

Chester County Zoning Board of Appeals
Minutes of January 12, 2021

The January 12, 2021 meeting of the Chester County Zoning Board of Appeals was held at 6:00 pm in council chambers at the R. Carlisle Roddey Government Building in Chester, SC.

Notice of Meeting: Notice of time, date, place and Agenda for this meeting were posted in the County Office Government Complex, Chester County Court House and published in the December 23, 2020 issue of the Chester News & Reporter. All properties listed on the agenda were properly posted.

Quorum Established: Chairman Walley, Commissioners Mosley, Thomas, Spann and McBrayer were present

Absent: Vice Chairman Jackson was absent without prior notification

Not Eligible to Vote: Commissioner Thomas was present; however, he has not completed both required training sessions, therefore he is not eligible to vote at this time

Staff: Director Mike Levister and Nicole Hutchins were present

County Attorney: Attorney Winters was present

Call to Order: Chairman Walley called the meeting to order

Welcome: Chairman Walley wanted to welcome the newest member, Scott Thomas and thank Attorney Winters for attending the meeting

Approval of Agenda: Chairman Walley asked if there were any additions or amendments to the Agenda as presented by staff. There were none. Commissioner McBrayer made the motion to approve the agenda as presented; seconded by Commissioner Hayes. Vote was 5-0 to approve.

Approval of Prior Minutes: Chairman Walley asked if there were any additions or amendments to the minutes of the September 10, 2019 meeting as presented by staff. There were none. Commissioner Mosley made the motion to approve the minutes as presented; seconded by Commissioner Hayes. Vote was 4 to 0 to approve. (Commissioner Spann was absent from the September 10, 2019 meeting)

New Business:

Reference: CCSE21-01

Applicant: Starbella LLC by Misty S Bell

Request: Chapter 5 Supplemental Regulations Article VI – Sexually Oriented Business

Location: 3019 Jeff Davis Page Dr, Richburg, SC 29729

Tax Map Number: 115-00-00-142-000

Brian McCoy, an attorney out of Rock Hill, 378 East Main Street Rock Hill SC 29730, stepped to the podium. Mr. McCoy stated he is here on behalf of Starbella LLC. My client is applying for the SOB license. (Sexually Orientated Business) She is renting from the Rovira's who operated a similar business there.

Chairman Walley asked when was this application applied for? Mr. McCoy asked when was it submitted? Director Levister said this application was submitted 9-17-2020. It took so long to get processed because of the legal issues

with Ms. Rovira. Attorney Winters stated the Rovira's have operated a Sexually Oriented Business at this location for several years. Y'all have put some restrictions on Ms. Rovira who has been operating eight to ten years. A long time, same location. She's ready to stop. She has family issues she needs to address rather than the business and so she and Mr. McCoy's client, Ms. Bell, entered into an agreement that Ms. Bell would lease the property. Operate the same business. This is not a new SOB. This is an existing SOB that's been operating for a number of years by Ms. Rovira that Ms. Bell is now stepping into operating. Mr. McCoy said and as you mentioned, under the same restrictions that she was under. Attorney Winters stated that Mr. McCoy isn't asking the commission to do anything other than what y'all did for Ms. Rovira other than to grant Ms. Bell the ability to run the business in the same location, under the same circumstances. Mr. McCoy said that's correct. Attorney Winters said that's a factual statement not trying to sway anybody anyway. Chairman Walley said so nothing is changing from the business other than they're leasing the building from the Rovira's. Mr. McCoy said that's correct. And my client has made substantial upgrades and improvements. Chairman Walley asked, the cabaret in there, where it mentions they are able to serve food, is that already in existence? Mr. McCoy said yes. That is my understanding, yes. Chairman Walley thanked Mr. McCoy for his time.

