

Chester County Zoning Board of Appeals Minutes of September 13, 2022

The September 13, 2022, 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 August 31, 2022, issue of the Chester News & Reporter. All properties listed on the agenda were properly posted.

Quorum Established: Chairman Mickey Walley, Vice Chairman Melvin Jackson, Commissioners Mike McBrayer, Ella Spann, Wallace Hayes, Erin Mosley, and Scott Thomas were present.

Absent: No one absent

Staff: Director Mike Levister and Jaime Chappell present.

Call to Order: Chairman Walley called the meeting to order.

Approval of Agenda: Chairman Walley asked if there were any additions or amendments to the agenda as presented by staff. There were none. Commissioner Mosley made the motion to approve the agenda as presented; seconded by Commissioner Hayes. Vote was 7-0 to approve.

Approval of Prior Minutes: Chairman Walley asked if there were any additions or amendments to the minutes of the April 12, 2022, meeting as presented by staff. There were none. Commissioner McBrayer made the motion to approve the minutes as presented; seconded by Commissioner Thomas. Vote was 7 to 0 to approve.

New Business – Applicant’s Request

Reference: CCV22-04

Applicant: Leslie Brakefield

Request: Chapter 4 District Regulations § 4-103 #11

R2 – Rural Two District Regulations: Variance: 17 parking spaces to 6

Tax Map #: 037-00-00-077-000

Address: 2555 Center Rd.

Mrs. Brakefield stated she’s with the North Chester Fire Department. Mrs. Brakefield said they need a different variance from the previous one that was approved due to a different architect hired to design the North Chester Fire Department substation. They need a variance from 17 parking spaces to 6 parking spaces.

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner McBrayer motioned to approve, seconded by Vice Chairman Jackson. Vote 7-0 Approve

Reference: CCV22-05

Applicant: Leslie Brakefield

Request: Chapter 4 District Regulations § 4-103 #11

R2 – Rural Two District Regulations: Variance: From 100 feet to 35 feet from side and rear setbacks.

Tax Map #: 037-00-00-077-000

Address: 2555 Center Rd.

Mrs. Brakefield stated they are asking for the setbacks reduce to 100' to 35' from the side and rear setbacks.

Justin Zuidema stated he's with Alliance Consulting Engineers and they are the consultants on the job. So, the reason for the request is this site has already been graded out for a previous pad that was set in the corner to prevent further costs to the project. We're asking that the placement of the building lines up with the previous pad location and the result of that ended up being the 35-foot setback instead of the typical 100 foot. And then as you may know the site's irregular shape so it's hard to meet the original setback to begin with. So that's the purpose behind the request.

Vice Chairman Jackson asked Mrs. Brakefield if the land was donated and could they give a little more land to the substation.

Mrs. Brakefield stated yes it was donated but surrounding properties are not owned by the person that donated the parcel of land to North Chester Fire Department.

Director Levister explained to Vice Chairman Jackson this is the same parcel that we gave to variance on the property three months ago. But when Alliance got involved, that's when they realized the building would not fit on that parcel, with the pad that's already been spent, to have it elevated.

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner Mosley motioned to approve, seconded by Commissioner Spann. Vote 7-0 Approve

Reference: CCV22-06

Applicant: Chester County

Request: Chapter 4 District Regulations § 4-103 #7

R2 – Rural Two District Regulations: Variance: Reduce landfill buffer from 1000' to 100'

Tax Map #: 108-00-00-008-000

Address: 2351 Peden Bridge Rd

Richard Linton said he is the civil engineering firm on this project. Basically, what we're proposing is the landfill wants to install an additional Class 2 landfill on the property. There's existing Class 3 landfill on the property and we want to install it out of that Class 3 landfill a little bit closer to the edge. The current buffer is 1000 feet we want to reduce that to 100 feet. This 100-foot buffer falls within the DHEC guideline regulations. So, we would like to still follow the DHEC guidelines. They're just a multitude of issues with installing the Class 2 on top of the existing Class 3 on the property. So that's the main reasons why we're requesting this variance reduction on the buffer.

