

**WEST LAMPETER TOWNSHIP
ZONING HEARING BOARD
August 8, 2023**

A meeting of the West Lampeter Township Zoning Hearing Board was held on August 8, 2023 at 6:00 p.m. in the Township Building at 852 Village Road in Lancaster County, PA. Members present were Vice Chairman John Lines, Terry Kauffman and Alternate Board Member, John Howard. Also present were Attorney Matthew J Creme, Jr. of Nikolaus & Hohenadel, LLP, representing West Lampeter Township Zoning Hearing Board, Attorney Robert E Sisko of Morgan, Hallgren, Croswell & Kane, P.C. representing West Lampeter Township, Township Manager, DeeDee McGuire and Planning/Zoning Officers Kim Yepremian and Michele Neckermann.

Vice Chairman, Jonh Lines, called the meeting to order at 6:00 P.M.

Pledge of Allegiance was recited.

Counsel for WLT Zoning Hearing Board, Matthew J Crème, Jr., gave instruction to the participants and attendees on how the meeting would proceed with regard to the absence of Chairman Raymond Lanas who would not be attending the proceeding. Mr. Crème explained that having two regular members, John Lines and Terry Kauffman present for the meeting constituted a quorum and that if John Howard, Alternate Board Member, would arrive he would be able to participate in the hearing and as a third member of the board he could vote on the applications, but that it would require the consent of the applicants. Mr. Crème stated that the applicants had two matters to consider: 1. Will you proceed with the two-member quorum or would you prefer to defer to a time when we can assure that we have a hearing with three voting members? 2. If Mr. Howard appears will you consent to Mr. Howard participating so that we have three voting members. Mr. Crème stated a tie vote is a denial. Mr. Crème then asked West Lampeter Solar 1, LLC (WL2023-ZHB-005) if they agree to allow Mr. Howard to participate in deliberation and decision as an alternate board member and Tim Mills representing West Lampeter Solar 1, LLC said yes. Mr. Crème then asked Doug Rohrer (WL2023-ZHB-008) if he agreed/consented to allow Mr. Howard to participate in deliberation and decision as an alternate board member and Mr. Rohrer said yes.

At 6:04pm John Howard, Alternate Board Member, arrived. Mr. Crème stated let the record reflect there are now three members of the board present for the hearings and ready to proceed.

Counsel for WLT Zoning Hearing Board, Matthew J Crème, Jr., gave instruction on how the meeting would proceed with regard to each applicant's presentation of their request for a special exception. Mr. Crème explained that hearings are different than meetings in that hearings require presentation of evidence and testimony presented

under oath or affirmation, there are witnesses who testify and may be questioned by other parties who can cross examine them, exhibits can be introduced and marked, and the hearing is being recorded every word that is spoken so one person is to speak at a time in an orderly fashion. An applicant will get to present the evidence and testimony on their application and other parties may question the applicant and even those who are not parties and are members of the public attending the hearing will have an opportunity to make public comment before the board closes the hearing and deliberate for a decision. Board will guide process as it goes. People who have a particular interest in the application may qualify for party status, you must request party status, you must state your basis for having a particular interest in the application, which typically is you own or occupy land very near the land that is the subject of the application. Parties have the right to question the applicant's witnesses, to receive a copy of the written decision that will be issued regardless of whether it is an approval or denial, and also parties may have the right to appeal the decision with which the party disagrees and that appeal would be to the Lancaster Court of Common Pleas. The township is present tonight thru their solicitor, Attorney Robert E. Sisko. The township is always a party to every application, whether it chooses to participate or not. The township is present to participate in both applications.

MINUTES APPROVAL – John Lines, Vice-Chairman, made a motion to approve the July 11, 2023 minutes, seconded by Terry Kauffman. John Howard abstained.
Motion approved 2-0.

First Case WL2023-ZHB-005 Special Exception for Use Not Provided

Vice Chairman John Lines stated for the record that:

Board Exhibit 1 was the Application

Board Exhibit 2 was the Legal Notice/Proof of Publication in LNP

Board Exhibit 3 was the Posting Affidavit (posting of the property for public hearing)

.West Lampeter Solar 1, LLC Applicant and Property Owner Gerald B Garber – Lot 18 on Eshleman Mill Road, Lancaster, PA.

3 parties were sworn/affirmed by Christy Della Rova, the Court Reporter of record, for the first hearing.