Chairman Walley asked if anyone had any questions. Commissioner Hayes asked if this was located on number nine, in Richburg. Commissioner McBrayer and Attorney Winters said in Richburg behind McDonalds. Chairman Walley said the only other thing he had was through 2019 and 2020, which they weren't in operation so much in 2020, the Sheriff's department had fifty-six calls out there. They do not provide security. These were mostly alarm calls in the wee hours of the morning. The club supplies their own security to handle the operations of what's going on there during the time that they're open. Chairman McBrayer said which he thinks he saw was it's open until 4:00 in the morning, Attorney Winters asked Director Levister if he remembered the restrictions they put on the Rovira's? She said I know they have to serve food; they have to have security. They have to abide by the fire marshals' restrictions. Director Levister said there is a time limit and day of operation. Commissioner Mosley asked if it's certain days of the week? Some are 24/7. Director Levister said it's not 24/7.

Misty Bell, the managing member of Starbella stepped to the podium. Chairman Walley asked Ms. Bell if she had any insight of the hours of operation. She said yes. We do offer full kitchen services all hours that we are open. We have met with the fire marshal. We have been fully certified, have our maximum capacity certificate issued. We have a full health inspection by that department as well. The hours of operation previously for them were on Friday and Saturday until 5:00. We do not want to conduct business later than any other bar. So, my hours with the state were Monday through Saturday from Noon until 2:00 AM. This is what I have approval from my alcohol license. My restaurant will be open until 2:00 AM as well. Commissioner McBrayer said so that's Monday through Saturday Noon until 2:00 AM. Ms. Bell said yes. Chairman Walley asked if anyone had any other questions for Ms. Bell. Commissioner McBrayer asked if that was along the lines of the last regulations. Attorney Winters said I don't think so. Ms. Winters said we granted the special exception on January 12, 2010. Hours of operation were 6:00 PM – 2:00 AM, Tuesday through Saturday. Closed Sunday and Monday. Onsite licensed are certified security person, metal detector at the door, need all state and county regulations. The fire code in 2010 was 183 people in the building, that may have changed I don't know. Ms. Bell said it has changed. Ms. Bell said the fire marshal listed it as 299 because we renovated everything inside making more usable space, chairs and tables in our dining room. Attorney Winter said food, that's not an issue because you're already doing this. Ms. Winters said so that's the hours that were imposed in 2010. 6:00 PM until 2:00 AM Monday through Saturday. Closed Sunday and Monday. Ms. Bell said she was wanting to open at Noon to serve lunch and dinner and have dayshift hours. Commissioner McBrayer said the difference would be Noon until 2:00 Monday through Saturday. Ms. Bell said correct. Director Levister said and an extra day. She was closed on Sunday and Monday. Commissioner Mosley said so this is an extra six hours a day and an extra day. Attorney Winters said you'd be

approving with the existing restrictions with the change to hours of operation from 12:00 to 2:00 AM and Monday through Saturday You would approve it with this change. Everything else would say the same.

Commissioner Walley asked if anyone had any other questions. Commissioner Hayes asked this business is already established, correct? Commissioner Wally said right.

Commissioner McBrayer said we need to put this in a form of a motion to discuss, right. Attorney Winters said you really should. Motion to approve. Motion to deny then you can engage in discussion. Commissioner McBrayer said for the sake of discussion, I make the motion to approve. Commissioner Mosley seconded the motion.

Commissioner McBrayer asked Ms. Winters if she remembered why the previous owners chose 6:00 PM? Ms. Winters said at the time, Ms. Rovira was operating the business she didn't have a lunch event, so she didn't need anything earlier. It was nothing more than that. Commissioner McBrayer said we're taking about an extra day, plus six additional hours a day more. Chairman Walley asked if there was any further discussion.

Commissioner McBrayer said this is just because of other things I've herd in other areas, nuisance things, that has nothing to do with us, nothing to do with what we decided tonight. That's up to the law enforcement and the owners/ operators of the business, Attorney Winters said Mr. McBrayer just to fill that in to, that was the reason why the commission required security because they were out there much more frequent than the numbers that you cited, The sheriff decided that he wasn't going to do that any longer. He was actually offering off duty security. He made the decision to not do that any longer. That's why the commission said you're going to have to have security, Commissioner McBrayer said I assume COVID had somewhat interfered with their business. Chairman Walley said yes. They were hardly open in 2020. Commissioner McBrayer said he did a drive by yesterday and there is a sign that says you must have a mask on. Commissioner Walley said law enforcement, the 56 calls are somewhat of a nuisance in itself. Attorney Winters said we have an ordinance that fines business for excessive alarm calls.