Commissioner McBrayer asked if the purpose of variance is to increase the life of the landfill.

Mr. Linton stated the main reason is the existing Class 3 that is out there, it's almost reaching its end of time that it needs to be inspected for the water table and runoff and things like that. If we installed the Class 2 on top of it, and follow the 1000-foot buffer, we would have to extend that inspection requirement time and we would like to avoid doing that if possible and it's just as a very large cost investment. Plus, is starting to run out of room using the 1000-foot buffer. I believe there was an excerpt that was sent out that shows how far into the property that the 1000-foot buffer encroaches, and that just doesn't leave very much room for a Class 2 landfill. So just due to those two reasons, the amount of space that we will be allowed of the Class 2, and we don't want to install it on top of the existing Class 3. So, it's for those two reasons.

Vice Chairman Jackson stated so it looks like landfill is trying to buy time. You went from 1000 to 100 and getting close to overextending themselves. So, what's the next move?

Mr. Linton stated the next move would be, but just want to emphasize that the 100-foot buffer that we're requesting is an SC DHEC regulation that we're following. The next move would be to install the Class 2 landfill next to the Class 3 landfill, but we're still going to maintain the 100-foot buffer. Does that make sense?

Vice Chairman Jackson stated you just trying to expand because you need more space. So yes, I'm wondering how much time at the rate you're going, how long will it be before you run out of space going from 1000 to 100 buffer once that fails, what happens.

Mr. Linton stated he was a little confused by Vice Chairman Jackson's question.

Commissioner McBrayer stated that he's seen or heard it was going to increase the lifespan an additional 30 years. Commissioner McBrayer asked if the property was already owned by Republic Services and stated that's a lot of dirt to be moved, vegetation and wells.

Michael Wade, County Recycling Coordinator stated that would give them 30 more years and that's plenty of time. Stated that was correct that Republic Services is a waste company. We will have to install wells around the edge of the property as well.

Chairman Walley asked if Class 3 had to be deeper than Class 2.

Mr. Linton stated honestly, I'm not sure the answer to that. Our goal is to not to mess with the Class 3 at all. Class 2 is generally just solid debris. Example would be landscape, debris, and bricks. Just general solid waste is what a Class two is. I'm not sure about the Class 3.

Chairman Walley asked what they want to install out there is just solid waste, no household garbage.

Mr. Wade stated Class 3 holds household garbage. Class 2 would just be construction and debris.

Commissioner Hayes asked doing the reduction from 1000 to 100. It would meet the DHEC guidelines.

Mr. Linton stated Yes sir.

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner McBrayer motioned to approve, seconded by Vice Chairman Jackson. Vote 7-0 Approve

Reference: CCSE22-02

Applicant: Rutabaga Holdings, LLC

Request: 5-701

R2 – Rural Two District Regulations: Special Exception: Solar Farm

Tax Map #: 144-00-00-018-000

Address: Mt. Vernon and Thrailkill Rd

Brooks Camp stated he was the lead developer with Birdseye Renewable Energy out of Charlotte. We are the developer for the solar project Rutabaga Holdings, LLC. Thank you, members of the board. Thank you, Mr.

Levester for helping me put this application together. Realize that the package we gave you guys' last month is large and there's a lot of information in there. I'd like to run through a presentation that we put together that will kind of talk through the history of the project, some important parameters and kind of give you a timeline moving forward from here and we can go over the site plan itself and allow you to ask some questions.

