

**July 26, 2011**

A regularly scheduled meeting of the Wantage Township Land Use Board was held on Tuesday, July 26, 2011 at the Wantage Township Municipal Building. The meeting was held in compliance with the provisions of the Open Public meetings act, P.L. 1975, Chapter 231. It was properly noticed and posted to the public.

**ROLL CALL**

PRESENT: Mssrs. Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Smith, Vander Groef, Stefanelli. Mmes. Gill, Kanapinski, Kolicko, Attorney Glenn Kienz, Engineer Harold Pellow, Zoning Official Kevin Kervatt.

ABSENT: Cillarotto

Board member Stefanelli arrived at 7:40 p.m.

**APPROVAL OF MINUTES**

Mr. Cecchini made a motion seconded by Mr. DeBoer to adopt the minutes of June 28, 2011.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Kanapinski, Vander Groef, Kolicko, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**RESOLUTIONS**

**L-28-2006 RUBIN HILL PROPERTIES, LLC**

Mr. Cecchini made a motion seconded by Mr. Grau to adopt the resolution memorializing the Board's decision of June 28, 2011 granting extension of final major subdivision approval to Rubin Hill Properties, LLC for Block 132, Lot 3.20 located on Libertyville Road in the R-1 zone pursuant to N.J.S.A 40:55D-52, subject to the following terms and conditions:

1. The extension granted herein shall be continued to December 31, 2011.
2. All terms and conditions of the Board's aforementioned final major subdivision approval unless amended herein, shall remain in full force and effect.
3. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Kanapinski, VanderGroef, Kolicko, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-13-2009 BICSAK BROTHERS REALTY, LLC**

Mr. Cecchini made a motion seconded by Mr. DeBoer to adopt the resolution memorializing the Board's decision of June 28, 2011 granting clarification of previous terms and conditions contained in a previous resolution to Bicsak Brothers Realty, LLC for Block 11, Lot 5 located on Route 23 in the HC zone, subject to the following terms and conditions:

3. The Applicant shall be permitted to undertake blasting consistent with the license and recommendations that the governing body accepts.
4. Applicant shall comply with all blasting requirements of the State of New Jersey.
5. The plans shall be amended to indicate that the phasing involves pods 2 and 6 and not 5.
6. Applicant shall plant the berms subject to the review and approval of the Board Engineer.
7. The Applicant shall have three (3) years to complete this phase of the project.
8. No crushing activities within 500 feet of any outside boundaries or rights-of-way shall take place.
9. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.
- 10.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Kanapinski, VanderGroef, Kolicko, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-1-2010 80 LEWISBURG ROAD**

Mr. Bono made a motion seconded by Mr. Grau to adopt the resolution memorializing the Board's decision of June 28, 2011 granting extension of minor subdivision approval to 80 Lewisburg Road, LLC for Block 18, Lots 15 and 25 located on Lewisburg Road in the RE-5 zone pursuant to N.J.S.A. 40:55D-52, subject to the following terms and conditions:

1. The extension granted herein shall be continued to December 15, 2011.
2. All terms and conditions of the Board's aforementioned final major subdivision approval unless amended herein, shall remain in full force and effect.
3. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Kanapinski, VanderGroef, Kolicko, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-9-2010 GARY AND DEBRA OLSYN**

Mr. Gaechter made a motion seconded by Mr. Cecchini to adopt the resolution memorializing the Board's decision of June 28, 2011 granting extension of minor subdivision approval to Gary and Debra Olsyn for Block 23, Lot 12.01 located on Sally Harden Road in the RE-5 zone pursuant to N.J.S.A. 40:55D-52, subject to the following terms and conditions:

1. The extension granted herein shall be continued to December 15, 2011.
2. All terms and conditions of the Board's aforementioned final major subdivision approval unless amended herein, shall remain in full force and effect.
3. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Kanapinski, VanderGroef, Kolicko, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-11-04 RICHARD KLEIN/QUARRYVILLE CONSTRUCTION**

