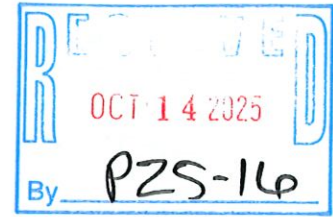


RESOLUTION NO. PB 19-11
TOWNSHIP OF EVESHAM
PLANNING BOARD



RE: APPLICATION NO. PB 19-11

- | | |
|--|---|
| <input type="checkbox"/> Minor Subdivision | <input checked="" type="checkbox"/> Approved |
| <input type="checkbox"/> Major Subdivision Preliminary | <input checked="" type="checkbox"/> General Conditions |
| <input type="checkbox"/> Major Subdivision Final | <input checked="" type="checkbox"/> Additional Conditions |
| <input type="checkbox"/> Minor Site Plan | <input type="checkbox"/> Denied |
| <input checked="" type="checkbox"/> Major Site Plan, Preliminary | |
| <input type="checkbox"/> Major Site Plan, Amended Preliminary | |
| <input checked="" type="checkbox"/> Major Site Plan, Final | |
| <input type="checkbox"/> Bulk Variances | |
| <input checked="" type="checkbox"/> Design Waiver | |

Application No. PB 19-011
Applicant: Aero Haven Solar, LLC
465 Grand Street, Suite 5
New York, New York 10002
Owners: Owens Corning Sales, LLC

Block 63, Lot 1 (P.I.Q.)

Action: October 17, 2019

Memorialized: November 7, 2019
Plan Name: Proposed Ground-Mounted
Solar Array, Aero Haven Solar, LLC

WHEREAS, the applicant has applied to the Evesham Township Planning Board (ETPB) for the following primary approval(s): Preliminary and Final Major Site Plan Approval to permit construction of a ground-mounted, ballast-type solar array on a portion of a closed landfill with a pole supported array outside capped limits of landfill and an infiltration basin;

WHEREAS, the application was considered by the ETPB on October 17, 2019 in the sworn testimony of A. Maxwell Peters, P.E. of T&M Associates, the applicant's engineer and by Andrea DeBenartis of Paragon, Applicant's on-site management contractor.

WHEREAS, the applicant has applied for the following ancillary approval(s):

(a) Submission Waivers for Phase I Environmental Assessment; Traffic Impact Statement, providing location and detail of enclosure for solid waste and recyclable containment, Environmental Impact Report, Tree Protection Management Plan and a cross-section of the stormwater basin; and Cultural Resources Survey, and

(b) Design Waiver from Ordinance Section 160-25 to permit solar panel arrays within 300 feet of freshwater wetlands; 204.87 feet proposed; and

WHEREAS, a public hearing () was not required; or

WHEREAS, a public hearing (X) was required and the ETPB has considered that public comments

- () were not made by the public
- (X) were made in favor of all or some aspect of the application
- (X) were made against some or all aspect of the application; and

WHEREAS, the following documents and exhibits were reviewed and considered by the EPTB and are incorporated herein by reference:

- (a) Aerial Photograph, Project Site/Surrounding Road, dated 10/17/19 (Exhibit A-1);
- (b) Existing Conditions Plan, dated 7/12/19 19 (Exhibit A-2);
- (c) Soil Erosion and Sediment Plan, dated 7/12/19 19 (Exhibit A-3);
- (d) Township of Evesham Land Development Application filed 7/30/19, with Land Development Checklist and Zoning Summary;
- (e) Plans for Proposed Ground-Mounted Solar Array, prepared by A. Maxwell Peters, P.E. of T&M Associates, dated 3/4/19, last revised to 7/30/19, consisting of five (5) sheets;
- (f) Surety Title Search, prepared by Surety Title Company, LLC, dated 2/27/19;
- (g) Plan of Topographic Survey, prepared by Robert R. Stout, P.E., P.L.S. of Stout & Caldwell Engineers, LLC, dated 12/13/19;
- (h) Deed Notice, dated 10/31/07;
- (i) Certificate of Filing from New Jersey Pinelands Commission, dated 7/31/19;
- (j) Correspondence from Max Peters to NJDEP RE: Amendment to Closure Plan, dated 3/7/19;
- (k) Correspondence from NJDEP to Owens Corning Corporation RE: Sanitary Landfill Disruption Closure Approval, dated 3/7/95;

WHEREAS, it appears that all jurisdictional and procedural requirements of the applicable Township Ordinances have been met; and

WHEREAS, the ETPB has considered the application and the evidence and arguments submitted by the applicant in support thereof; and

WHEREAS, the ETPB has considered the recommendations and comments of its professional staff and the following written reports:

- (X) Engineer report(s) dated 9/12/19, consisting of five (5) pages;
- (X) Planner's Report(s) dated 9/16/19, consisting of three (3) pages;
- () Traffic Engineering Consultant's Report(s)
- (X) Environmental Engineer's Report(s) dated 9/16/19, consisting of five (5) pages;
- (X) Other: Evesham Township Fire Marshal/Fire Subcode Official, dated 9/9/19

