

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Wednesday, July 25, 2018

Present: Sheila Grant  
Jeffrey Johnson  
Bruce Kmosko  
Olga Dember  
Phillip Duran  
Edward Wiznitzer, Acting Chairperson  
Charles Lavine

Absent: None

Excused Absence: Christina Hultholm, Vice Chairperson  
Peter Kremer, Chairperson  
Samuel Pangaldi  
Joseph Blaney

Also Present: Brenda Kraemer, Assistant Municipal Engineer  
Brian Slauch, Planning Consultant  
Edwin Schmierer, Zoning Board Attorney  
Susan Snook, Recording Secretary

Mr. Wiznitzer was the Acting Chairperson for the Zoning Board meeting.

**Statement of Adequate Notice:**

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building and mailing to the Trenton Times and the Trentonian newspapers.

**Public Participation (for items not on agenda):**

None

**Resolutions:**

Resolution of Memorialization 11-18z; Bulk Variance Application No. ZB-3/18; **Scot & Kelly Murdoch**; 2976 Princeton Pike; Tax Map Page 35.04, Block 3513, Lot 19 was approved per unanimous vote.

**Applications:**

Use and Bulk Variance Application No. ZB-9/17; **IGS Solar, LLC (St. Ann's Church)**; 1255 Lawrence Road; Tax Map Page 23.02, Block 2313, Lot 1.01

Ryan Kennedy, represented the applicant and presented Exhibit A1 which shows a solar array behind and on top of St. Ann's Church. The initial application was larger and the Church and applicant have done their best to accommodate as many opinions from the neighborhood. The project was downsized by reducing the angle, the height, landscaping to mitigate any type of impact that the project would have for the neighborhood. A solar project like this is an inheritably beneficial use.

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Page 2

The heart of this project is to generate electrical power for the Church, another portion of it is to create a covered walkway between two buildings on the Church's campus, one being the school and the other being the Church's parish center. A structured covered walkway would be connecting these two buildings and one of the benefits the solar canopy will allow for that use.

Witness #1: John Byerly, Green Energy Construction Consulting and representing IGS stated he met with the Church and that they could use the covered walkway, which they already wanted because it had a lot of available space for panels. They were also able to do some on the school. The actual array would go down the center of the walkway so the piers would be in the actual island of the center walkway (north and south); in front of the carport, the walkway in the middle with the two lights poles, and will be coming out, which are about 15', that is as high as the north side of the array coming down to about 10' on top with a 9' clearance underneath for cars to park under.

Mr. Byerly explained that the rendering presented was the original design from looking at the entrance of the Church and the difference was 16 panels and landscaped high and dropped down to 11 panels so instead of covering the whole parking spaces, it would be brought down to 3 to 3 ½ solar panels above and does not cover the parking spaces. It was also made smaller from east to west because there were trees that they did not want to cut down.

Mr. Kennedy presented a photograph and labeled Exhibit A1. The ceiling material differs for the center section and that is part that is meant to be the walkway and the rest are the solar panels. The covered walkway won't allow rain down, that is collected by the gutter system and down spout system, but anything to the north and south of that, the rain will hit the panels and run off the edge of the panels, which means it goes through (view is southwest). The houses on the Rossa Avenue side they have a fence there, which is not shown on the rendering.

Mr. Byerly stated under the soffit area, about every other support pier for this system will have downspouts that will come down, and not changing any of the impervious coverage, because the water will get drained back into the islands that are there. The actual covered walkway is right now grass, concrete sidewalk, grass and drops back down to parking spaces. All the rain collected in that area will be diverted back into that area, not in the parking area.

The lights for the walkway will be under the array and would be localized above the walkway. The carport is reduced in size and they used the western facing sloped roof and put modules there, which is less efficient but is gaining some production back. The landscaped islands and large trees will remain. There will be a six-foot privacy fence and a concern was on the southern end of the project was the impact to the southern properties, in addition to making it smaller and less tall and less steep angle, because there is a fence there is little room about three feet between the parking lot and the fence. There is a limitation on what can be planted there; however, this was not on the plan and with the discussions of the neighbors they are prepared to do some landscaping on that southern side to provide some additional buffer.