Mr. Grau made a motion seconded by Mr. DeBoer to adopt the resolution memorializing the Board's decision of June 28, 2011 granting height variance for an accessory structure to Rich Klein for Block 133, Lot 17.10 located on Matthew Drive in the R-5 zone pursuant to N.J.S.A. 40:55D-70(c) subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved. No alterations to the site shall be made without the express approval of the Land Use Board of the Township of Wantage.
2. To lessen the impact of the structure, the Applicant shall plant eight (8) 6 foot tall trees along the property line, subject to the review and approval of the Board Engineer.
3. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply a copy of any approvals received.
4. The structure shall only be used for storage of vehicles registered to the owner of the parcel and other items customarily incidental to the principal residential use.
5. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
6. Certificate that taxes are paid to date of approval.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Kanapinski, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

**L-11-05 MOHAWK ASSOCIATES**

Mr. Grau made a motion seconded by Mr. Cecchini to adopt the resolution memorializing the Board's decision of July 26, 2011 granting preliminary and final site plan approval with variance relief to Mohawk Associates, LLC for Block 16, Lots 5.01, 5.02, 5.03 and 5.04 and Block 17, Lots 38.01, 38.02 and 38.03 located on Roy Road and County Route 565 in the HC zone pursuant to N.J.S.A. 40:55D-70(d), N.J.S.A. 40:55D-46 and 50, and N.J.S.A. 40:55D-70c, subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved based upon the plans that were last revised for the July 26, 2011 hearing.
2. Prior to construction the Applicant shall provide evidence of the merger of the four (4) parcels into one (1) lot which shall be subject to the review and approval of the Board Attorney.
3. The entire solar field shall be enclosed within an 8 foot high, black chain link fence with a bottom rail subject to the review and approval of the Board Engineer.
4. The Applicant shall provide additional landscaping plans to insure the maximum amount of buffering is provided along Sussex County Route 565 and Roy Road subject to final review and approval by the Board Engineer.
5. The Applicant shall be permitted to install up to eight (8) inverters on the property with facades being placed on the outside of the inverters.
6. Applicant shall provide evidence that the inverters meet or exceeds State ambient noise standards at the property line subject to the final review and approval by the Board Engineer.
7. The proposed access drive shall be paved the first 50 feet and the Applicant shall obtain a driveway permit for this improvement.
8. Applicant shall obtain a Soil Erosion and Sediment Control Permit.
9. Applicant shall provide for a five (5) year maintenance guarantee for the property subject to the review and approval by the Board Engineer and Board Attorney for acceptance by the governing body.
10. Applicant shall provide an emergency management plan and strategy which shall be developed with the local fire department and the plan shall contain sections identifying emergency disconnect switches for the safety of first responders subject to final review and approval by the Board Engineer.
11. The temporary construction trailer shall be removed from the site within 30 days of the site being granted a temporary or final Certificate of Occupancy.
12. All lines shall be underground except for the final run to the overhead poles.

13. Site grading shall take place along the three (3) tree rows running throughout the property subject to the review and approval of the Board Engineer.
14. Sight distance from the access drive shall be set for 50 MPH subject to the final review and approval of the Board Engineer.
15. Planting areas along the boundaries of the property shall be extended in accordance with the specific recommendations of the Board Engineer. Additionally, the actual landscaping plans shall be subject to his final review and approval so as to insure a mix of plant materials to provide the maximum amount of screening possible.
16. The inverter shelter shall consist of barn red stained texture 111, trim stained white, with the shed enclosure to be placed around the slab with the open end facing away from the roadway and toward the field. Further, Applicant shall place a cupola and gable ends extended to a 1 foot overhang on the structure to make them better blend in with the site.
17. Seed planting mixture shall consist primarily of fescual grass subject to final review and approval with the Board Engineer.
18. Mowing shall take place on a regular basis between the panels and only weed whacking under the panels to insure that they are not destroyed.
19. Prior to the powering up of the system, as built drawings shall be submitted for the landscaping, building design and the like, subject to approval by the Board Engineer.
20. The Applicant shall schedule a pre-construction meeting at least 72 hours prior to beginning any work on the site between the Applicant, the Applicant's construction manager, the Planning Board Engineer, and any other Township officials with jurisdiction over other aspects of the development and insure that all escrows are posted prior to the meeting taking place.
21. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the application and supply a copy of any approvals received.
22. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
23. Certificate that taxes are paid to date of approval.
24. Sussex County Planning Board approval.
25. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Wantage, County of Sussex, State of New Jersey, or any other jurisdiction.