Parties: Applicant West Lampeter Solar 1, LLC

Dennis Grimm adjacent property owner residing at 1035 Eshleman Mill Road

Daryl Keener 1134 Gypsy Hill Road resides on that property/ east boundary adjacent to land on application

With no objection from the applicant, West Lampeter Solar 1, LLC, in regards to party status, Mr. Creme asked the board members to consider a motion to recognize Mr. Grimm and Mr. Keener as parties to the application. Terry Kauffman made a motion to approve Mr. Grimm and Mr. Keener as parties, John Lines seconded the motion.
Motion approved 3-0.

Sworn and affirmed prior to testimony:

Tim Mills, Senior Project Developer, New Leaf Energy
Shawn Brandt, Sr. Project Engineer, New Leaf Energy
Daniel Dotterer, Engineer, New Leaf Energy
Jeff Malak, Esquire, represents New Leaf Energy
Gerald and Jewel Garber – owners of property
Jared Keller

Tim Mills began presentation with acknowledging that they had a premeeting with DeeDee McGuire, Township Manager, and a presentation with the Planning Commission and one with the Board of Supervisors. Tim stated he wanted to be sensitive of the Zoning Hearing Board's time, but also, wanted to provide an overview of what community solar is and what the project entails as it relates to the special exception application.

Gerald Garber owner of the property located at 18 Eshleman Mill Road and land designated in the application for the special exception was asked to speak by Tim Mills as to why New Leaf Energy is looking to do solar project with Mr. and Mrs. Garber. Mr. Garber gave a brief overview of how the land has been used. Gerald stated that it is 55 acres of land that his father acquired back in the 1970's that had been used as a pasture when they bought it, then the Garber's contoured it and turned it into cropland. They continued in cropland for a number of years, but as time went on and they got rid of the cattle, some of the land went in to the State CREP Program because of slopes and streams on the property. In 2004, Gerald's father was getting ready for retirement so he sold that section of the farm to Gerald and he has been using it as crop farming since then and now that Gerald is getting close to retirement thinking of how to generate income so that he can pass the land onto their children so they can buy...as Gerald was exploring options for generating income he saw this solar project as a good option. The project takes 25-30 acres and the ground has 25-30 acres surrounded by woods with two streams and it seemed like a good setup. The more he looked in to the solar project he found out you pasture the land, put a fence around it, put sheep in it and the solar becomes the structure facility to keep the sheep dry and provide shade and then you are able to sell the solar/electricity to the community at a significant reduction from PP&L rates and also generate a decent amount of revenue for the township. Mr. Garber stated that looking at all of that detail, it seemed like a really good fit for his land. Gerald stated what he likes most about it is when the solar project is finished and decommissioned everything is pulled out and back to your pasture again, other options of putting buildings and various things on it never go back to that. "I thought that a was a really

good fit for that parcel of land so I pursued it.” Mr. Garber was asked if the land was enrolled in Clean and Green and he said yes ever since they owned it.

Tim Mills took over the discussion. New Leaf Energy has a 40-year history and is one of the largest community solar developers in the country. Mr. Mills stated they have completed jobs all over the country. Started by showing examples of recent projects in Illinois, New York and Massachusetts. He stated that very little solar energy less than .5% of is being produced in PA. State is looking to incentivize solar development but done in a sustainable way and in a way that is compatible with agricultural land more specifically to do a community solar project.

Explanation of Community Solar Generation by Tim Mills (state regulations put into place to contain what is done on the projects)

1. State level program that restricts the size of the overall project to 5 megawatts ac which is right around the 25 to 30 acres and in some cases 35 acres in size
2. can only connect to distribution lines not to transmission lines,
3. don't need to build new substations,
4. limitation on size allows us to sell at the residential rate, we can find local subscribers within the township and surrounding townships within PP&L and cannot sell outside those territories
5. There are incentives to sell power to low income
6. There is incentive for us to find subscribers by offering a discount on their power. Explaining PP&L rates have dramatically increased by nearly 100% in the last few years and New Leaf Energy offers between a 10-20% discount on a resident's power giving customer choice to local residents and those in surrounding townships to take advantage of a 30 acre solar ray ...getting much more economies of scale and can offer residents a cheaper rate if they can't put a solar roof on their own residence, can't afford or want to put up the capital for a solar project themselves and if they want to end a contract or move they have the ability to do so
7. Connecting to distribution lines we have voltage limitations limiting projects allowed to be done in one township and they are not allowed to put community solar projects on adjacent parcels side by side
8. State is also working on a Decommissioning Bill for both wind and solar so there will be a requirement that money has to be set aside to remove the systems at end of lifetime which New Leaf Energy already proposes in their agreement with the Garbers.