The applicant did consider removing some parking spaces to add some landscaping; unfortunately going back to the original application, they are already under parked. The homes would not be effected from any glare because solar panels are to absorb light not reflect it. Solar panels do not make any noise, the solar inverters that convert from dc to ac power, here will be three inverters for the carport and two inverters for the roof portions. The three inverters on ground level will be on the last three columns, closest to the Church, each inverter is 55 decibels. The noise is made by the cooling fan and during the day time hours and shut off in the evening and will make no noise, just like a refrigerator or air conditioning unit.

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Page 3

Mr. Slauch had several questions for this witness pertaining to removing sidewalk, removing asphalt and the footers.

Public Comment for Mr. Byerly:

A comment was made about the proposed trees and there is an existing tree on the south west corner of the lot and that tree will remain. Mr. Byerly stated the trees proposed are along the yards of the houses on Eldridge Avenue. The tree in question will remain and fast growing trees will be planted.

Ms. Zikorski: what was the date of the first meeting when the engineer looks at the variance and the 120 days for the board has to hear the application? Ms. Kraemer stated the applicant was granted an extension and the Board has to act by the end of July, unless another extension is granted. Ms. Zikorski also stated there is landscaping on the south end and was under the impression that the Lawrence Avenue side will also have some landscaping. Mr. Byerly commented that we did not have a set landscaping submission but it can be done and there is already landscaping there, which is deciduous trees and there are deciduous trees along Lawrence Avenue and in between them there are some light poles and three or four foot hedgerows, they can take out the hedgerow and plant more spartans, just don't want to crowd anything and maybe one between each deciduous which would be maybe seven. Mr. Kennedy stated this might be a condition on landscaping on the Lawrence Avenue side. Mr. Byerly commented if they are allowed to rip stuff out to put stuff in, like small hedgerows, not deciduous trees. He continued that a few of these places have light poles between them. A landscaping plan will be submitted.

Mary McClain, Eldridge Avenue: She wanted to know what inherently beneficial project means. Mr. Kennedy explained that Mr. McManus, Planner for project will explain it and define the EGI Zone. The first project with the prior resolution to construct a structured covered walkway, what was the date of the original project approved. Ms. Kraemer responded it was Resolution 8-02z so it was approved in 2001 and valid forever. The trees were discussed and knowing the additional cost of the project and the landscaping, the project team will work with the community and the engineers and the regulations for visibility in the parking lot with tree construction. The width and length of the project of the car port was questioned. Mr. Byerly stated it is 52'7 1/2" north to south and that is equivalent to eleven panels and 29 east to west at 77" is 220' long and 29 panels; however, it shrunk from 36'7".

Ralph Veltri, Eldridge Avenue: The covered walkway that was pre-approved but the original was only 8' wide and not 30' wide, so it can't be in the same terms, there were two different things that was approved. Ms. Kraemer stated the original approval was an 8' wide covered walkway and discussion was the width of the solar panels over the walkway. The discussion is about the 36' wide.

Mr. Schmierer stated these are going to take place of the original canopy and will go out further down the walkway, so once they are installed, the other canopies will be gone and prior approval will be irrelevant.

Lucy Martollotti: She wanted to know how many other projects he did in the middle of a neighborhood. Mr. Byerly stated he cannot remember doing one in a middle of a neighborhood, but a school that was next door to a neighborhood, where they went up to the back yards and they were carports.

Angie Veltri: Once the walkway ends, was this to keep people from getting wet and once it ends from there to the school and church, aren't they going to get wet. Mr. Byerly stated they will get wet.

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Page 4

Mr. Oswald: How will the project impact the number of parking spots because there are currently 200 parking spaces? Mr. Byerly stated the parking spaces will not be changed and the asphalt is not being changed.

Mr. Duran has a concern about the device from keeping snow from falling off the low end of the canopy and changing the angle of the array, the visible impact to the neighbors will not change. Mr. Byerly stated there is a two bar snow retention which keeps the slide from falling off, which means it melts. We were trying to keep it higher for better tilt and solar production. The major concern of everyone was the snow and it sliding off because there are people going back and forth and do not want anyone to get hurt.