Mr. Camp stated he wants to introduce my team quickly. I've got Chris Sandifer. He's an engineer and drafted the decommissioning report that was submitted with the package as well as an affidavit of health and safety. Kevin Gorman is the civil designer that produced all the site plans that you'll be looking at. Kara Drane is a certified planner that consults for us. Jenna Lee is our zoning, legal counsel. Quickly just a little rundown of our company Birdseye Renewable Energy. We're based out of Charlotte; Birdseye Renewal Energy has developed solar projects for the last 13 years and have roughly 45 projects and 645-megawatts of solar operating on the ground in the Carolinas. At this point in time, we got a pipeline of roughly three gigawatts that are in in development right now. This project included and you know, we've had a lot of success in the Carolinas. And we really attribute that to attention to detail and engagement with the community. So, we really pride ourselves on talking to the community making sure that we understand their concerns and addressing them as best we can. We realize there's a lot of information that we're about to run through. I'm going to try to move fast to get through all of that, but feel free to stop me to ask questions. The current request before you today are for special exceptions on seven parcels for the purpose of constructing a solar farm. We have previously held a community meeting in Fort Lawn in early June, talked to several community members met with some more community members after that. We did come to a planning commission meeting later in June. They recommended approval we had some folks come out and voiced concerns at that meeting, met with some of them afterwards and have amended the site plan multiple times in response to the concerns that we heard. After the planning commission, went to County Council and were approved for a rezoning from R3 District to R2 District last month. So, Rutabaga Solar Project is located on seven parcels just north of Fort Lawn. The total parcel acreage is 800, but the project itself is likely to take up less than that. All the land is owned by the Carter family under a couple of legal entities and LLC and a family trust. It will be a 70-megawatt electric generation facility, which roughly means that it's enough energy to power about 11,000 homes. It will connect to the Duke Energy 100 kV transmission line that runs through the site. The project will sell energy to Duke Energy Carolinas. Right now, based on conversations with Duke, we believe the project will be constructed in late 2026. And we are estimating that our tax payments over the first 20 years of this project will total approximately \$6 million which equals a net present value of \$3.4 million. So, this is a survey of the parcels involved in the project and a rundown of acreage of each parcel. There's a parcel included in that survey in the middle that will not have the actual solar project on it. We have an easement to cross that parcel.

Commissioner McBrayer asked before we get too far, you're talking about the time period by 2026. Did the Council put a sundown on this project?

Mr. Camp stated they did, and County Council put a reverter clause on our approval that we would have to complete construction within five years after their approval date. So that would be mid-2027. We do at this point expect to be able to achieve that however, you know what we discussed with Council is that the elephant in the room here is Duke Energy and we're beholden to their timeline. So, this project is in an interconnection process with Duke and that involves a lot of in-depth studies of their transmission system to determine the impact of this project once it does interconnect. And what they're trying to do is make sure that they understand any equipment that needs to be upgraded to accept energy from this location.

Commissioner McBrayer asked from the time that Duke Energy gives information to you guys, is that when you start construction.