How solar projects work:

*Panels being used are made of silicon glass that can be recycled at the end of lifetime of the system

*Sometimes there is aluminum frame around the panels as well that can be removed at the end of lifetime, but generally that framing is not used anymore that it is really just a piece of glass with solar vapors in between it

*Non-toxic solar panels

- *A lot of the solar panels are now being produced in the United States and there are incentives to do that -a lot of the projects that New Leaf Energy are involved within Virginia are using product manufactured in the US (solar panels and other equipment)
- *step-up transformer being used (does not require a new substation) steps up the voltage onto the distribution lines
- *String Inverters used on site
- *Equipment pads in the impervious areas are only in center of the site where the step-up transformer is placed – string inverters can be hung on the back of the racking system so they do not need concrete pads on the ground
- *A post is put into the ground but not using any concrete -steel racking structures with wiring and cable
- *New Leaf Energy anticipates the solar panels to last at least 25 years (covered by warranty)
- *20-year lease with the Garbers and have the option for four 5-year renewals can extend to 40 years at the end of the lifetime of the project we have to remove everything and return site back to its original state
- *Point of interconnection for project 3-phase upgrade along Eshelman Mill Road proposing with PP&L to upgrade 3-phase on the entire road New Leaf Energy incurring the total cost using the same poles PP&L currently using would put a T bar on top to run two additional lines and then connect directly into those lines right on the site
- *Project almost completely surrounded by forest but proposing *vegetative screening on north side of transmission easement and along roadside where it would possibly impact neighbors - visual aesthetics always a concern with neighbors
- *New Leaf Energy is proposing tracker system with east to west rows, rectangular tables following the sun throughout the day – type of panels used provide extra production/energy on the site collected on topside and backside getting reflection off the ground as well
- *sheep maintained on site -native pollination keeps it in agricultural use, Daniel Dotterer is the sheep farmer that New Leaf Energy partners with and who will be responsible for maintaining the vegetation and tree trimming if required “eyes and ears on the project” ... examples given by Tim Mills of vegetation screening reducing impact to neighbors arborvitae screening and sunflowers have been used on other projects
- *The panels used are designed to reduce glint/glare... study was done to assess impact to neighbors, other structures or along roadways – type of panels projected to be used
- * A seven-foot tall fence is required for the size of the project. Tim Mills stated that they are working with the Garber’s and Daniel Dotterer and want to work with the township as well regarding options for the type of fence (does not have to be a chain link fence willing to work with everyone here)
- *Noise perspective – there are small fans are used that run on the inverters the noise is right at the fans in the middle of the solar system – outside the fence area decibel level/noise would be very minimal

* Tim Mills wanted to touch on American Solar Grazing Association and sheep grazing that is where he first connected with Dan Dotterer also Penn State Grads (Shawn as well) – connects solar developers with sheep raisers – Garber’s do not raise sheep themselves so gives New Leaf Energy the ability to bring in an established sheep farmer to maintain the site for the Garbers keeping it in agricultural use- Daniel has also partnered with Penn State University and the state and is raising sheep on their solar sites as well. Daniel is the largest sheep farmer in PA.

Daniel Dotterer speaks - Daniel gave his background stating he is on the Board of Directors of the ASGA association started five years ago “when a number of us farmers saw what was going to happen with solar in this country...my family has a history of 300 years of farming in PA since 1722 – farming is what we know”

*Working with Penn State on building/developing an Agricultural Agrivoltaics test site

*Met with PA Rep Glen Thompson who is the Chairman of the Agricultural Committee in Washington DC working with him to establish what kind of guidelines ...how do we keep the land in ag use? Over 120,000 acres in PA of ag land expected to have solar placed on it and 5 million acres of solar in the country and how do we make this production agricultural?

*the seed mix developed is a forage production seed mix to be used on the Garber pasture and over the life span of this project Daniel stated that he is estimating producing 20,000 lambs off of the Garber’s 30 acres...is lamb really needed in this country...not a lot of people eat lamb....we import 70% of our lamb in this country we don’t produce nearly enough and 80% of our lamb is eaten between Washington DC and Boston so there is a huge need for more lamb – lambs and sheep are tricky can’t just go from cattle to sheep

Conservation aspect

Our farm has been nominated twice and we were finalists for the Leopold Conservation Award

Just nominated to serve on Chesapeake Bay Programs Scientific and Technical Advisory Committee and PA Secretary of Agriculture wrote a letter of recommendation for me.