**ROLL CALL VOTE:**

**THOSE IN FAVOR:** Bono, Cecchini, Grau, Kanapinski, VanderGroef, Kolicko, Smith.

**THOSE OPPOSED:** None. **MOTION CARRIED.**

## **APPLICATIONS**

### **L-14-2006 STEVEN LANG**

The applicant is requesting third one-year extension of final major subdivision approval. This application was originally approved February 27, 2007 and memorialized March 27, 2007 with the latest extension granted to March 27, 2011. The property is known as Block 9, Lot 152 and is located on Ramsey Road in the RE zone.

Attorney Michael Gaus appeared on behalf of the applicant. Mr. Gaus explained that the applicant had been in negotiations with the property owner and that he needed some more time to be ready.

The applicant had requested to carry this application to the September 27, 2011 meeting.

Mr. Bono made a motion seconded by Mr. Cecchini to grant this request.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Gill, Kanapinski, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-9-2009 ABD WANTAGE, INC.**

The applicant is requesting one-year extension of final major subdivision approval. The original approval was granted on June 23, 2009 and memorialized on July 28, 2009. The property is known as Block 54, Lots 8.01, 10, 10.08, and 14 and is located on Libertyville Road.

Mr. Jacob Bogatch, a member of ABD Wantage, Inc. appeared before the Board. It was discussed that the applicant had not been able to secure all agency approvals and that was the need for the extension.

Mr. Cecchini made a motion seconded by Mr. Grau to grant a one-year extension to July 28, 2012.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Gill, VanderGroef, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-11-05 MOHAWK ASSOCIATES**

The applicant is proposing a 6-megawatt solar farm. The property is known as Block 16, Lots 5.01, 5.02, and 5.04 and is located at the intersection of Roy Road and County Route 565 in the HC zone. The applicant is requesting D variance, C variance, and preliminary site plan approval.

Mr. DeBoer and Mr. Gaechter stepped down, as the application involved a D variance.

Attorney Tom Collins, Engineer Ken Dykstra, and applicant, Scott Lewis, appeared before the Board.

Mr. Kienz explained that he had been authorized to prepare the resolution of approval for tonight and that the applicant was back for final approval subject to some additional profiles to get some sidelines that were mentioned on Mr. Pellow's report and also the Board reserved the right to possibly request some additional landscaping. Mr. Dykstra testified that the discussed revisions had been submitted and that Mr. Pellow had had a chance to review them. Mr. Pellow stated that the panels would not be hidden especially for the first 10 years while the trees grow to maximum height. Mr. Pellow had some observations to make and some requests for changes in the landscaping buffer. Mr. Collins stated that they had to be careful with the southern exposure that they did not shade those panels that are near the trees. Mr. Pellow had a comment regarding the shelter that will house the inverters. He did not think the finish on the barn was appropriate and it was discussed that the barn/shed would be open on one side away from the road. A discussion followed concerning seeding the areas underneath the panels. A 5-year maintenance will be one of the conditions of approval.

There were no members of the public wishing to come forward on this application.

Mr. Grau made a motion seconded by Mr. Cecchini to grant final site plan approval, subject to all the items discussed and subject to Mr. Pellow's report.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, Grau, Kanapinski, VanderGroef, Kolicko, Smith.  
THOSE OPPOSED: None. MOTION CARRIED.

### **L-11-03 EREH, LLC**

The applicant is proposing to annex Lot 8.11 with a portion of Lot 8.12. The property is known as Block 130, Lots 8.11 and 8.12 and is located on Route 628. Several variances are being requested.