Witness #2: William McManus, PP testified that when the plans were originally submitted they were not sure how the Municipality handles these kind of applications and each municipality is handling them differently such as accessory uses, that are permitted regardless when the Land Use Ordinance says, some as principal uses and Ms. Kraemer stated they need a use variance. The car ports canopy panels is an accessory use because it is incidental to the principal use. Inherently beneficial use per the Land Use Ordinance states that a use is universally considered of value to the community because it is fundamentally serves the public good and promotes the general welfare such uses include but are not limited to hospitals, schools, child care centers, group homes or energy facilities or structures.

The burden of proof is on the applicant to establish the fact whether they satisfy a positive criteria and a negative criteria and this being an inherently beneficial use this satisfies the positive criteria. Mr. McManus referred to SICA and is it serving a public interest because it reduces greenhouse gas emissions, renewal emergency source and satisfies the first process. The detriment to the structure is the visual impact, there is an impact on light where the canopy will have light that will be more intense than the parking lot. How to reduce those detriments is planting additional trees at different locations along Lawrence Avenue. The properties that have frontage on Eldridge Avenue, have a very narrow area to be able to mitigate by way of plantings and the proposal is to put some additional trees intermittently that will grow between the fence and the curb line and provide a visual buffer.

The plan is proposing to put lights in the middle of the canopy array, down the middle over the walkway and the lighting directly under the lamps is going to be brighter than the lighting on the perimeter of the canopy array and find the intensity of the light under the canopy is much brighter than the intensity of light at the perimeter. The ordinance could be met if more lights were added under the canopy instead of the single row put two rows of lights on the perimeter. The plan proposed is more agreeable to the neighbors because it is a brighter walkway and less lights that escape from the edge of the canopy, so a waiver is required.

Mr. McManus spoke with regard to the C Variances which include setbacks, referring to Exhibit A2, Site Plan, Sheet 3 of 3, revision dated July 9, 2018 which shows the enhancement of the solar panel array being proposed. The reduction in overall size of length and width which is about a 40% reduction in square feet. The parking lot is an accessory use and only three feet off the property which is well in to the setback of 75' and the applicant is asking for 55' on the Eldridge Avenue side; Rossa Avenue is 44'8" side and the Lawrence Avenue side is 58'2" and well within the confines of the parking lot and do not expand along the curb limit of the interior parking stalls.

Mr. Slauch spoke about the level of the lights under the canopy and agrees that it is complicated calculus of lighting. The spillway of the lights will not be any different then what is there currently and will not go past the property line because of its distance. Mr. Lavine stated you are substituting the lights under the canopy for the existing lights that are there now and you are anticipating that there is no inherently detriment to the neighbors and the people pulling in or out of the space.

**LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT**  
**Special Meeting**  
**Page 5**

Mr. Slauch stated this is the first time hearing about the landscaping proposed which needs to be reviewed and a revised landscape plan needs to be submitted.

Public Questions to Mr. McManus:

Chris Kuraba: Existing lights will not be removed from the parking lot but adding lights directly over the walkway.

Ralph Veltri: Do not want to remove those lights because a lot of activity from the Church parking lot at night. You remove those lights some child will get hit?

Ms. McClain: The height of the existing light structure and the lights under the canopy? There will not be lights at the edge of the canopy and concentrated in the middle.

Mr. McManus stated six lights will be removed directly under the canopy and substituted by canopy lighting. There will be more intense lights. The lighting is limited to the middle of the canopy and the lights will be lower than what is existing (north 15' high and existing 15, so it is level).

Board took a fifteen minute break.

Public Comments:

John Steinmuller, 7 Winthrop Road, a licensed realtor. He is a great believer in solar panel and other energy sources. In preparation for this he visited all of the schools and sites where Lawrence has installed solar panels and familiar with the corporate fields in Mercer County. He visited the site in Camden County and compared to what was being proposed here and in no way does it compare. One of the things the Board has to consider just how a big a step this is. It is a very positive for a buyer and a seller to think green and to have that economy to be able to contribute to the saving of energy and money. It is a tremendous benefit to all and the term used, inherently beneficial about the common good is good but is not a benefit for everybody. There are 25 homes that circle St. Ann's along Rossa Avenue and Lawrence Road and Eldridge Avenue that are going to be impacted. They receive no benefit of the solar array that is going to be put up by St. Ann's. They will be negatively impacted in the value of their homes.