Conservation has always been important to us...we don’t get paid to do...family farm been in his family since 1819 ...I am 9th generation that has been on that land...very important to me to continue those practices so those next generations can continue to farm and do it the right way.

Real production agriculture not just putting a few sheep on some land to graze

Questions for Daniel Dotterer from Terry Kauffman:

1. Terry Kauffman asked if Daniel has a sheep lease with the Garbers to provide sheep for some period of time of lease Garber's have with New Leaf Energy – Answer is no - get thru zoning approval and approval with PP&L first and now having met with the Garber's to discuss this to get a full contract established wanting zoning approval -we do have our lease set up with the Garber's and we mention sheep grazing on the site and Daniel is an established "vendor" for us internally so we plan on using Dan for this project –
2. Terry "so you have contracted with them on other projects?"
Response: Daniel response we have a number of sites we are working on together...
3. Terry: "any you have signed up for the duration of the elected contract? "the answer is NO"
Response: Daniel said industry doesn't usually work that way usually 5-year contracts –
Terry says "seems odd if you have 25-year contract and using sheep as selling point but you don't have a similar contract"
Terry: "You are promoting a solar system and using sheep as an agricultural product without a sheep contract and you want approval subject to that and will the approval be for the 30+contract?"
–Tim spoke - typically operation maintenance contracts are a five-year contract final permits and approvals

Jeff Malak attorney for New Leaf Energy – formulated and discussed the most commonly asked questions in township meetings and the questions were answered by Tim Mills

Do you have a lease with the land owner? YES

Do you have permission of landowner, Mr. Garber, to request a special exception on his behalf? YES

How much site traffic will there be -construction traffic while system being built/installed? Approximately 46 vehicles daily for electrical personnel and 18 vehicles daily for civil personnel

Township Testimony – Attorney Robert Sisko and Michele Neckermann

Michele Neckermann was sworn in by Christy Della Rova, court reporter of record.

Attorney Sisko said the township has two main concerns:

1. Size of the proposed site
2. Impact on prime agricultural soils

Township Exhibits were presented (copies of applicable sections were given to the ZHB members...zoning ordinance regulations on the size of non-agricultural uses in an agricultural district

TOWNSHIP EXHIBITS T-1 THROUGH T-6

T-1 WLT Township Zoning Ordinance 285-26B

uses not otherwise provided for, and all other permitted uses and whether permitted by special exception or conditional use or as of right–

Attorney Sisko asked Michele to read the highlighted provision “such uses shall only be permitted if the use complies with all other requirements of this chapter”. Attorney Sisko stated that this particular provision guides us that all of the other provisions of the zoning ordinance are applicable to this no matter if it is a use not provided for. Attorney Sisko asked Michele is that correct – **Michele “Yes”**

T-2 West Lampeter Zoning Ordinance 285-35B(3) additional requirements in district

Michele was asked by Attorney Sisko to read the highlighted provision – “except as specifically stated, in no case shall any non-agricultural use contain more than 5 acres”. Attorney Sisko said that it must be determined if this proposed community solar project is a non-agricultural use? And if it is, it is limited to five acres of land. Attorney Sisko asked Michele if that is correct and if that was her understanding to which **Michele replied “Yes”**. Attorney Sisko said “in the discussions this evening it has been determined that this is not an agricultural use of land but to reinforce that we need the definition of agriculture and because the zoning ordinance does not define the term agriculture, we have to look at statutory construction – normal dictionary definition of agriculture”.

T-3 Merriam Webster Dictionary definition of agriculture

“The science, art or practice of cultivating the soil, producing crops and raising livestock and in varying degrees the preparation and marketing of the resulting products cleared the land to use for agriculture”. Attorney Sisko asked Michele, “Is it your determination or opinion that the proposed use does not meet that definition?” – **Michele stated correct**

T-4 PA Department of Agriculture Publication regarding farmland and solar panel sites

WLT staff found on internet and reviewed and also may have been given a copy by someone on the Planning Commission – (frequently asked questions with regard to solar panel operations) Michele was asked by Attorney Sisko to read into the record the question and answer as published by the PA Dept of Agriculture #5 **QUESTION:** “Is solar considered agricultural by definition in PA laws?” **ANSWER:** Although commercial scale solar is often called a solar farm – it does not meet the definition of normal farming activities under the Right to Farm Act, therefore, it will not receive protection from local ordinances and lawsuits otherwise given to agricultural operations”.