Attorney Tom Collins, Land Surveyor John Houwen, and Mr. James Holt with Evergreen Environmental, LLC, owner of EREH, LLC appeared before the Board.

Mr. Collins stated that the application was a simple lot line adjustment where the barn on the adjacent lot would become part of the house as it would be on the same lot, known as Lot 8.11. Lot 8.11 would be 2.54 acres. Proposed Lot 8.12 will contain 13.37 acres and will be subject to a conservation easement granted to the NJDEP pursuant to NJDEP regulations for a wetlands mitigation program, and shall be restricted from development.

Native species, red maples and cedars will be planted. There will be no business whatsoever. This project is part of the Tennessee Gas Pipeline mitigation program where land was disturbed elsewhere in the Township and they in turn preserve land in another location within the Township.

Mr. Pellow's report with last revision dated July 19, 2011 was reviewed. Item 4 on Page 2 referred to the wetlands buffer which had not been shown on the map. Mr. Collins stated that the buffer would not be determined until the approval of the mitigation plan and the stream running through the lot was a C1 stream, which is the highest level of qualification and could determine a 150 ft. buffer. The professionals indicated that the work being done would not change the existing wetlands conditions. Mr. Collins added that the buffer would be at least 50 ft and more likely 150 ft for wetlands, 350 ft. for riparian. Mr. Collins stated that the application was for the single family house and the barn to remain where they were at present and that no additional disturbance would occur. Mr. Pellow indicated that at some point in time there would have to be revised maps indicating what the buffer was. It was discussed that would be a condition of approval. Item 5 of the report discussed the variances that were needed: Minimum lot size for the house lot, 2.54 acres and side yard of 38.78 ft where 40 ft was required. Mr. Collins stated that this was an existing condition. Item 7 on Page 3, County Planning Board approval was needed. Mr. Collins indicated that an application had been filed with the County Planning Board. Item 8, with the combined lot, the barns are considered accessory structures. Item 9 on Page 4, the barn is an existing condition, and the front yard cannot be closer than the front yard of the existing dwelling, which is 40.51 ft., and the barn is 20.13 ft from the front yard setback, but it is existing. Item 10, no accessory buildings are permitted in the front yard, but it is an existing condition. The smaller barn which is in poor condition and falling down was discussed. The professionals indicated that the barn was being taken down. No Road Trust Funds will be required and COAH requirements will not apply. For Item 15, it was discussed that the conservation easement prohibits grazing of horses, so horses, if any, will be grazed on the new lot, Lot 8.11. For Item 16, it was discussed that the pump house on Lot 8.12 would be taken down and if someone wanted to supply water to the barn in the future, they could bring it over from the house.

Mr. Horace Hickey (Glenn, help please...was that the correct name?), adjacent property owner, questioned the lot sizes. He was concerned with the house lot being less than 5 acres. It was explained to him that the house lot was being increased in size and that it did not have to be 5 acres since the existing lot size is being improved to a larger lot. The larger lot was being preserved as part of the Tennessee Gas Line mitigation program. Mr. Raymond Shone asked about where the gas line was going to be built. It was explained to him that the gas line had already been built elsewhere in town and as a result property would be preserved somewhere else by the pipeline company. Mr. James Holt of Evergreen Environmental, LLC explained that his company will plant approximately 8 acres of that large piece and that the DEP will become the grantee under the conservation easement and that eventually the property will be donated to a non-profit or a public entity. Mr. Alan Gober, owner of Lot 8.01, had an issue with the existing fence belonging to the prior owner. He had allowed the fence to be on his side of the stream, thereby restricting his access to the stream. He wanted it to be on record that that permission to put the fence on his property was not extended to the new owner and he just wanted to make sure that the property lines were delineated correctly. The applicant and his professionals asked Mr. Gober to identify his property on the map and to give them his contact information so that they can in turn communicate to obtain Mr. Gober's permission to go on his property to remove the fence. Mr. Gober also

wanted to know if there was an easement going through his property. It was explained to him that if it was not mentioned by his surveyor then most likely there was none.

There were no other members of the public wishing to come forward on this application. The meeting was closed to the public and opened to the Board. Ms. Kolicko explained that gas line had already been installed along Lower Unionville Road and that the member of the public did not need to be concerned about it going near his property. Mr. DeBoer believed that this application seemed a little confusing and that the Board had not heard anything on this before and that the Board should probably set up a site walk. Ms. Gill stated that with a barn that size there should at least be a farmette. Mr. Cecchini stated that they were dealing with preexisting conditions and that they were making a bad situation better by increasing the lot size. Mr. Collins stated that if the application was not approved then it would stay as is and that nothing would happen with the large lot as there was a deed restriction for the wetlands preservation and that it would be better that a homeowner would be taking care of the barn.

Mr. Smith stated that the motion would involved conditions subject to the wetlands delineations being revised (Item 4, Page 2), County Planning Board approval (Item 7, Page 3), the fence along the stream, the small barn, and the pump house to be removed by the applicant.

Mr. Cecchini made a motion seconded by Mr. Grau to approve this application subject to Mr. Pellow's report and subject to the items mention above. Mr. Kienz pointed out that this subdivision could not be perfected until the applicant had County Planning Board approval and the applicant resolved the wetlands delineation issue. He also stated that the resolution would not be memorialized until the September 27 meeting since there would be no meeting in August. Therefore, the clock would start running in September toward the 190 days. The applicant stated that the issues pending would absolutely be resolved during that time.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Stefanelli, Smith.

THOSE OPPOSED: Gill. MOTION CARRIED.

### **L-11-06 CHRISTIAN LEONE PROPERTIES I, LLC**

The applicant is proposing to create a 5-acre lot be known as Lot 4.01, leaving a remainder of 116.02 acres. The property is known as Block 26, Lot 4 and is located on Old Route 84 in the RE-5 zone.

Attorney Michael Gaus and Engineer Ken Dykstra appeared before the Board on behalf of the applicant.

Mr. Gaus stated that this application directly or indirectly affects three separate parcels. The main part of the application deals with Block 26, Lot 4 which is located on Old Route 84, and is approximately 120 acres. The applicant is seeking to do a minor subdivision to carve out a 5-acre lot that would retain the existing two structures. The applicant is seeking to transfer to those two structures the two affordable housing units

that are dedicated on Lot 8 across route 284 that was part of a minor subdivision that was done several years ago. The two affordable housing units were placed there to comply with the obligation of another Leone subdivision that took place on Route 565. Lot 8 backs up to the Walkill Refuge. There are significant amount of wetlands even though there were buildable uplands for the three units. Since that time the applicant has been in extensive discussions with the U.S. Fish and Wildlife service and reached a tentative agreement to sell the entire 80-acre parcel to U.S. Fish and Wildlife and to have it included in the Walkill Refuge. Therefore, the applicant is looking to transfer the affordable housing units someplace else. The applicant has entered into a 1-year agreement with the government during which time the government will be allowed to decide whether or not they would like to go forward with the purchase and then the applicant will sell the entire tract and the entire 80 acres will become open space forever. The applicant is proposing to transfer the affordable housing units to the 5-acre lot they are proposing to carve out which is essentially across the road. There are a couple of variances that may be associated with that move although they deal with existing conditions but in that case it may be more appropriate to grant a variance in conjunction with it. There is also the potential for a D variance which the applicant noticed for. The applicant has applied for the interpretation. Mr. Gaus indicated that although they were two separate structures, they were serviced by a common septic system and that they had two separate wells. If the Board rules that they are two homes on one lot it may necessitate a D variance.

Mr. Kienz suggested to the Board that this was not a use variance as it was a preexisting condition.

Mr. Jeffrey Kuchta, an adjoining property owner, wondered about the requirements of the affordable housing structure. He stated that one was a house, the other one was a garage with an apartment over it. He questioned multiple housing units on smaller lots. He also added that the house was a wreck. A discussion followed regarding the condition of the units. Mr. Smith asked Mr. Kervatt if he had inspected the units. Mr. Kervatt stated that he had and that the apartment was ok and that the house was not. Ms. Kolicko asked for clarification as far as the transfer of the affordable housing units and the condition of the units.