Mr. Camp stated that the trick there is that there are projects already that have been granted interconnection agreements. Our process that we're in currently is set to run through middle of next year and that's when we would be given an interconnection agreement with Duke. At that point, they'll give us a solid timeline to when their point of interconnection will be ready. What we know is that they have a plan line upgrade that's part of their transmission plan that our project is contingent with meaning that we can't interconnect until they've completed that line upgrade. That line upgrade is projected to take four years to complete so they're looking at 2027 before they can have our interconnection facilities ready for the project to interconnect. So, the issue we run into is that it doesn't make sense to spend the money or invest the money and build the solar farm before Duke is ready to accept it and then just have it kind of sitting there not operational, right. We wait in time, our construction with their construction. So that puts us out in the 2026 2027 timeframe. We can get back to that later down the line but just want to run through quickly. Some of the aspects of the site plan that we've put into place to mitigate the impact to the surrounding areas. You know, we included in our submission package a property value impact assessment by a registered appraiser he was not able to be here tonight. But he's done a lot of work, looking at the impacts that solar installs have on the surrounding community, their property values, and their quality of life. And you know, the takeaway is that during construction, there will be a disturbance but after construction solar farms are a very passive, low impact, and land use. There's not a lot of traffic. They don't require any county services, any county infrastructure. And, you know, the estimate is that a couple of times a month you'll have maintenance trucks go in and out of the site. The three major types of impact to a surrounding community that does impact property value or quality life is visual impact, noise impact, and smell. So solar farms don't emit any smells. Once they're complete, like I said they don't have any traffic and they're low noise if they're built correctly. So, what we've done is we've included a 50-foot minimum vegetative buffers adjoining all roadways and adjacent residential parcels. And that's to basically make it as hard as possible within reason to see into the facility itself. We include what we call wildlife permeable fencing, and I'll show you some details about that in a few slides. But you know, a little bit less visible type of fence than a chain link fence. And it does allow small animals to move through it and blends into the landscape a little bit better, especially when it's behind the vegetative buffer. For sound impact, we've guaranteed, we've committed to putting our inverters which are the pieces of equipment that do emit some sound we have committed to put them 200 feet from any property boundary and to also put them at least 150 feet internal to the solar array. So, they would be 150 feet of solar modules between these inverters and any adjacent property. Plus, a vegetative buffer. So, there will be multiple layers of protection from any noise from those pieces of equipment. As I said earlier, we've submitted a health and safety affidavit that was crafted by Chris Sandifer that addresses some of these issues, as well as some other common questions about solar panels. So, I'll talk a little bit more about the vegetative buffers as I said the 50-foot minimum would apply to all borders with residential property and with roadways. And in some areas, we've gone above and beyond that in order to be sensitive to the folks that live nearby. So, we have a few different buffer types that we've shown in the site plan. We will use existing vegetation where we can and this property right now is managed for timber, so there's plenty of existing vegetation where we can utilize mature standing trees. But it kind of depends how that ends up based on how the property owner timbers that land between now and the time of construction. And we'll have an agreement with them at that time to purchase any standing timber that would be harvestable to use that as a buffer. And the other buffer type that we employ is called manage regrowth. And that's basically allowing, you know successional regrowth to occur and I'm sure all you guys have seen if your timber, a forest or if you let a field go fallow for a couple of years, it's going to fill in with some thick pioneer species very quickly. And that ends up being an effective visual buffer over time. So, what we like to do is encourage that and we will come in sometimes and drill seed to add to that native seed bank. And then there are also some areas where we'll use both and that again, that kind of depends on the lay of the land when we take control of it. But just as a counterpoint the ordinance type C buffer that would be required for this project is a 15-foot minimum with planted with I believe it's six-foot trees every 10 feet. What we're proposing we feel is much more robust than