Attorney Sisko asked Michele, “based upon all of your research is it your determination/opinion that this use is not an agricultural use?” **Michele answered “Correct”**. Attorney Sisko asks, “since it is not an agricultural use is it your determination/opinion that the use is limited to five acres?” **Michele answered “Correct”**.

T-5 West Lampeter Township Zoning Ordinance 285-35A(1) Protection of prime agricultural lands (in regards to additional requirements in the agricultural district) Michele read into the record:

“It is the intent of the Board of Supervisors to implement the mandate of Section 604(3) of the PA Municipalities Planning Code to preserve prime agricultural land through the enactment of these regulations”. Attorney Sisko asked Michele, “Michele, is it your understanding that the Pennsylvania Municipalities Planning Code states that if a municipality adopts a zoning ordinance it is mandatory it must include provisions to protect prime agricultural land?” **Michele “Yes”**

T-6 Renderings indicating the nature of the soils on the subject property 3 pages to exhibit

Page 1 – Map 7 WLT Comp Plan – overlay purple box shows the approximate location of the parcel we are discussing this evening – and the little white boxes are the soil types

LdB definition – Letort Silt Loam that is prime ag farm land... Attorney Sisko asked “are there other prime soils on the property from this exhibit?” Michele said “HFB is a prime soil and there is a little corner of that in the front (chart is Comp Plan Table 2-35)”

Page 2 – Michele reviewed the West Lampeter Soils Class MAP. Michele stated that it shows soils from the NRC (Natural Resources Conservation Service) – there is a starburst there in the center on the first parcel showing the approximate location of where the majority of the solar panels would be located, showing that they are in class 2 and class 3 soils.

Page 3 – Attorney Sisko made the statement to Michele, “In the applicants plan you superimposed three blocks with wording and at the top left it shows prime ag soils we can see (from the other map)...adjacent to the right and below it both are farmland of statewide importance that is land for the production of food, feed, fiber, oil and seed crops.” Attorney Sisko asks, “so the property has at least class 2 and class 3 soils on them is that correct?” **Michele states “Yes.** Attorney Sisko asks, “Is there any class 1 soils on the property?” Michele said, “**at the entrance to the site maybe a very tiny little bit.**” Any other class soils on the property? Any class 4 soils? **Michele**

answered, **“class 4 would be on the quadrant not labeled on that exhibit/plan that area would be on the lower right.”**

Attorney Sisko made a reference back to Exhibit T-4 PA Dept of Agriculture Pamphlet page 2...what the PA Dept of Agriculture says with regard to the siting of the solar project. Michele was asked by Attorney Sisko to read: **“Deploy solar on non-agricultural and non-forested land whenever possible...class 1 thru class 4 soils should be avoided.”**

Attorney Sisko asked Michele if there was anything else she wanted to explain to the ZHB with regard to the property and her concerns with regard to the effect on the prime ag soils? **Michele– refer to the “Comp Plan Townships Road map Item #33 preserve prime agricultural soils, steep slopes, wetlands, riparian areas and groundwater throughout West Lampeter and the township staff is supposed to do that, as well as, the Ag Preservation Committee and they are supposed to be doing that on a continual basis.”**

Attorney for applicant Jeff Malak then stated under **285-5 zoning ordinance (standards) for uses not already provided for there are 5 standards/criteria they have to meet . Attorney Malak stated “the proposed use would be no more intensive with respect to external impacts.”

John Howard alternate ZHB member spoke in regards to Exhibit T-4 – Mr. Howard stated he had no idea that the township was going to present this as an exhibit and he stated that “My day job is Legal Counsel for the Secretary of Agriculture. I probably had something to do with that publication. I probably reviewed that. I want the applicant to be aware of that in regards to use of the exhibit. I probably reviewed it, but I don’t have specific memory of it. It was December 2022”.

Attorney Crème stated for the record, “my position is the applicant is entitled to a quorum, the applicant is not entitled to a full board - the board has the floor and should proceed after John Howard recused himself.”

8:15 pm ZHB went into recess for ten minutes and then reconvened

Upon reconvening, the Board stated they will proceed with two members, which under the municipalities planning code and the township zoning ordinance, constitutes a quorum for the board capable to act upon the application.

