

VANCE COUNTY BOARD OF ADJUSTMENTS

The Vance County Board of Adjustments met at a regular and duly advertised meeting on April 12, 2016 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
Phyllis Stainback – Vice Chairperson
Agnes Harvin
Ruth Brummitt

ALTERNATES PRESENT

Ruxton Bobbitt

STAFF PRESENT

Jordan McMillen, Planning Director
Amy Sandidge, Planner

MEMBERS ABSENT

Blake Haley
Alvin Johnson, Jr.

Chairperson Shaw called the meeting of the Board of Adjustment to order and asked for a review of the minutes from the March 10, 2016 meeting. Mr. Bobbitt made a motion to approve the minutes, Ms. Harvin seconded the motion. All present were in favor. VOTES: 5-0.

Chairperson Shaw introduced the first case. Mr. Shaw then explained 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 20160414-01; Spain and Lombard (property owners); Spring Valley farm 2, LLC (Applicant) – Conditional Use Permit to allow a 5 MW solar farm at 3186 NC Hwy 39 North (Tax Parcels 0201 02027, 0201 02015, 0201 02016).

Description of Conditional Use Permit 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”.

DRAFT Findings of Fact

1. The request is for a conditional use permit to allow a 5 MW solar farm on 3 parcels zoned (A-R) Agricultural Residential.
2. The Board of Commissioners approved a rezoning on December 7, 2015 for all 3 parcels from low density residential (R-30) to agricultural residential (AR).
3. Two of the parcels (tax parcels 0201 02015 & 0201 02027) are owned by Edward and Donna Spain and the third parcel (0201 02016) is owned by Alexander Lombard, III and Ronda Lombard Moore.
4. The solar farm would have a main access point from NC 39 Hwy North into parcel 0201 02016 and has been assigned an address of 3186 NC Hwy 39 N, just north of Julia Street.
5. The 3 parcels consist of 109 acres with the solar farm area consisting of approximately 59 acres.
6. The applicants will be combining the two parcels owned by the Spain’s; a copy of this plat is included and will be recorded if the CUP is approved.
7. The application requesting a conditional use permit was filed on February 12, 2016.
8. The adjoining property owners were notified on March 24, 2016.
9. The property was posted on March 30, 2016.

Chairperson Shaw swore in witnesses. Witnesses sworn in include Mr. Jordan McMillen, Ms Beth Trahos, Mr. Tommy Cleveland, Mr Sam Judd, Jim Halley, Tom Hester.

Staff Comments:

Mr. McMillen presented the staff report. He stated the property was rezoned to AR in December 2015 to allow for a solar farm. He noted that the property was comprised of three separate parcels with two

different owners and the two parcels owned by the Spain's would be recombined into one parcel and that recordation of that plat should be a condition of approval. He also mentioned that the applicant was requesting the buffers be reduced at the lot line from 50' to 10'. Mr. McMillen detailed to the Board that the ordinance allows them to reduce but not dismiss the buffer setback requirements. He continued to describe the planned buffer along the perimeter of the site and told the Board that the buffer would meet the ordinance requirements by creating an evergreen opaque screen that was a minimum of eight feet tall at the three year point. Mr. McMillen indicated that construction staging areas were shown on the site plan but he does recommend the Board make it a condition of approval that no construction vehicles or activity take place within the right of way. He then mentioned that the project had a proposed fire access road and that while it was being shown it would need to meet the approval of the fire department and that the road meeting the fire code requirements should be a condition of approval as well.

Ms. Harvin asked about the buffer inspections and Mr. McMillen indicated that the buffer would be maintained over the life of the farm but we would inspect it to verify it met the requirements at the three year time frame. Mr. Bobbitt asked about the environmental impacts to this site and if the county needed to address the issue; Mr. McMillen stated that the state review should have taken care of all issues and that the site plan did indicate that there was considerable setbacks from the existing streams. Mr. McMillen added that silt fencing and runoff would be managed. Mr. Shaw asked how the dirt road for fire access would be maintained and Mr. McMillen stated those details would be managed by the fire code/marshall. Ms. Stainback question the decommissioning plan and staff informed her that the entire document was submitted but was lengthy and the staff packet only showed the first page and the signature pages to show that it had been provided to the county and was sufficient.

THOSE SPEAKING FOR THE REQUEST

Ms. Beth Trahos (Smith Moorehead & Leatherwood) spoke on behalf of Strata Solar. Ms. Trahos explained that she had conducted a neighborhood meeting at the public library and only one neighbor had attended. She stated that she had provided a handout with specifics about the proposed solar farm. Mr. Shaw accepted the handout into evidence. She discussed the interior setbacks and requested the reduction be approved. Mr. Jim Halley, PE with Strata Solar offered professional testimony regarding this site and how it would be developed. He stated he had designed the site plan and that he felt it was in compliance with Vance County ordinances and that the site would promote the public health, safety and general welfare of the surrounding area. Mr. Bobbitt asked if the soil erosion plan had been approved and Mr. Halley stated it had been. And he also stated that inspections by the NCDEQ would occur on a random basis. Mr. Halley then explained the location of the parking and laydown area and that some trees would be coming out of that defined area. Ms. Harvin asked what materials would be used to fill in this area once the construction was completed and Mr. Halley stated that grass would be planted and maintained to limit the shading of the arrays. Mr. Halley further explained that the south side of the farm would be maintained more than the north side because the north could be allowed to grow up a little more without shading the arrays. He continued to describe the process of planting grass on the site and he said that Strata had a crew that was dedicated to this issue that would manage the site. Ms. Trahos added that all buffers met the county requirements and that the environmental areas identified by county, state, and federal agencies were being honored. Real Estate Appraiser Tom Hester spoke to the Board and provided an impact analysis and indicated in his professional opinion the project would not negatively impact the surrounding areas. Tommy Cleveland, PE stated that the technology being used at this site would not produce emissions and the technology would not create any health or safety issues. Ms. Trahos closed the testimony asking for the reduced setbacks on the interior property lines and that the Board approve the request.

Ms. Harvin asked about the term of the lease. Mr. Sam Judd stated it was a twenty year lease with two five year options. Mr. Bobbitt asked if the extension would ever be used and Mr. Judd said yes and that the equipment had a twenty year warranty and should be able to extend to the terms of the lease. Mr. Bobbitt asked why there had to be any internal setbacks on the project and Mr. Care stated it was because there were two separate property owners.

Ms. Harvin asked that the term of the lease be added; Mr. Care indicated that the permit was not for a set time but for the property to allow the use. Ms. Trahos explained the decommissioning would occur once the solar farm was no longer functioning. Mr. McMillen noted that the ordinance does require notification to the county once the farm is no longer operating.

OTHER INTERESTED INDIVIDUALS OR THOSE SPEAKING AGAINST THE REQUEST

None.

BOARD DISCUSSION

The Board went through the Conditional Use Permit check list.

Mr. Bobbitt recommended approval with the conditions to include the Draft Findings of Fact, submittal of the executed interconnection agreement, to allow the setback to be reduced to ten feet along the Spain/Lombard property lines, all construction vehicle be prohibited from the right of way, and the fire access road meet the standards of the fire code and the recombination plat be recorded.

Ms. Harvin seconded the motion. Motion passed 5-0.

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