Mr. Pellow had mentioned the need to have a site walk. Mr. Smith stated that a site walk was necessary as he believed it was very important not to create lots with buildings that were not designed properly.

A site walk was scheduled for Thursday, September 8, 2011 at 4:00 p.m. with an inspection of the units which Mr. Gaus would make arrangements for. The application was carried to the September 27, 2011 meeting, no further notice necessary.

The Board unanimously agreed.

### **L-11-07 WILLIAM HENSLEY HOLDINGS, LLC**

The applicant is proposing to subdivide 4.01 acres to be annexed to adjacent property. The property is known as Block 32, Lots 4.08 and 9 and is located on Mt. Salem Road in the R-5 zone.

The applicant did not show up for the hearing. The Board decided to carry this application to the October 25, 2011 meeting, provided the applicant grants the Board an extension to the meeting. In the event that the applicant does not wish to grant the extension, then Board will have no other option but to dismiss the application automatically without prejudice.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Stefanelli, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-11-08 GEOGENIX, LLC**

The applicant is proposing a ground mount 50.388 kw photovoltaic system on the Sussex Rural Electric property and to the rear of the property. The property is known as Block 116, Lot 20.01 and is located on Route 639 in the HC zone.

Attorney William Gold and Mr. Tom Tate of Sussex Rural Electric appeared before the Board.

Mr. Gold stated that the applicant intended to provide approximately 60% of the electrical needs of the building by way of the solar installation. Mr. Kienz indicated that a preliminary and final site plan would be needed. He suggested reviewing Mr. Pellow's report to go through all the details of the application and then, with approval from the Board, he would prepare the resolution for the September meeting so that it could be adopted at that meeting.

Mr. Pellow indicated in his report that a variance was needed as solar panels were accessory structures and needed site plan approval in the HC zone. Item 2 of the report referred to the solar panels located on two buildings on that lot. Mr. Pellow asked what the kw of each of those systems was. Mr. Tate stated that the total kw was 128 kw. Item 5 stated that wooded areas would need to be removed to construct the panels, stumps removed, and the area reshaped. There would be no overhead poles for this facility and it would all be underground. The size of the inverter to be detailed to the Board. The panels will be constructed with a 35 degree slope using ground screws. The panels will be 18 inches high in front and 9'-5" high at the rear. A soil erosion permit will be needed. Item 11 of the report stated that the panels would be slightly visible from Route 639, but they would be over 500 feet away.

Mr. Cecchini made a motion seconded by Mr. Grau to carry this application to the September 27, 2011 meeting and to authorize Mr. Kienz to prepare an anticipatory resolution for that date.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Stefanelli, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

### **L-11-09 BICSAK BROTHERS, LLC**

The applicant is proposing to remove an existing produce stand (400 sq.ft.) and replace it with a roll-off enclosed shed (455 sq.ft.) The property is known as Block 10, Lot 1.01 and is located on Route 23 and Blair Road in the PCD zone.

Attorney Tom Collins, Engineer Allen Campbell, and Terrance Bauman appeared before the Board.

Mr. Kienz stated that although the structure looked like a farmstand it was a retail business, which was a permitted use in the PCD zone and that the Zoning Officer was correct when he raised the issue of whether or not it was a permitted use. Mr. Kervatt stated that he had spoken with a couple of farmers and that they had indicated the property was not a farm anymore in which to sell produce. Mr. Collins indicated that after discussions with the subcommittee of the Land Use Board, the Board determined that the application had to be for a site plan since there was a new structure. He indicated there would be no new driveways, no new roadways, no significant change at all, there would be no change in the use. A variance for accessory structure would be needed as well.

