



SOMERSET COUNTY
BOARD OF ZONING APPEAL MEETING MINUTES
APRIL 5, 2019

The following are the minutes of the Somerset County Board of Zoning Appeals meeting held on the 5th day of April 2019 at 7:30PM in the meeting room of the Somerset County Commissioners, Room 111, in the Somerset County Office Complex, 11916 Somerset Avenue, Princess Anne, Maryland.

Board Members Present:

Chairman Brian Laird
Isaac Ballard
William Cottman
Donald Price
Andrew Baines
Paul Emely

Planning and Zoning Staff Present:

Gary R. Pusey, Director DTCS
Kristen Tremblay, Assistant Director
Robert Sperry, Zoning Administrator
Adam Gibson, Planner
Ashley Webster, Administrative Assistant

Chairman Laird Opened the Meeting at 7:30 P.M.

Subject of Appeal: Special Exception 19-2498, Flonium Power LLC, Sami Ayyorgun on behalf of: Ned and Eileen Dykes

Flonium Power LLC of Fairfax, VA, has applied for a Special Exception on property owned by Ned and Eileen Dykes of Princess Anne, MD, for the placement of a solar array on a lot located on the north side of West Post Office Road, approximately two thousand fifty (2,050) feet west of Pete's Hill Road in the East Princess Anne Election District. The property can be located on Tax Map #11, Block #21, Parcel #27 and is zoned Agricultural-Residential (AR). Applicants are requesting a Special Exception to construct a ground mounted solar panel project on an 18.67-acre parcel. Section 7.8.b of the Somerset County Zoning Ordinance states if a use is not permitted by right or by Special Exception in any district under Section 5.2, the use is prohibited, except that the Board of Zoning Appeals may permit such use as a Special Exception, if applicant proves to the satisfaction of the Board that all required conditions referenced in this section can be met.

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Testimony:

The case advertisement was read into the record. The Board determined the exact location of the parcel. Mr. Hugh Cropper, attorney for Mr. Sami Ayyorgun came forward and was sworn in. Mr. Cropper explained the property was a 18.67 acre parcel that his client planned to place a solar array which would be completed in two (2) phases each being 2MW each for a total of 4MW. The modules would have a ground cover of 11 ½', with groups of 12 (39"x78") modules making them thirteen 13 feet across. In between each group, there would be a 19-foot space so a vehicle could fit in between them. Mr. Cropper also explained that the panels will range from 8 1/2' – 10 ½' in height will not be over 11' above grade. There will be 13,500 of the 39"x78" modules plugged in. Mr. Cropper went on to explain that the panels have a 25-year warranty. The panels are made to withstand any weather condition and have a non-glare glass.

Mr. Cropper then enter two exhibits into the record.

[Exhibit 1: Staff Report](#)

[Exhibit 2: Site Plan](#)

Mr. Chris McCabe of Fruitland MD was sworn in. Mr. McCabe has an Environmental Consulting Management Company. Mr. Cropper asked Mr. McCabe is has been involved with any other solar projects before. Mr. McCabe stated that he had been involved and is currently involved in the WBOC 1.2 MW project, The Gateway Solar project near Ocean City and many others. Mr. McCabe stated that he helped prepare the site plan (Exhibit 2). Mr. Cropper asked if Mr. McCabe had reviewed the Somerset County Zoning Code and the Staff Report (Exhibit 1), he stated that he had reviewed both of those documents. Mr. McCabe explained that since the modules would not move that they could be monitored remotely and would just need an onsite check about once a month. Mr. Cropper asked Mr. McCabe is he would agree that this solar array would be less intensive or have less of an impact than permitted uses, Mr. McCabe agreed.

Mr. Cropper entered two more exhibits into the record:

[Exhibit 3: BZA application SE-17-2486 Ultra Solar and Wind](#)

[Exhibit 4: BZA application SE-11-2435 Castlebridge Group LLC](#)

Mr. Cropper asked Mr. McCabe if these properties were zoned AR, Mr. McCabe agreed. Mr. Cropper explained that these solar arrays were similar to this application and met the standard for a Special Exception and would be similar or less intensive. The board granted both of these Special Exceptions.

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Mr. Cropper asked Mr. McCabe in your opinion have we met the four (4) Special criteria under section 7.8 B to qualify for Special Exception approval, Mr. McCabe agreed.

Mr. Andy Wilkins of Princess Anne MD was sworn in. Mr. Wilkins stated that he was a Land Surveyor/ Civil Engineer. Mr. Wilkins surveyed the 18.67-acre parcel as well as preparing the boundary line for the site plan. Mr. Cropper asked if Mr. Wilkins had any experience with solar projects, Mr. Wilkins explained that he was involved with the WBOC project and the solar project, which is located on Backbone Rd.

Mr. Cropper entered in another exhibit:

Exhibit 5: Email from Gary Pusey

Mr. Cropper described exhibit 5 as an email from Gary Pusey providing setbacks of 50 feet along W. Post Office Rd and 25 feet along the sides of the property. Mr. Cropper asked Mr. Wilkins if the site planes met those requirements: Mr. Wilkins agreed. Mr. Wilkins was asked based on the 13 conditions of approval the Planning and Zoning has submitted in the staff report, as the land surveyor do you feel you could meet these conditions, Mr. Wilkins agreed he could.

Mr. Bill McCain of Salisbury MD was sworn in. Mr. McCain stated he owns a Real Estate Firm and has been in business for 31 years. Mr. McCain continued by advising the Board that he has worked with multiple solar projects and further advised the Board that based on his many years of experience solar arrays would not affect neighboring property values.

Mr. Sean Millot of Leesburg VA was sworn in. Mr. Millot is the Civil Engineer for this project who prepared the site plan as well as the landscaping plan. Mr. Cropper asked Mr. Millot to describe the landscaping plan to the Board, Mr. Millot stated there would be rows of evergreens along W. Post Office Rd as well as a buffer along the sides.

Mr. Mark Odachowski of Ocean City MD was sworn in. Mr. Odachowski addressed the Board. Mr. Odachowski stated he would be to Electrician for this project and is projecting completion of 4-6 months weather permitting. Mr. Cropper asked Mr. Odachowski to explain to the Board how the project would run. Mr. Odachowski continued by advising the Board that the placement of silk fencing would be the first step for storm water management. Once that has been completed, they would place the project fencing up and then placement of the buffer would be placed. Mr. Odachowski then explained that the modules would be placed starting from the rear of the property working their way to the front.

Mr. David Dykes of West Post Office Rd was sworn in. Mr., Dykes owns and lives on the neighboring property and has for the last 19 years. Mr. Dykes explained that he has spoken multiple

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times with Mr. Ayyorgun and Mr. McCabe addressing his concerns with the projects. Mr. Dykes continued by advising the board while he understands his property is the closest to the site he is comfortable with this project and feels all of his concerns have been addressed by Mr. Ayyorgun and Mr. McCabe.

Mr. Kevin Miller of Westover was sworn in. Mr. Miller read his letter into the record.

[Exhibit 6:](#) Letter from Mr. Kevin Miller

Opposition:

Mr. Larry Thomas of Mitchell Rd Princess Anne MD was sworn in. Mr. Thomas has concerns with road conditions once the solar projects have been completed; he states some of the county roads have been left unfixed after some recent projects. Has concerns with where the electric from this solar array is going and that the county will not benefit from this project. Mr. Thomas has some concerns with the buffering and would like to see more information on the landscaping plan, such as height at the time of planting.

Ms. Chris Widdowson of West Post Office Rd Princess Anne MD was sworn in. Ms. Widdowson read her letter into the record.

[Exhibit 7:](#) Letter & Photos from Ms. Chris Widdowson

Mr. Joe Jackson of West Post Office Rd Princess Anne MD was sworn in. Mr. Jackson read his letter into the record.

[Exhibit 8:](#) Letter from Mr. Joe Jackson

Mrs. Kim Widdowson of West Post Office Rd Princess Anne MD was sworn in. Mrs. Widdowson read her letter into the record.

[Exhibit 9:](#) Letter from Mrs. Kim Widdowson

Mr. Frank Stone of West Post Office Rd Princess Anne MD was sworn in. Mr. Stone feels this solar project is of industrial use. Mr. Stone also states he has issues with the tax revenue, he feels that after a few years they would ask to have it reduced. Mr. Stone questioned the buffer and the amount of time it would take to hide the project with the buffer they have purposed.

Mr. Todd Widdowson of West Post Office Rd Princess Anne MD was sworn in. Mr. Widdowson read his letter into the record.

[Exhibit 10:](#) Letter from Mr. Todd Widdowson

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Mr. Rantz Purcell of Arden Station Rd Princess Anne MD was sworn in. Mr. Purcell states he has many concerns with road conditions, what this project do to the county rd. Mr. Purcell also has concerns with the use of this solar project, he feels that this is more of an industrial use and should be placed in the Princess Anne Industrial Park.

Mr. James Briddell of West Post Office Rd Princess Anne MD was sworn in. Mr. Briddell states his concerns are that this project with bring a risk of theft and people damaging the property. Mr. Briddell feels that this type of project is not a good fit for the neighborhood.

Rebuttal:

Mr. Cropper states that this is a zoning case and on a legal standard for a zoning case to authorize this use from a matter of zoning with respect to section 7.8B of the code. Mr. Cropper feels while the points the opposition has made is for the Planning Commission to handle. If the Board approves this, which he believes they have to by the law, then the plan would go to the Planning Commission for site plan review. In regards to the buffer, Mr. Cropper explains the plants would be 6-8 feet in height at the time of planting and the planting would be done before the start of construction. Mr. Cropper also addresses the concerns with the movement of the power line, he states that Choptank Power is moving the lines from the middle of field and they would be responsible for that cost. In regards to the surety bond Mr. Cropper explains there will be one in place to make sure the roads are not damaged, but he feels this is a matter for the Planning Commission not the Board of Zoning Appeals. Mr. Cropper advises the Board that as a matter of law they have met the legal standard as it is written in the code. Mr. Cropper asked the board to keep the record open so his team could submit a more detailed landscape plan and consult with a Landscape Architect.


Findings:

The Board agreed to keep the record open. Chairman Laird advised Mr. Cropper to contact the Planning and Zoning office once they have the landscape plan so a date could be set.

On a motion made by Chairman Laird and seconded by Mr. Ballard, the Board of Zoning Appeals voted to adjourn the meeting.

The meeting adjourned at 9:39 P.M.

Respectfully Submitted,


Brian Laird, Chairman/AW