Commissioner Mosley withdrew her seconded and Commissioner McBrayer withdrew his motion to approve the special exception motion.

Commissioner McBrayer made a motion to approve the special exception for the SOB with the change in the hours from Noon to 2:00 AM Monday through Saturday and all other existing restrictions; seconded by Commissioner Mosley. Vote was 5-0 to approve.

Reference: CCSE21-02

Applicant: Chester PV1, LLC

Request: Chapter 5 Supplemental Regulations Article 5-700 Solar Farm

Location: Brown Rd, Chester SC 29706

Tax Map Number: 119-00-00-013-000

Mike Fox, an attorney representing the applicant in the next two cases stepped to the podium. He had with him representing the applicant on both solar farms, Philip Martin who is with Ecoplexus which is the developer of both of the solar farms. Philip will speak about each facility concerning the site, the size, the buffering and the locations. If you have questions about solar works, Phillip can address those as well. Or the company that's doing the development. Phillip will be happy to talk about that. Also, with me, I have Chris Sandifer. Chris is a licenses SC engineer. He will briefly talk to you about the safety of these facilities and how they do not impose harm to any humans, animals, the neighbors, the soil or any risk at all. He can also answer questions about how they connect into the grid and how the utilities view this. Finally, I have Rich Kirkland. Rich is a licenses MIA

appraiser. We've asked Rich to look at both of these solar facilities and offer a professional opinion that these facilities as built would harm the adjoining property values in anyway.

Mr. Martin stepped to the podium. He stated he is based out of Durham, North Carolina. We're an international company with the headquarters in Durham. We have offices in Dallas, San Francisco, Mexico City. We have a large pipeline of projects. We probably have twenty-five that are in operation in North Carolina. About fifteen in Minnesota. Six in California and then I'm currently working on about eight or nine in South Carolina. The first project is off of Brown Road. Its 39.6kw. It's about 240 used acres. We have a lease with that landowner for forty years. The utility is Duke Energy Carolinas. The parcel meets all the requirements for R2 zoning. We meet all the requirements for section 5-701. We have twenty-five-foot setbacks, fifty-foot setbacks from any streams or wetland features. Decommissioning plan that we will remove within in twelve months if it does not produce power. We've made sure that we have twenty-five-foot access roads for emergency services. We have eight-foot-tall deer buster fence with no barbed wire. It has openings for smaller animals to pass through. Deer can jump over and out without getting stuck without the barbed wire. We have two types of buffers, Type C being the residential buffer and type B the roadway buffer. There is only one home close to this location. It's over three hundred yards away. We have spoken with the landowner and he is very comfortable with this project.

Mr. Martin asked the commissioners if they had any questions. Commissioner McBrayer asked, it's the contractor's responsibility to dismantle, what happens if that contractor is no long around? Are there funds around? Is Chester County going to be stuck with a bunch of panels that's got to be done away with? Mr. Martin said the decommission plan will go to the owner of the project. That's the LLC. There's always a controlling entity in that. Even in our lease agreements, we are required, per our lease agreement to decompose. Commissioner McBrayer asked that's with the owner. Mr. Martin said yes. Commissioner McBrayer then asked about the home that's within three hundred feet, that person is comfortable with the project? Mr. Martin said yes, I talked to them earlier. Commissioner McBrayer then asked if this was in writing? Mr. martin said no, just verbal. Mr. Martin said the construction process for this project would be eight to nine months. Two to seven trucks a day during heavy construction which is generally three to four weeks. Then it's just individual workers connecting electronic equipment. Last year in taxes there was \$420 paid in taxes. There has been no agreement with economic development at this point for any type of FILOT or anything like that. The baseline for any project we've worked on in South Carolina has been \$3,500 per mw. That would net \$260,750 per year. \$5.2 million over the lifespan of the project. Chairman Walley asked where the main line would be connected. Mr. martin said there is a utility line that runs directly through this property. We will connect directly into that. Attorney Winters asked if Mr. Martin had spoken to economic development. Mr. Martin said yes, I have spoken to Robert. She then asked how many jobs will this create. Mr. Martin said long term jobs about three. Landscaping, and maintenance. In the short term, construction jobs, two hundred fifty to three hundred. Commissioner McBrayer then asked once Duke Energy buys this power, there's no adverse effect on anyone's power bill. Mr. Martin said that's a tricky question. This project has no adverse effect on your electric bill. What Duke Energy does with their rate cases is Duke Energy. They're required to purchase renewed energy projects. They have to have a certain quota they have to meet, but if Duke Energy wants to raise their rates, that's up to Duke Energy unfortunately. This project will not cause your bill to raise.