Copies of which are attached hereto and made a part hereof as Exhibit A, respectively;
and

WHEREAS, the ETPB has made the following Findings of Fact and Conclusions:

FINDINGS OF FACT AND CONCLUSIONS

1. Applicant Aero Haven LLC ("Applicant") requests Preliminary and Final Major Site Plan Approval with Submission Waivers and Design Waiver to permit construction of a ground-mounted, ballast-type solar array on a portion of a closed landfill with a pole supported array outside capped limits of the landfill and an infiltration basin. Applicant has a lease agreement with the property owner, Owens Corning Sales, LLC, and proposes to develop and operate the solar facility on approximately 22-acres of this 46.58 acre site. The solar array would be located on approximately 11-acres of the former landfill site.

2. The proposed development is located in the EP Environmental Protection Zoning District, which permits agricultural uses, conservation areas, single-family detached dwellings and

group homes. It is also located within the Pinelands rural development area. However, this proposed solar energy facility is deemed a statutorily permitted use in any zoning district in New Jersey under *N.J.S.A.* 40:55D-66.16, since it is proposed on a closed landfill site. The subject property is a former air field that utilized toxic materials from Owens Corning's manufacturing facility in Berlin, New Jersey as fill to extend the runways for the site.

3. Properties to the south and west are located within the Rural Development (RD) residential zones and contain single-family homes and wooded areas. Property to the north and east is within the INS Institutional Zone and is owned by Evesham Township, which is the uncontaminated portion of the Aero Haven site.

4. Applicant requests submission waivers from the following requirements: Phase I Environmental Assessment; Traffic Impact Statement, providing location and detail of enclosure for solid waste and recyclable containment, Environmental Impact Report, Cultural Resources Survey, Tree Protection Management Plan and a cross-section of the stormwater basin. The Planning Board professional planning staff recommends granting the requested submission waivers, except for the Environmental Impact Report and a cross-section of the stormwater basin with all relevant design information and elevations. The Planning Board grants only those submission waivers as recommended by the Board's planning professionals.

5. No bulk variances are required. No signage is proposed. A Design Waiver is required from Ordinance Section 160-25 to permit solar panel arrays within 300 feet of freshwater wetlands; 204.87 feet proposed. The Planning Board Environmental Engineer recommended that the Planning Board defer to the Pinelands Commission on the determination to grant such waiver, since it falls under its State Agency jurisdiction, and condition any approval herein, subject to the Pinelands Commission's issuance of a no-call up letter.

6. Applicant presented the testimony of its engineer Max Peters, P.E. and Andrea Debenartis, of Paragon, a company providing on-site maintenance of the solar facility. Mr. Peters testified that he has prepared site plans for several other solar array facilities in New Jersey and has 22-years of professional experience as a professional engineer. Mr. Peters testified that this ground-mounted solar array facility has the capacity to generate and convey 4.72 megawatts of power into the PJM grid, enough to service approximately 570 single-family homes.

7. Mr. Peters provided the following testimony: a) the proposed use would generate no need for parking as it will be remotely monitored and require periodic maintenance by only two technicians approximately two to four times per year; b) the closest solar array would be sited 288-feet from Kettle Run Road; c) lawn mowing within the area of the proposed solar arrays will occur monthly or quarterly depending upon the time of year; d) no tree trimming or removal would be required for this project; e) a stormwater management basin is proposed, not sited within the landfill area, to address any runoff from a proposed ballast system that includes concrete tubs to fix and support the solar array panels in the ground; f) the ballast system has been engineered and designed to withstand substantial wind and snow events; g) the proposed solar arrays would have a height of 6' to 8'; h) a 10' X 20' ground equipment compound area with cabinets will be installed for the housing of an inverter; i) a 6-foot high perimeter fence would be maintained for security purposes; j) power transfer to the grid would be through below ground conduits; k) the anticipated lifespan of this solar array facility is anticipated to be 25-30 years; and l) no battery storage is proposed for this solar array facility.

8. Andrea Debenartis testified that the construction of the solar facility will take approximately three to six months.

9. Applicant reviewed the reports the Planning Board Planner, Engineer and Environmental Engineer and agreed to the recommendations therein.

10. During the public portion, nearby residents raised concern with the potential installation of the ballast system over the landfill cap. Mr. Peters testified that the proposed ballast system posed no threat to creating any new contamination issue, as it will be insulated by a layer of top soil, placed over a geo cap, fortified by an additional 2' feet layer of clean fill underneath the geo-cap.

