

VANCE COUNTY BOARD OF ADJUSTMENTS

The Vance County Board of Adjustments met at a regular and duly advertised meeting on October 15, 2015 at 4:00 p.m. in the Commissioners Meeting Room of the Vance County Administrative Building at 122 Young Street in Henderson, NC.

MEMBERS PRESENT

Thomas Shaw – Chairperson
Ruth Brummitt
Alvin Johnson, Jr.
Phyllis Stainback – Vice Chairperson

MEMBERS ABSENT

Agnes Harvin
Blake Haley

ALTERNATES ABSENT

Ruxton Bobbitt

STAFF PRESENT

Jordan McMillen, Planning Director
Jonathan Care, County Attorney

Chairperson Shaw called the meeting of the Board of Adjustment to order and asked for a review of the minutes from the September 10, 2015 meeting. Ms. Stainback made a motion to approve the minutes as presented. Ms. Brummitt seconded the motion. All present were in favor. VOTES: 4-0.

Chairperson Shaw introduced the first case explaining the order of business and gave an opportunity for board members to express any conflicts. Mr. Shaw declared the hearing opened for the following case: ***BOA CASE NO. 20151015-1; Robin Zinda (property owner); Sunlight Partners, LLC – Jordan Solar, LLC (Applicants) – Conditional Use Permit to allow a 5 MW Solar farm at 3876 Weldon’s Mill Road (Tax Parcel 0549 01015).***

Chairperson Shaw swore in witnesses. Witnesses sworn in include Mr. Jordan McMillen, Ms. Sarah Dagus, Mr. Michael Wallace, Mr. Tommy Cleveland, Mr. Richard Kirkland, Ms. Robin Zinda, and Mr. H. Dan Weldon. Mr. McMillen presented the staff report and reviewed the draft findings of facts as follows:

Description of Variance Request:

The applicant is requesting a conditional use permit to allow construction of a 5 MW solar farm under the use category of “Solar Energy System, Large Scale”.

Findings of Fact

1. The request is for a conditional use permit to allow a 5 MW solar farm on a parcel zoned (A-R) Agricultural Residential.
2. The property is owned by Robin Zinda.
3. The property is located at 3876 Weldon’s Mill Road or more specifically as tax parcel ID 0549-01015.
4. The property consists of 37 acres of which approximately 25 acres will be the array footprint.
5. The majority of the property is open with portions that have previously been cleared. The applicant plans to clear approximately 5 acres.
6. The application requesting a conditional use permit was filed on September 3, 2015.
7. The adjoining property owners were notified on September 25, 2015.
8. The property was posted on October 2, 2015.

Staff Comments

Mr. McMillen stated that this application was submitted prior to the newly amended solar farm regulations and therefore the previous regulations will apply.

Mr. McMillen summarized the staff comments as follows: The applicant is requesting a conditional use permit to construct a 5 MW solar farm. As proposed, the solar farm project area would be leased from the current property owner and would cover approximately 37 acres, of which 25 acres would be the array footprint. The site plan calls for an 8 ft. fence with 3 strands of barbed wire.

The property is mostly gentle and rolling in terrain and is predominantly open land with some woodland in the southwestern corner. The applicant does intend to clear approximately 5 acres of the woodland which would be located within the fenced area. There are no known streams or wetlands located on the property. A 25 foot planted buffer is proposed along all sides of the farm with the exception of the southwestern corner and a small portion in the Northeast which will utilize existing vegetation. The buffer planting is proposed to consist of a staggered, double row of evergreen shrubs which are expected to reach a minimum height of 8 feet and a minimum spread of 6 feet within 3 years of plantings. Additionally a row of 10 evergreen understory trees per 100 feet will be planted at a minimum height of 4 feet tall and a row of 5 evergreen canopy trees per 100 feet will be planted at a minimum height of 8 feet tall.

The majority of the area surrounding this property is zoned A-R (Agricultural Residential), however there are a few residentially-zoned and occupied properties on the opposite side of Weldon's Mill Road to the east. Additionally there appears to be residential structures directly south of the property as well. Within the property there is also an existing residential structure located near the proposed entrance. The applicant does not plan to remove the structure.

An NCDOT driveway permit, E-911 address, and NC DENR Erosion and Sedimentation Control permit have all been obtained and submitted to staff. The applicant has applied for the interconnection agreement with Duke Energy Progress. The point of interconnection to electric grid is shown on the site plan, which is in the southeastern portion of the property. All other electric lines will be underground beyond the interconnection point.