Chairman Walley asked if anyone had any other questions. Commissioner Hayes asked if the meeting we had last year was a different company. Commissioner Walley said yes. Commissioner Walley thanked Mr. Martin.

Chris Sandifer, engineer and North Carolina electrical contractor, and farmer stepped to the podium. He stated he has one hundred acres currently under panel. And I serve on The National County Planning Board. We've approved thirty-seven utility scale solar farms to date. The county commissioners also approved those. I worked

for Duke for thirty years. I live in North Carolina. I grew up in South Carolina. I went to Clemson. Graduated electrical engineer from there. The technology we're using is very common. It's over 7,000 mw already connected in North Carolina. The panels we will be putting in is monocrystalline panels, which is made out of sand. When the sunlight hits the panels, it knocks off electrons and produces a DC current, the same as like the battery in your car. The technology is well over fifty years and with the 7000 mw in North Carolina, there is no documentation for any cause of concern for health and safety. There is minimal earth disturbance. Very quiet. You will not be able to hear anything. No electro-matic radiation. No harmful chemicals. Nothing in the panels that can leak out and go in the ground. If they crack or break it will be immediately be identified. Always monitored, and someone would be dispatched for repair. Facility will not be manned. Not going to be someone there all the time. Very low traffic once the facility is built. Nothing flammable. No radiation. No nuclear. No coal ash. In my professional opinion, I install them, I design them, I own them, there is no material danger to any kind of health and safety that Chester County would experience. Commissioner McBrayer asked with your experience with dismantling the panels, most of the material can be recycled. But some has to be disposed of in landfills? Mr. Sandifer said currently, 95% is salvageable. Commissioner Walley asked if any energy is stored onsite? Mr. Sandifer said no. Commissioner Walley then asked about the emergency services. Mr. Sandifer said they would need to implement a plan for them. This is just the gate to get through. Whatever is required will be put in. Commissioner Walley asked what would require emergency services? Mr. Sandifer said a plane crash. A worker mowing and have a heart attack. A trespasser could hurt themselves. Things happen. Commissioner Walley said that's good information and an avenue I wasn't looking at. Commissioner Hayes asked what the panels themselves are made of? Mr. Sandifer said the panel is made of polycrystalline silicon substrate. Blue in color. The main component is sand. It's very similar to the windshield in your car. They are tested by OSHA. Commissioner Walley thanked Mr. Sandifer.