He explained how this is a negative impact on the homes using an example of high tension wires, junk in the front yard, retention pond or a swimming pool and this falls under this umbrella on how it is going to impact the buying public. Many people are going to be frightened of it, not only because on what they perceive as emissions, but just looking at it. Because it has this negative impact, you are going to attract fewer and fewer buyers and when you attract fewer and fewer buyers, you get less offers and generally the offers come in less than what you are expecting. It is going to have a dramatic impact on the homes along that stretch of the perimeter of St. Ann's and probably have a value between \$240,000 and \$400,000. Do not believe that if people sell their property with this, either under construction or sitting in front of them as they open the door, it is going to be negatively impacted.

He knows how important this is, and if this were to be done, the things that were talked about tonight in terms of camouflaging it, it has to be done under the highest degree. It will still have a negative impact, especially for the first few years, after a few years it is going to be there, all of these neighbors are going to be concerned about the value of their homes, and the value of their homes are going to be impacted.

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Page 6

They are going to find it quite difficult to not only have buyers come in, but with some of the neighborhoods surrounding St. Ann's, which have drawn down the value of the properties, we may see an increase in investors coming in to set things up as rental properties. He believes this is going to have a tremendously negative impact, also to the homes close to it as well. The value for these people in their homes needs to be considered. It is not necessarily a benefit to them.

Mr. Kennedy asked a few questions to Mr. Steinmuller: does he have a license as a residential appraiser; conduct a value analysis or any type of appraisal of the homes in the neighborhood; did he do an analysis of the detriment that he testified to as the effect of this project; so this was only his opinion that the homes would be effected negatively and what was the opinion based on; any market data or sales comparisons that would confirm that a solar array would be similar to a high tension wire.

Mr. Steinmuller responded that he is not a residential appraiser; he did perform a current market analysis for five of the homes; his opinion was based on his experience of bringing qualified buyers to see homes that have negative attributes to them and he has no data.

Mr. Kennedy stated he has to object to this testimony as both being a net opinion as well as not meeting the standard based on Metuchen vs Metuchen vs. 21 NJ text 283 which sets the standard for evaluation evidence to present some type of stigma damage and asked the Board not to extent that this testimony falls below the requirement to be a valued opinion and it is a net opinion and for the lack of sales data.

Mr. Steinmuller stated he is not representing anybody in the neighborhood.

Donna Miller, 5 Laurelwood Drive: She recently purchase 51 Eldridge Avenue and wants to make some observations that the whole project seems to be of two major concerns. The construction features, the zoning, the building but has the utmost confidence of the Township to handle these concerns. She has a feeling that professionals of the municipality would handle that aspect. The second part is the climate and the monetary interest of this project and this has as much weight as anything else. We have a climate in the neighborhood and the monetary aspects of us all. One of the reasons she selected Eldridge Avenue was the family oriented climate of that portion of town. To take something like this and put that on a lovely Eldridge Park neighborhood where you have small lots, and then put this kind of situation right in the middle of it, she thinks it is so detrimental from an investment point of view, and for the climate of the neighborhood. There is a fire station, stores (which many are vacant), the Church, a huge parking lot, a school, and an environmentally difficult situation on Lawrence Road. So there are some issues in this neighborhood and it is a very tight neighborhood. To put a structure like this in this area, it just does not fit, it is common sense that it does not fit in that environment.

Ms. Miller continued about the comment that Mr. McManus stated about the legal statute and the benefit and the standards of being value or a detriment. It seems he was saying it was a value because there are certain things that satisfy value like a Church, or the situation that the buildings in the area would satisfy being considered a value, which we already satisfied that statute with the Church. We do not need to satisfy again with a structure which was called an accessory. The whole climate of the neighborhood and the monitory aspects for the residents is being put aside when it is a part of the global picture and you cannot talk about the construction and the zoning and the building and things we need to do without having that be just as important or more important. We are giving this benefit to St. Ann's on the backs of us tax payers on the backs of the investments, which is our homes. Why can't they put panels on the roofs to satisfy their needs? Ms. Miller continued to state that it is too tight to house this project which is why they are applying for so many variances.