The solar panels will have no moving parts and will have a relatively low profile with a height of 12 feet (ordinance requires less than 25 feet).

Mr. McMillen reminded the board that typically they have required a 30 foot buffer and the current submittal only includes a 25 foot buffer. Additionally he mentioned that the site plan does not include a construction materials staging area and recommended the board clarify that all materials, vehicles, and activity will be outside of the right-of-way. Lastly Mr. McMillen recommended that the board require submittal of an interconnection agreement prior to releasing the conditional use permit.

Ms. Stainback questioned why both Sunlight Partners, LLC and Jordan Solar, LLC are represented as the applicant. Mr. McMillen responded that Jordan Solar, LLC will be the operating entity of the solar farm while Sunlight Partners is the parent company for purposes of going through the conditional use permit process.

THOSE SPEAKING FOR THE REQUEST

Sarah Negus – Tuggle Duggings Attorneys at law, 100 N. Greene St., Ste. 600, Greensboro, NC 27401 - (Attorney representing Applicant) – Ms. Negus presented a packet of information and requested that it be included as evidence. She then provided a summary of the various items included within the information.

Michael Wallace – Sunlight Partners, 27 Pearl Street, Portland, ME - (applicant). Mr. Wallace clarified the relationship between Sunlight Partners and Jordan Solar explaining that Sunlight Partners manages many solar farms, however Jordan Solar would be the official owner and operator of the solar farm. Mr. Wallace reviewed the site plan and acknowledged that a 30 foot buffer as well as the species of the trees is acceptable and would be accepted as a condition. He mentioned that noise will not be a concern with the farm and reviewed specific decibel levels expected from a study that has been completed. He also reiterated that all electric will be underground from the interconnection point. He believes that the interconnection agreement will be approved towards the end of November with construction to take place in early 2016.

Ms. Brummitt questioned where the storage and laydown area would be for equipment and materials. Mr. Wallace responded that this would be outside of the right-of-way, but located towards the front of the property. He mentioned that the construction process would start on the back or western end of the property and work towards the front of the property.

Tommy Cleveland – 4141 Laurel Hills, Raleigh NC - (Engineer/solar expert on behalf of applicant). Mr. Cleveland addressed the board and explained his background as an engineer in NC as well as his experience working at the North Carolina Community Technology Center – previously known as the NC Solar Center at NC State University for 10 years. He reviewed the presentation and photos which were included in the evidence packet distributed by Ms. Negus. He reviewed the materials which make up solar panels and mentioned that the panel as a whole is non-toxic. He mentioned further that there are very small solder joints which are made up of lead, however because of the very small quantity; the US EPA does not consider this to be toxic. He explained that the posts for the panels are driven into the ground and are not secured with concrete. This allows the posts and equipment to be removed very easily at the end of the panel life as well. He mentioned that the panels come with a 25 year warranty stating that the panels will produce at 85% efficiency after 25 years. He summarized by saying that in his professional opinion he does not believe there are any health or safety concerns from this system in this location.

Ms. Stainback questioned whether solar farms will be leasing after December 31, 2015. Mr. Wallace responded saying that they do intend to stay with the solar farm after 2015. He mentioned that they are not tied to the state tax credit as their company works with the federal ITC credit of 30% which sunsets at the end of 2016. Mr. Wallace mentioned that the price of developing solar farms and producing electricity has significantly decreased over the last few years allowing the technology to be sustainable long term without the tax credits.

Ms. Brummitt questioned who would be responsible for removing the solar farm at the end of its life. Mr. Wallace responded that they do have a decommissioning plan as a part of their lease with the property owner which will require the solar farm operator/owner to decommission and remove the solar farm at the end of its life. He mentioned that they have produced a study showing that the salvage value is greater than the cost of removing the panels.

Richard Kirkland - (State Certified General Appraiser and MAI Appraiser). Mr. Kirkland summarized his experience with completing appraisals and provided a summary of match pair analysis he has completed for property abutting or near solar farms. He provided a specific example from a solar farm in Goldsboro which was built next to a subdivision with homes being sold before and after the solar farm was in place. He reviewed his analysis finding that the prices were not affected by the presence of the solar farm. He concluded his remarks by stating that in his professional opinion he did not believe the solar farm in this location will have a negative impact on surrounding property values and that it is a harmonious use.

Robin Zinda (property owner) addressed the board and expressed her support for the project to allow the farm to stay within the family. She mentioned that the solar farm will not create any noise or pollution or traffic within the area. She mentioned that she is committed to the future of the property.

Ms. Degus concluded by reviewing the conditional use checklist and stated that they believe all of the conditions have been met through the testimony. She requested that the board grant the request for the conditional use permit.

OTHER INTERESTED INDIVIDUALS OR THOSE SPEAKING AGAINST THE REQUEST

Hill Dan Weldon (adjoining property owner) addressed the board and asked Mr. Kirkland the number of house that have been studied adjacent to solar farms and questioned the relative square footage of those homes.

Mr. Kirkland responded to Mr. Weldon's question by stating that a total of 10 properties were studied adjacent to the Goldsboro solar farm with 6 of those selling after the solar farm was constructed. He stated that the average square footage of the homes approximately 3,400 square feet.

BOARD DISCUSSION

Mr. Shaw went through the conditional use permit check-list with the board and entertained a motion.

DECISION: Mr. Johnson made a motion to approve findings of facts as presented and to approve the conditional use permit subject to the following conditions: (1) revision of the buffer to 30 feet wide (2) submittal of an executed interconnection report (3) Ensure that the buffer plantings are evergreen species within the County's USDA hardiness zone (4) All materials, construction equipment and vehicles are to be located outside of the right-of-way. Ms. Brummitt seconded the motion. VOTES: 4-0.

Chairperson Shaw introduced the next case explaining the order of business and gave an opportunity for board members to express any conflicts. Mr. Shaw declared the hearing opened for the following case:

BOA CASE NO. 20151015-2; Cindy Reavis (property owner); Sunlight Partners, LLC – Blue Bird Solar, LLC (Applicants) – Conditional Use Permit to allow a 5 MW Solar farm at 1134 Mabry Mill Road (Tax Parcel 0609 02003).

Chairperson Shaw swore in witnesses. Witnesses sworn in include Mr. Jordan McMillen, Ms. Sarah Dagus, Mr. Michael Wallace, Mr. Tommy Cleveland, Mr. Richard Kirkland, Mr. Robert Minish, and Ms. Judy Jakeway. Mr. McMillen presented the staff report and reviewed the draft findings of facts as follows:

Description of Variance Request:

The applicant is requesting a conditional use permit to allow construction of a 5 MW solar farm under the use category of "Solar Energy System, Large Scale".

Findings of Fact

1. The request is for a conditional use permit to allow a 5 MW solar farm on a parcel zoned (A-R) Agricultural Residential.
2. The property is owned by Cindy Reavis.
3. The property is located at 1134 Mabry Mill Road or more specifically as tax parcel ID 0609 02003.
4. The property consists of 49 acres of which approximately 27 acres will be the array footprint.
5. The majority of the property is wooded with approximately 10 acres of open land. The applicant plans to clear approximately 17 acres.
6. The application requesting a conditional use permit was filed on September 3, 2015.
7. The adjoining property owners were notified on September 25, 2015
8. The property was posted on October 2, 2015.

Staff Comments

Mr. McMillen stated that this application was submitted prior to the newly amended solar farm regulations and therefore the previous regulations will apply.

Mr. McMillen mentioned that the applicant is requesting a conditional use permit to construct a 5 MW solar farm. As proposed, the solar farm project area would be leased from the current property owner and would cover approximately 49 acres, of which 27 acres would be the array footprint. The site plan calls for an 8 ft. fence with 3 strands of barbed wire.

The property is mostly wooded with approximately 10 acres of open land and slopes generally from northeast to southwest. The applicant plans to clear 17 acres of woodland within the fenced area. There are no known streams or wetlands located on the property. For the most part the buffer will consist of existing vegetation surrounding the entire farm and will be supplemented in small portions of the front

(east side) and northern side as needed with a 25 foot planted buffer. When needed, the buffer will consist of a staggered, double row of evergreen shrubs which are expected to reach a minimum height of 8 feet and a minimum spread of 6 feet within 3 years of plantings. Additionally a row of 10 evergreen understory trees per 100 feet will be planted at a minimum height of 4 feet tall and a row of 5 evergreen canopy trees per 100 feet will be planted at a minimum height of 8 feet tall.

The property is adjacent to Interstate 85 and as proposed the fence would be approximately 250 feet from the right-of-way for I-85. According to the submitted justification, the property appraiser has mentioned that the proposed solar farm will not be visible. Overall, this area is predominantly zoned A-R (Agricultural Residential) with a residentially zoned parcel across Mabry Mill Road to the northwest. No existing residential structures are on the property with 1 residential structure bordering the property to the north.

An NCDOT driveway permit, E-911 address, and NC DENR Erosion and Sedimentation Control permit have all been obtained and submitted to staff. The applicant has applied for the interconnection agreement with Duke Energy Progress. The point of interconnection to electric grid is shown on the site plan, which is on the front or Northeastern side of the property. All other electric lines will be underground beyond the interconnection point.

The solar panels will have no moving parts and will have a relatively low profile with a height of 12 feet (ordinance requires less than 25 feet).

Mr. McMillen reminded the board that typically they have required a 30 foot buffer and the current submittal only includes a 25 foot buffer. Additionally he mentioned that the site plan does not include a construction materials staging area and recommended the board clarify that all materials, vehicles, and activity will be outside of the right-of-way. Lastly Mr. McMillen recommended that the board require submittal of an interconnection agreement prior to releasing the conditional use permit.

THOSE SPEAKING FOR THE REQUEST

Sarah Negus – Tuggle Duggings Attorney at law, 100 N. Greene St., Ste. 600, Greensboro, NC 27401 - (Attorney representing Applicant) – Ms. Negus presented a packet of information and requested that it be included as evidence. She then provided a brief summary of the various items included within the information.

Michael Wallace – Sunlight Partners, 27 Pearl Street, Portland, ME - (applicant) addressed the board and provided a summary of the site plan. He stated that they are willing to work with staff to ensure the evergreen buffer is adequate.

Ms. Brummitt questioned why the staggered vegetation is different and less than what provided on the Jordan Solar farm previously. Mr. Wallace mentioned that the majority of this site will be using existing vegetation and that planted buffers will only be used in a very limited area. As a result of this the planted buffer does not need to be as intense as the other solar farm.

Tommy Cleveland – 4141 Laurel Hills, Raleigh NC - (Engineer/solar expert on behalf of applicant) addressed the board and stated that in his professional opinion he does not believe there are any health or safety concerns from this system in this location.

Richard Kirkland (State Certified General Appraiser and MAI Appraiser) addressed the board and stated that in his professional opinion he did not believe the solar farm in this location will have a negative impact on surrounding property values and that it is a harmonious use. He stated that the nearest home is approximately 280 feet to this solar farm and the majority of his analysis across North Carolina have homes within 100 to 150 feet from the solar farms.

Ms. Degus concluded by reviewing the conditional use checklist and stated that they believe all of the conditions have been met through the testimony. She requested that the board grant the request for the conditional use permit.

OTHER INTERESTED INDIVIDUALS OR THOSE SPEAKING AGAINST THE REQUEST

Robert Minnish –(400 Mabry Mill Road, Henderson, NC) addressed the board and stated he was not opposed, but did have a few concerns with the solar farm. He questioned whether the property was within the Anderson Creek Watershed and whether the run off from the panels has been considered. He stated that erosion and runoff has been an issue in this area and particularly from the subject property. He also stated a desire to keep the wildlife abundant and unaffected within this area.

Mr. Wallace responded to Mr. Minnish by stating that an erosion and sedimentation control plan has been created and approval has been given by NCDENR. Mr. McMillen responded that he was unsure if this property was located within the Anderson Creek Watershed, however this should have not additional bearing on the solar farm as the solar panels would not be considered impervious surface.

Judy Jakeway (neighboring property owner) addressed the board and expressed a concern for the wildlife. She questioned whether the panels generate heat which could impact birds, butterflies, bats and other animals. Mr. Cleveland responded to Ms. Jakeway by stating that the panels do not generate heat, and are a passive type of collection technology. He mentioned that other technologies which use mirrors in the desert southwest do create heat; however the technology in this location will not have heat impacts.

BOARD DISCUSSION

Mr. Shaw went through the conditional use permit check-list with the board and entertained a motion.

DECISION: Ms. Brummitt made a motion to approve findings of facts as presented and to approve the conditional use permit subject to the following conditions: (1) revision of the buffer to 30 feet wide (2) submittal of an executed interconnection report (3) Ensure that the buffer plantings are evergreen species within the County’s USDA hardiness zone (4) All materials, construction equipment and vehicles are to be located outside of the right-of-way. Ms. Stainback seconded the motion. VOTES: 4-0.

ADJOURNMENT: There being no further business, Chair Shaw declared the meeting adjourned.