Mr. Kirkland a state certified appraiser in North and South Carolina stepped to the podium. I'm also a MNI in an appraised institute. I've been working with agriculture property, residential subdivisions and things of that nature for the last twenty-five-years. For the last ten years, I've been looking at solar farms. I've worked in about nineteen states and looked at over seven hundred solar farms. I've pulled date from forty-four different solar farms and sales of homes next to solar farms. We do a matched pair analysis, or a paired sales analyst. This is simply looking at the sale of an existing home next to a solar farm. Comparing them to a couple of properties nearby that's the same in every way except being next to a solar farm to test and see if there is any impact on property value. Impacts are far in-between plus or minus five percent. Most are falling within the plus zero to five percent range. That's the static that you would find in real-estate. I would find if I look at two propertied identical next to each other they won't sell for the exact same price. There is a little bit of static in real-estate. It's my profession opinion that this project as proposed will have no impact on the property values and it's also my professional opinion that it's a harmonious location. Its where solar farms are being located across South Carolina. All across North Carolina and the south east. Most common adjoining use for solar farms that I've been tracking is agriculture and residential. The most common is residential. You need infrastructure and houses nearby to get the power out and on the grid. This is a very typical location for a solar farm. Again, it's my profession opinion there will be no impact on property value. It's a harmonious location for solar farms. Commissioner McBrayer asked who are you employed by? Mr. Kirkland said I am employed by Kirkland Appraisals, my own firm, but we were hired by Ecoplexus to do this analyst. Commissioner Walley thanked Mr. Kirkland.

Mr. Fox stepped back to the podium and thanked the board. He wanted to highlight the review for the special exception. We feel like we've presented evidence that we meet all of those and would be happy to answer any questions you may have. Commissioner McBrayer said just to be clear, you're actually talking to us about both facilities. Mr. Fox said yes, we want to be considerate of your time. It's obviously two different sites with two

different site plans but basically how they work, how safe they are, and if they have any negative impact on property values, they're all the same.

Commissioner McBrayer made a motion to accept the special exception as presented; seconded by Commissioner Mosley. Vote was 5-0 to Approve.

Reference: CCSE21-03

Applicant: Fort Lawn PV1, LLC

Request: Chapter 5 Supplemental Regulations Article 5-700 Solar Farm

Location: Between Hightower Rd and Catawba River Rd, Fort lawn SC, 29714

Tax Map Number: 158-00-00-029-000

Mr. Fox stepped to the podium again. He stated the testimony of Mr. Sandifer and Mr. Kirkland would be the same for this.

Mr. Martin stepped to the podium. This is Deer Branch and Hightower Road. It's zoned R2. It's a 74.5 mw project. 362 acres, 40-year lease term and Duke Energy. This site has water. It doesn't have sewer. Other uses for this is limited. At this point we feel solar will be the highest and best use for this parcel. It's very similar, everything is the same. One thing I would like to mention is when we talk about monitoring these sites, we have a control room in Durham. It's live. We know when things happen in real time at all times. If there is an issue on site, a hailstorm, we would know about it within five minutes. We're going to get alarms at our headquarters. We would call someone local, within a thirty-minute window, to get to the site and asses any type issue we might have. Landscape buffers are the same. Property tax on a project this size, \$817 in 2020. \$3500 base line in South Carolina. You're looking at \$138 thousand per year. Commissioner McBrayer said it's two things, one is the size compared to the other, and this wasn't brought up on the last one, are there any plans to enlarge this in the future? Is this locked in? And we have water here. I see all the buffers. Mr. Martin said there is no chance of enlarging. Our application with Duke Energy is a certain mw. There will be upgrades as requested from Duke but not enlarging. There are some streams on site, and we will have to go through DHEC to have stream buffers. Wetland Buffers. We will stay out of those areas.

Mr. Fox said unless there are any other question. That was our presentation.

Commissioner McBrayer made a motion to accept the special exception as presented; seconded by Commissioner Hayes. Vote was 5-0 to Approve.

Commissioner McBrayer stated the address on the application has SW of Fort White Town, shouldn't that be Fort Lawn. Director Levister and Attorney Winters said it's ok due to the tax map # noted on the application as well as the location.

Chairman Walley mentioned the February Class being the last Saturday and on Zoom. Attorney Winters said yes, and you must be on the entire class to obtain credit. More information will be sent out in the mail.

Commissioner Mosley made the motion to adjourn; seconded by Commissioner Hayes. Vote was 5-0 to Approve

This is a summary of proceedings at the January 12, 2021 meeting of the Zoning Board of Appeals; and not a verbatim transcript of the meeting. This summary, and an audio recording of the meeting is retained by the Chester County Building & Zoning department, and available if requested. This summary represents the facts of this meeting; not the opinion or interpretation of the Secretary.