Attorney for the applicant, Jeff Malak, stated for the record an objection on behalf of the applicant -that the MPC requires/entitles an applicant to a 3 or 5 member ZHB (objection and statement noted) Mr. Malak said there was concern with proceeding at this time with only two members.

Questions for witness Michele Neckermann (Zoning Officer) from Attorney Malak:

1. Definition of agriculture or agricultural activity not defined in WLT zoning ordinance? **Michele “No”**
2. Are you the zoning officer? **Michele “Yes, I am one of two zoning officers”**
3. How long have you been a zoning officer? **Michele “At West Lampeter Township since Nov 2022”**
4. And prior to that? **Michele, “I worked in a small municipality with multiple tasks and assisted with the zoning there”**
5. Are you familiar with the zoning ordinance here in West Lampeter Township? **Michele “yes”**
6. Is solar defined anywhere in the zoning ordinance? **Michele “No”**
7. Is solar farm defined anywhere in the zoning ordinance? **Michele “No”**
8. Is agrivoltaics defined anywhere in the zoning ordinance? **Michele “No”**
9. When was the zoning ordinance last updated? **Michele “2008”**
10. More than a decade ago? **Michele “Correct”**
11. Is it in the process of being reviewed right now? **Michele “Yes”**
12. Are you aware of the application pending before the board? **Michele “Yes”**
13. In the application did it state specifically that the use is for a community agrivoltaic solar farm? Michele answered, **“I would have to look”** and after given a copy of the application to look at **Michele says “Yes, it states the use is for a Community agrivoltaic solar farm on the application”**
14. Do you know the difference between a commercial scale solar farm and a community solar farm? **Michele “ I do not believe there is a difference”.**
15. Do you have any engineering background to substantiate that statement? **Michele, “ I have a degree in Interior Architecture”**
16. But not any engineering or electrical engineering degrees? **Michele “No”**
17. You heard testimony here today with regards to community solar farm and agrivoltaics is that correct? **Michele “Yes”**
18. And you would agree with me that the testimony provided today by the applicant showed that there is agricultural activity as part of the project is that correct? **Michele “Yes”**
19. One of the townships exhibits used to define agriculture and you read it into the record from the dictionary– I want to focus on the words raising livestock in varying degrees and raising livestock and in varying degrees in the preparation and marketing of the resulting products. Would you agree with me that sheep raising is a kin to and part of raising livestock? **Michele “Yes”**
20. So there will be agricultural activity on the property is that correct **Michele “Yes”**
21. Did you hear testimony today with regard to prime farmland soils from the testimony of the applicant? **Michele “Can’t remember specifically”**
22. Did you hear the applicant testify that any type of soils will be removed from the premise? **Michele “I don’t specifically remember that”**

Questions for Michele Neckermann from Attorney Robert E. Sisko

1. From the zoning ordinance perspective would it make any difference to you whether it was one or the other “commercial vs community solar” or do the provisions of the zoning ordinance specifically define the five-acre limit?
Michele “correct it would not matter”
2. Definition of agriculture – the applicant’s application used the term agrivoltaic uses correct? **Michele “Correct”**
3. Didn’t use the term agriculture correct? **Michele “ Correct”**
4. To your knowledge are they trying to use this as a specific use that is not really commercial, or it’s not agriculture, it’s a new agrivoltaic use?...

To that question there was an objection from applicant’s attorney, Jeff Malak, however, the ZHB said they would allow the question and give it the weight that it deserves and **Michele answered “Yes”**

The Board asked those with party status:

Mr. Grimm do you have any questions for the township witness? Mr. Grimm, “You testified about class 2 and class 3 soils. Is it considered the best farmland in the world?”

Michele’s response... “some are statewide level and some are prime agriculture and both are in our zoning ordinance and our comp plan and they are protected. The majority in West Lampeter Township is class 2.”

Comment by Mr. Grimm (neighbor) read a prepared statement that it should stay farmland not become a solar factory

Comment by Mr. Kenner -1134 Gypsy Hill Rd (neighbor) – what was presented today is less obtrusive than what a hog barn or chicken barn would be.

Comments by Daniel Dotterer – There are 8 state of PA solar farms (100/150 acre each) that are on prime farmland. USDA recognizes agrivoltaics “You want to search for where you are getting your definition of agriculture from.”