11. Other residents raised concern with the visual impact of the solar arrays and the potential for glare, including Deborah Larson of 486 Kettle Run Road. Mr. Peters testified that the solar panels are designed to absorb light energy, not reflect it. Mr. Peters further testified that Applicant would coordinate with the Planning Board Planner, post-construction, on the installation of supplemental landscape plantings to screen the solar panels from view of any nearby residential dwellings.

12. Ryan Grechan, a member of the Pinelands Preservation Alliance, expressed the PPA's concern with the siting of the solar panels within 300 feet of an existing freshwater wetlands area. Mr. Peters testified that this issue would be reviewed and addressed by Applicant with the New Jersey Pinelands Commission.

13. Brian Allen of 200 Winslow Home testified that he supported the solar project as an environmentally friendly project that advances the State policy to reduce fossil fuels, benefitting all New Jersey residents.

WHEREAS, upon motion duly made and seconded to grant the application for Preliminary and Final Major Site Plan Approval with Submission Waivers and Design Waiver to permit construction of a ground-mounted, ballast-type solar array on a portion of a closed landfill with a

pole supported array outside capped limits of the landfill and an infiltration basin, the Board voted in favor of granting the application subject to certain conditions mentioned hereinafter.

NOW, THEREFORE, BE IT RESOLVED by the Evesham Township Planning Board that the said application for Preliminary and Final Major Site Plan Approval with Submission Waivers and Design Waiver shall be and is hereby granted subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. Applicant shall comply with the recommendations set forth in the September 16, 2019 report of the Planning Board Planner.
2. Applicant shall coordinate with the Planning Board Planner, post construction, on the provision of supplemental landscaping to screen the solar panel arrays from any nearby residential dwellings.
3. Applicant shall comply with the recommendations set forth in the September 12, 2019 report of the Planning Board Engineer.
4. Applicant shall submit a cross-section of the stormwater basin with all relevant design information and elevations for the review and approval of the Planning Board Engineer.
5. Applicant shall submit an Operations Manual for Stormwater Management Facilities for the lifetime of the stormwater management basin for review and approval by the Planning Board Engineer.
6. Applicant shall comply with the recommendations set forth in the September 16, 2019 report of the Planning Board's Environmental Engineer.
7. Applicant shall submit an Environmental Impact Report.
8. Applicant shall obtain any required outside agency approvals from the following State Agencies:

- a) Burlington County Soil Conservation District;
- b) New Jersey Pinelands Commission;
- c) New Jersey Department of Environmental Protection; and
- d) New Jersey Division of Solid and Hazardous Waste.

GENERAL CONDITIONS OF APPROVAL

1. A brief notice of this decision shall be published in the official newspaper of the Township, at the applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETPB within thirty (30) days of the date the decision is memorialized.

2. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

3. These General Conditions of Approval shall be binding upon the applicant, the owner, and any successors and/or assigns of either.

4. The Specific Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

5. The applicant shall be required to obtain all outside agency approvals

6. Any improvement(s) to be constructed as a result of the ETPB approving this application shall be constructed and operated in full compliance with the Code of Evesham Township, the Revised Statutes of the State of New Jersey and any other applicable county and/or Federal law.

7. The Board presumes that the applicant's application, all exhibits, maps and other documents submitted and relied on by the applicant, are true and accurate representations of the

facts relating to the applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that such Application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

8. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the applicant, the Board reserves the right to conduct a hearing with the applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

9. The applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the applicant, including but not limited to proper service and notice upon interested parties and publication of the notice of public hearing in this matter in accordance with the law.

10. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the

Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

11. The applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The applicant is solely responsible for fore determining which governmental and/or public agencies, if any, such approvals are required of. The applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

12. The applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

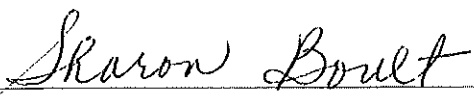
13. The applicant must obtain and all other construction or other municipal permits required with respect to the relief as granted herein.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Township Clerk, Township Construction Official, Township Tax Assessor and Township Zoning Administrative Officer.

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to the Township Clerk for distribution to the Evesham Township Council for such further action as same may deem appropriate.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson	X					
Mayor Jaclyn Veasy	X					
Councilman, Robert F. DiEnna	X					
Jay Parikh, Vice Chairperson	X					
Jay Levenson	X					X
Craig Higginbotham	X					
Dennis Mehigan						
Gene Friedman	X					
Jerry Menichini						
Paul Cortland	X				X	
Richard Maratea						

I, Sharon Boulton, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 17th day of October, 2019.


 SHARON BOULT, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson						
Mayor, Jaclyn Veasy	X					X
Councilman, Robert F. DiEnna	X				X	
Jay Parikh, Vice Chairperson						
Jay Levenson						
Craig Higginbotham						
Dennis Mehigan						
Gene Friedman	X					
Jerry Menichini						
Paul Cortland	X					
Richard Maratea						

I, Sharon Boulton, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 7th day of November 2019.


 SHARON BOULT, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD