion. The Board discussed the submitted application vs. a different proposal as discussed this evening.

Ken Nelson was sworn in and he provided his qualifications as a Professional Planner. He stated that he has visited the site, he is aware of the neighborhood, he has reviewed the Master Plan and Zoning Regulations, and the reports from the Board Professionals. He reviewed that the property is located in two zones. He stated that in reviewing the Township Ordinances, solar farms are not permitted, in any of the Township Zones. He reviewed the MLUL and inherently beneficial uses.

He then went on to review the proposal, the goals of the Township, the development limitations of the property, and the realities of the marketplace. He provided the necessary use variance proofs. He also addressed the expansion as discussed this evening. The Board asked about buffering, the realistic life span of a utility, decommissioning, and a reasonable expansion of the use. Board Attorney Bernstein reminded the Board that the submitted application is for a specific proposal and Board Planner Banisch stated that the Board is within their rights to request additional information. Attorney Krystopik stated that at this time they are presenting the use variance testimony and additional information will be presented during site plan application.

The hearing was opened to the public for questions of Mr. Nelson. With there being no comments, the hearing was closed to the public for questions of Mr. Nelson.

Frank Matarazzo was sworn in and he provided his qualifications as a Professional Engineer. He stated that he prepared the plans and they are proposing a DEP free application. He reviewed the distance of the proposal to the property lines. The Board questioned possible runoff from the panels and oil erosion. They also discussed possible improvements to the submitted plans, the location of dwellings on adjacent properties, buffering/landscaping/screening, and DEP buffers,

The hearing was opened to the public for questions of Mr. Matarazzo. With there being no public comment, the hearing was closed to the public for questions of Mr. Matarazzo.

Attorney Krystopik stated that this concludes their expert testimony for this evening. He asked that the Board consider their use variance.

The hearing was then opened to the public for comments. With there being none, Mr. Feula made the motion to close the hearing to the public. Motion seconded by Ms. Carvino. Discussion on the motion: Board Secretary Schemm clarified that Mr. Cogle will need to recuse himself as he is a Committeeman. Roll call vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, and Mr. Fernandez
- Nays: None recorded
- Abstain: None recorded
- Recused: Mr. Cogle

The Board was polled to see if the Board Members are ready to vote this evening or if additional time is needed to submit additional information. Board Members prepared to act this evening:

No-Mr. Kelsey, Mr. Cullen, Mr. Rafalko, Ms. Carvino, and Mr. Neumann. **Yes-**Mr. Engels, Mr. Feula, and Chairman Fernandez. The Board then reviewed the additional information needed. Chairman Fernandez asked the Applicants if they agree to carry their matter to the Board's October meeting. The Applicants agreed to carry their hearing and provide the supplemental information.

Chairman Fernandez made the motion to carry the hearing to October 19th, without further notice. Motion seconded by Ms. Carvino. Roll call vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, and Mr. Fernandez
- Nays: None recorded
- Abstain: None recorded
- Recused: Mr. Cogle

#17-002 Woodmont Independence Urban Renewal, LLC, Block 6.02, Lot 3

The Board reviewed and discussed the letter received requesting an extension.

Mr. Feula made the motion to grant the extension and invite them to provide an update in the Spring. Mr. Engels stated that there may be legislation in place already granting them an extension of time. Board Attorney Bernstein stated that he thinks that the Board should act on the request. Motion seconded by Mr. Kelsey. Roll call vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, Mr. Cougle and Mr. Fernandez
- Nays: None recorded
- Abstain: None recorded

DISCUSSION:

Highlands/Master Plan/Redevelopment Discussion

Deferred

BILLS:

	Banisch	
Re: General		270.00
	Finelli	
Re: General		130.00
Re: Pio Costa		987.50
Re: Coladarci		32.50
Re: Top of the Hill		1635.00
Re: Top of the Hill		645.00
Re: Pio Costa		205.00
	Eric Bernstein	
Re: General		225.00
Re: Pio Costa		735.00
Re: Pio Costa		840.00
	Times Herald Record	
Re: Advertising		165.30
Re: Advertising		14.78
	NJ Advance Media	
Re: Advertising		165.35

Mr. Cougle made the motion to pay the bills. Motion seconded by Mr. Kelsey. Roll call vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, Mr. Cougle and Mr. Fernandez
- Nays: None recorded
- Abstain: None recorded

ADJOURNMENT

In a motion made and seconded the meeting was adjourned at 10:31 p.m. Voice vote:

- Ayes: Mr. Feula, Mr. Kelsey, Mr. Engels, Mr. Cullen, Mr. Neumann, Mr. Rafalko, Ms. Carvino, Mr. Cougle and Mr. Fernandez
- Nays: None recorded
- Abstain: None recorded

Respectfully submitted,

Alfia Schemm
Board Secretary
10/15/20