Mr. Campbell made a brief presentation of the application. It was discussed that prior approvals went back to the 1960's. Mr. Grau stated that the photograph of the stand showed a door and asked if people had to enter that door and if the door would be open. A discussion followed regarding where the products offered for sale would be placed and how big the business area would be. Mr. Bauman stated that the structure at present has an overhang where they place the products and that with the new structure there would be tables placed outside and that these tables would take the place of the overhang with the same amount of space. Mr. Cecchini asked if the structure itself was to secure the products after business hours and Mr. Bauman stated that was the purpose in order to prevent vandalism as it had happened in the past. Ms. Kanapinski asked what was the size of the building, Mr. Bauman stated it was 30 x 14 and that it would be 1 and \_ stories. Ms. Kolicko asked where were the products were coming from, Mr. Terrance stated they would be coming from the same place where they had been coming from for years, Lantini Farms

Mr. Pellow's report was reviewed. It was discussed as per Item 5 on Page 4 that an existing Porta John behind the existing stand would be maintained by the applicant. Mr. Pellow indicated that the new farmstand would be located in the 300 ft. riparian zone, but no shrubs or trees needed to be removed so a permit was not required. A sign over the center of the white doors, with the name of the stand, will be added. The sign will be 2 x 6 ft. The access and parking areas will not change. The temporary County easements on

Blair Road are not related to this project. The hours and months of operation will be daylight hours from April 1<sup>st</sup> to December 24<sup>th</sup>.

There were no members of the public wishing to come forward on this application. The hearing was closed to the public and opened to the Board. Mr. Smith stated that Lantini Farms was a Sussex County farm. He asked if the products offered could be restricted to Sussex County farmers. It was discussed that products from this area would be encouraged. Mr. Collins stated that the whole idea was to support and promote the local economy. Mr. Kienz stated that Jersey fresh and local produce would be promoted. Mr. Smith added that he believed an as-built would be needed so that local officials can see everything is going to be located. Ms. Kolicko stated that she did not understand the purpose of putting up this nice structure and then placing bins outside. She asked why not have everything inside or have an open air farmstand like most of the ones around where the workers are set up inside and the products are set up outside. Mr. Bauman replied that the basis was that it was an improvement and that they were not pushing the envelope past what they had and that they were not asking for more than what everybody else had. They also wanted to have a basis in which to start. The existing stand was not a good condition because of the location and the existing building was falling apart. He added that if there was something else the Board would want like to make it look nice they could plant some shrubs, a couple of grasses or something similar. It was agreed the applicant would ask for up to 10 ft. overhang that would provide shade to the products so they would not have to sit there under the beating sun all day. Mr. Stefanelli stated that after 400 sq.ft. footings were needed and he suggested the applicant might want to keep it under 400 sq.ft. Ms. Kolicko asked when the new building would be in place, Mr. Bauman replied that it was planned within the next 30 days.

Mr. Slate made a motion seconded by Mr. Bono to grant minor site plan approval with a c variance, subject to Mr. Pellow's report and subject to the items discussed.

ROLL CALL VOTE:

THOSE IN FAVOR: Bono, Cecchini, DeBoer, Gaechter, Grau, Slate, Stefanelli, Gill, Smith.

THOSE OPPOSED: None. MOTION CARRIED.

The applicant asked for waiver of the resolution prior to building permit. The Board unanimously agreed.

## **GENERAL**

Mr. Kienz stated that we needed to request one more copy of the plans from the applicants when submitting new applications for him to review prior to the meeting.

Mr. Smith informed the Board that he reviewed the tapes of the prior testimony of 565 Land Dev. There were other members who had not reviewed the tapes.

Mr. Smith announced that he and Mr. Kevin Kervatt met with Franklin Sussex Auto Mall and the owner agreed to restore the parking area to the rear of the lot where parking had been extended to the gravel area. The owner will place a 2 ft. guardrail and he will be coming to the Board to comment on his work. The outbuildings are still being discussed. Mr. Smith and Mr. Pellow walked the property next door and Mr. Pellow sprayed all the corrections that were needed to the sidewalks for the development.

## **ADJOURNMENT**

On a motion duly made seconded and carried, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Stella Salazar  
Secretary