Comments by Tim Mills – statement regarding definitions and what specifically we applied for in the special exception from the beginning this is what we applied for “ a community agrivoltaic solar farm.” Our goal from the very beginning with the application was to apply as an agrivoltaic use (agrivoltaic is the defined term by some of the federal departments including USDA) .I gave testimony earlier from the farming bureau in support of development of solar on these types of land in Lancaster– our goal was to work with Gerald to preserve his land keeping it in agriculture use providing a steady revenue source –Daniel spoke about the current issue with

farmers that right now if producing animal feed, soybean and other crops they are subject to commodity prices ..solar revenue is a consistent revenue source but can also do agrivoltaics together...Agrivoltaics is a defined agricultural use (can find that with the USDA).....Want to point out that your current zoning ordinance that was written in 2008 defining commercial solar or the limitations on it...commercial solar is the big utility scale projects

Is the applicant asking the board to determine that agrivoltaic solar is an agricultural use? **Tim Mills** “yes”

Then are you withdrawing your request for a use not otherwise provided? – **Tim Mills** “No”

Comment by Tim Mills “Simply we applied for an agrivoltaic community solar farm that is not defined in the zoning ordinance, therefore, it is a use not provided for.”

Comments from Board– Regarding rules of submitted evidence -you mention there are several definitions of agrivoltaics. Never heard of it until today. Maybe you can pick one and submit it as evidence and the one that you select that it is the definition that you believe is the right one.

There was no public comment.

Motion to close the record of testimony except to allow a written submission from the applicant defining agrivoltaic solar and that their definition be provided to all the other parties with the intention of the board to render a written decision at their September 12th meeting. Vote to close the testimony with the exception.

8:59pm Terry Kauffman made the motion and John Lines seconded. **Motion passed 2-0.**

Second Case WL2023-ZHB-008 Special Exception for Use Not Provided

Hearing began at 9:03pm

Vice Chairman John Lines stated for the record that:

- B-1 Exhibit 1 was the Application
- B-2 Exhibit 2 was the Legal Notice/Proof of Publication in LNP
- B 3 Exhibit 3 was the Posting Affidavit (posting of the property for public hearing)

Douglas Rohrer– 1150 Village Road, Lancaster, PA

Four parties were sworn/affirmed by Christy Della Rova, the Court Reporter of record, for the second hearing.

Parties: Applicant Douglas Rohrer
Darryl Rohrer 1623 Book Road (relative)
Kevin Brockie 1312 Village Rd, Strasburg, PA (adjacent property owner)
Dustin Martin 1906 Bridge Rd (property backs up to property)

John Howard made a motion to accept the party status of Darryl Rohrer, Kevin Brockie and Dustin Martin, Terry Kauffman seconded the motion. **Motion approved 3-0 for all three parties.**

Douglas Rohrer (1150 Village Road)
Brett Nolt (contractor to the project)
Lamar Rohrer

All three sworn and affirmed

The applicant stated that they don't have zoning for solar, Douglas Rohrer spoke regarding the LLC applied for...He stated that it is a limited liability corporation that he and Lamar are part of it, LLC owns all the mobile equipment, chickens, no real estate and pays the electric bill – built by D R Rohrer Farms, used by D R Rohrer Farms at 1150 Village Road which is real estate he and his brother Lamar own. Advised by attorneys to do an LLC.

Planned Project

Installation of 780 ground mounted solar panels

429 thousand watts in total

Array footprint less than one acre

Area under panels roughly have an acre

Around perimeter is just under an acre

2-3 feet off the ground lower hi edge total 8-9 feet

Fifteen feet between rows

No concrete fixtures

Power off village road with an overhead service to poles -transformers going underground a short distance less than 50 feet to a rack-mounted infrastructure behind one of the panel groups

Noise levels minimal (previously represented in application)

Inverters all rack mounted (previous application)

Power going to 1728 bridge road exclusively currently no electrical infrastructure in that area of Doug Rohrer Farms not tying into his electrical infrastructure for the farm house and associated buildings...strictly a new infrastructure to virtually power 1728 Bridge Road – ability to do that allows farms with different locations to do this as long as both halves are associated with operation and land control

Reasons why we put array where we did –

*Bridge road does not have three phase electrical infrastructure

*515,000 kwh a year is number they are trying to hit and slightly exceed – 108/109% of his electrical uses to allow for poor weather years and increased growth in the farm, as well as, solar panels slowly degrade over time ¼ to ½ percent a year – try to add a little buffer so his needs are met long-term