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Page 7

Merritt McGlynn, 52 Eldridge Avenue: There have been concerns regarding landscaping, lighting, security, drainage, safety and the school children. Solar panels reduce your draw of electricity from the grid, you benefit financially from installing them on your property, your draw of electricity is less and generating your own and offsets your own consumption. She has solar panels on her home and receives a great benefit. Solar panels are typically a financial benefit for the person or property owner that is installing them.

This carport installation in this parking lot, outside of residents' front doors and back doors of the properties that they recently purchased and owners who live there for 70 years, the climate and the culture of Eldridge Park is a very close community. The installation of a large carport over this parking lot would be an eyesore, a great visual distraction from a person coming or going out of their home with or without the landscaping. She believes that the property values would decline and if you go two blocks there are vacant lots, abandoned cars and safety concerns. This would lead to more closed homes because people won't be getting their money back and short sale after short sale. She thinks this would not be approved in any other location in Lawrenceville. Discussions about the trees, a 15' height structure and no way of hiding it and does not belong in our neighborhood.

Mr. Johnson commented about the height of the existing light posts and can you see them above your fence. Ms. McGlynn stated they do currently see lights in the back of the parking lot and the light fixtures from the second story of her home.

Joseph Martillotti, 77 Eldridge Avenue: Lifelong resident and parishioner of St. Ann's and this particular structure is just not aesthetically pleasing and drop an industrial structure in the middle of a residential neighborhood, it just does not belong there. The detriment to the neighborhood outweighs it now and if you have something like this and you go to sell your home, it is going to have an impact on the value of your property. If this is sitting outside of our homes, this industrial looking structure, it is going to have an impact on the value of our homes.

Eric Miller: Purchased home at 51 Eldridge Avenue and hesitated of neighborhood because it was so congested but the Church was there and a safe neighborhood, but this industrial looking structure but if it were there they would have not purchased the home. It does not belong in a residential community.

Chris Garruba, 16 Lawrence Avenue: Lived there since 1965 and hope you had a chance to visit the neighborhood and to put a large industrial structure like this is really offensive to us. He encourages them to use their roof space of the properties they own like the Church, the School and the homes. It is not a necessity to their existence and many of the homeowners object to this structure placed in our front yard, hope the Board would honor that and encourage the Church to continue to do roof top panels and eliminate this structure.

Mr. McManus stated it not an opinion of the planner it is stated in the law that it is an inherently beneficial use to schools, care centers, hospitals. Solar panels are of value to the community as a whole and this is not going to solve emission across the State and does not benefit the homeowners in the area, but there is a universal value for green energy.

Mr. Kennedy stated the Church is very committed to being a good neighbor and in weighing the detriments and the conditions to this inherently beneficial use they see the effort in downsizing the project and putting as many roof panels that would fit.

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
Special Meeting  
Page 8

Mr. Schmierer reminded the Board that this is a form of a use variance and has to be five affirmative votes out of seven in order to approve the application. From the presentation tonight, there is no debate and not discussing whether or not solar panels are inherently beneficial, they are legally because that is what the law says. The deliberation is going to turn on whether or not there are any substantial detrimental impacts, which could occur, if this project is approved and whether or not the condition suggested by the applicant to mitigate against those are sufficient to allow you to approve the application. Nobody is debating or discussing or disagreeing this is an inherently beneficial use, the Church is and the solar is which are inherently beneficial by the law and the question is whether the impact of the proposed structure and the installation of the car port with the solar panels, whether that comes to the level of substantial detriment and whether or not there are conditions that can be attached to buffer or reduce that so that the Board could be comfortable approving the application. If not, the Board would deny the application.

Mr. Duran stated this type of structure could decrease their home values, do we have an evidence one way or the other whether they will or will not decrease home values. Mr. Slauch stated we do not have any evidence and nothing was presented. Chairperson Wiznitzer stated we have opinions and if that is substantial or not. The Board members were discussing the application and took a vote. The vote was five in favor and two against; therefore, the application was approved.

**Minutes:**

The June 20, 2018 minutes were approved per unanimous vote.

**Other Business:**

None

**Adjournment:**

There being no further business to come before the Board, the meeting was adjourned at 10:04 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,



Susan J. Snook  
Recording Secretary

Minutes approved: January 16, 2019