*1720 bridge is a single-phase electrical infrastructure PP&L limits service infrastructure for single phase to 150kw in solar – all that they will offer the customers The ac-kw amount needed for hitting the 515,000kw number to offset his usage and reduce his operating costs can only be provided by three phase electrical source-given options we have Lamar Rohrer's property did not have any good location for a program of that size...being a ¼ mile from 3 phase and bringing in 3 phase for a system of 300kw ac economy of scale doesn't work there financially would kill the project if we were forced to bring three phase down Bridge road to put a system in to cover his needs...so stuck with village road somewhere within 500 feet of bridge road the way Lamar's property is there is a lot of residential development along 741...Doug Rohrer's property with natural screening and the embankment down 741 felt best location for it for visual and crop production is not prime soil – it is of statewide importance....used to be meadow, very rocky, not good for row crop production

three phase infrastructure issues less than 6 figures, roof nail is preferred can we go on the roof but ended abruptly with the age of the D L Rohrer farm buildings east of bridge road barn is 35 years and the other one is 22 years oldhouses on borrowed time.... Land south of 1728 bridge that could house solar ground but now we are getting closer to a half mile for three phase

Detail from Team AG not prime land – distance? Closer the better to three phase infrastructure move system to non-prime farmland and go underground a few hundred feet everything is PP&L driven they give a cost for that – because we are solar contractor the ones initiating a grid connection ...every cost associated with that all costs engineering, all the parts that is on our shoulders as the ones initiating that request – don't have the cost number yet

System will connect to the grid thru the PP&L three phase line? Correct

Virtual link between the two allowed by law

Net metering step

No on lot energy storage for battery backup

No direct connect of farm to this system? Farm draws its power as anyone draws power the same as anyone else draws power

A financial offset -sized accordingly

Condition-Virtual metering link between the two

Township Questions from Attorney Robert E. Sisko

1. Area where solar panels are to be located is on farmland of statewide importance? **Correct**
2. Application has been with PP&L since May? **Yes**
3. Where proposed solar array going – current use of land in agriculture use right now? **Answer: Corn area where panels are to be placed**

Lamar doesn't think map/exhibit with coloring is correct – map from consultants of the Rohrs

Mr. Brockie questioned – “Where is the solar array going to go? Showed on exhibit map

Mr. Martin any questions? – “No”

Mr. Darryl Rohrer “No questions”

Township statement by Attorney Robert E. Sisko - The concern is the soils that are going to be impacted and the desire to protect the higher classification soils.... appears there is non-prime farmland which would be available for a site for solar array ...although testimony was presented that it may cost more to do that the applicant has not presented concrete numbers on it...so to extent it is possible although it may cost a little more, the township position is that the solar array should be located on the not prime farmland rather than the farmland of statewide importance. Attorney Robert E. Sisko asked the board to deny the application.

Questions asked of the applicant from the Zoning Hearing Board

1. What is the most productive farmland of the two locations?
2. Would the applicant wish to continue until next month -and come back with someone from Team Ag or redrawing of the soils or a redesign or relocation of the plan?

Question from executive session

1. If this is solely for purposes of powering the farm, is it than not an accessory to an ag use? Kim “looked at that accessory use is for that parcel---ordinance specifically says to be accessory would have to serve the farm”.

John Lines states as a general rule “ accessory use has to be on the same lot as the principal use it serves.”

Kim said “correct”

John Lines “Principal use”

Clean and Green different set of rules -stated they need to check that out

Based on testimony and evidence presented, the Zoning Hearing Board approved the applicant's request for a Special Exception for a Use Not Provided for in the West Lampeter Zoning Ordinance to allow the installation of solar panels at 1150 Village Road, Lancaster, PA with the following conditions:

A. Applicants are bound by the testimony and evidence presented in the hearing.

B Applicants shall obtain all necessary permits and approvals as required by applicable ordinances and regulations.

A motion was made by Terry Kauffman to approve the application for Douglas Rohrer who is seeking approval of a special exception relative to a solar project subject to standard conditions, motion was seconded by John Lines to approve the Applicant's request for a special exception

Motion approved 3-0.

There being no further business before the Board, Terry Kauffman made a motion to adjourn the meeting at 9:57pm, which was seconded by John Lines. **Motion approved 3-0.**

Respectfully submitted,
Donna Haley
Recording Secretary