that. And normally what happens is we take over you know, the timber management has kind of been clearing out all the undergrowth but as you cut that back to a buffer strip, and the sun gets into the canopy there the undergrowth springs up quickly and it gets thick, very fast. So, within a couple of years those types of buffers become very effective. Here we have an example of the wildlife permeable fence. And so, in your ordinance, I believe it calls for six feet plus optional barbed wire. And just to be clear, the National Electric Code requires that a fence around a solar station be either seven feet tall or six feet plus barbed wire, so we'll be required to meet that standard by the National Electric Code, regardless. This wildlife permeable fencing is sort of like chicken wire turned upside down so that the larger mesh size holes are at the bottom and those holes are 12 by seven inches and they allow most small wildlife species to pass through there. So, it does kind of alleviate the pressure on surrounding neighbors and allows a lot of small animals to use that solar farm as habitat. And this is just an illustration of the sound mitigation technique that I mentioned earlier. Where we will place the inverters internal to the array and keep solar structures solar module structures as well as vegetative buffers between the inverters and any surrounding property. This is an overall view of our site plan, and I sent in an update to this site plan. Did that get passed around? Have you guys had a chance to look at the updated version of that? Nothing substantial changed in that update other than we made some changes to the notes and pointed out some dimensions to the vegetative buffers and you know, really what, as a developer, the way I think about this process is that I want to get some conditions memorialized to protect the community members and hold the construction team to account when it comes to actually implementing mostly the buffers in the end the setbacks. The site plan itself is conceptual and subject to change. And you know as we move from year to year, the module technology improves, the inverter technology improves and the design you know, based on what's on the market is always in flux until that final design is set. Usually, six to 10 months before construction. But what we want to do here is really lock in the conditions under which the site can be built. And so, this is the original site plan that was submitted. And this is a couple of places that we made some improvements after talking with community members. And you'll see the major changes were that we pulled back off some adjacent properties and that is at the intersection of Thraikill and Mount Vernon. We included a wildlife corridor as well as some larger buffers on the corners of that intersection. So just trying to keep it more out of reach from the public view. And I'll show you a close-up view of the southern portion of that. And you can see here that we're showing dark green, vegetative buffers where there is currently standing vegetation. And then the light greenish yellow is representing managed regrowth areas where the Carters have timbered this land and it may or may not be suitable to use as existing vegetation when construction is ready, but just kind of wanted to show you the difference between those two buffer types and how we're showing it on site plan. And this is the northern section, and you can see we've called out some dimensions on those additional buffers on that intersection of Mount Vernon and Thraikill as well. As the 150-foot wildlife corridor there on that northwestern portion. And that was in response to one of the neighbors is on the South Carolina Wildlife Commission and mentioned that that's a pretty common deer corridor. So asked if we could leave that open. Well, there was a Hunt Club. It was using this land and we were able to speak with them and you know, they were disappointed that they wouldn't be able to hunt here anymore, but they understood that this was the Carter family's choice to work with us on this project. So, and maybe at this point, I'd like to go through the requirements in your solar ordinance and just talk through each one of those. But do you guys have any questions that at this point.

Vice Chairman Jackson asked how this will benefit Chester County.

Mr. Camp explained the main benefit of Chester County I would say is tax revenue. Like I said we expect to pay around \$6 million total in taxes over the first 20 years of the project. The way investors look at these projects from a return perspective is 35 to 40 years and very likely the project will stick around beyond that timeframe because one of the most valuable pieces of a transmission connected energy producing project is that transmission interconnection. So, the permission and ability to inject power onto Duke Energy's grid is very valuable and that will stick around longer than any of the solar modules themselves. So, you know most likely

this project will be retooled and kept going past the usable life of the equipment that we install on it. But you know the other thing I've talked with Rob, the County Economic Development Officer, and his take is that there's a lot of companies that are interested in moving to Chester County that like the idea of solar being installed within the county. So, he's excited about the project.

Vice Chairman Jackson asked if most of the project is going to take up most of the 800 acres.

Mr. Camp stated the total parcel acreage is 800 acres, and that's buffers and everything. You know, that includes some topography that we're not able to build on streams wetlands, so the entire area will not be covered. But a large portion of it will be utilized for the project.

Vice Chairman Jackson asked if this would be the biggest farm that Rutabaga has undertaken.

Mr. Camp stated that Rutabaga is the project name, and these projects are packaged under a legal LLC entity. Birdseye has developed five or six projects this size that are currently on the ground operational. Most of those were sold to Duke Energy themselves, and they're now owning and operating those farms. But this is you know; 70 megawatts are roughly the average size of a solar project these days. And that's a function of scale. In the beginning of the solar boom, if you want to call it that in the early 2010's a lot of projects were two megawatts, five megawatts, you know, 20 to 100 acres say, and as the industry matured, and the equipment became more affordable, it just made sense to scale. And you know, really the smaller projects just don't pencil out as much anymore. And the bigger projects are the norm. So right now, for example, Duke Energy just opened a new cluster study. They will have one every year and that will study all electrical generation product projects, including solar projects. Somewhere on the order of four gigawatts of solar projects were submitted to that cluster study. And I don't know off hand what that calculates to in terms of acres, but it's a lot more than 800. That I think that there's several counties around the Carolinas that are taking advantage of this right now.

Commission Hayes asked will those seven parcels of land be fenced in?

Mr. Camp stated that it will yes, that is a national electric code requirement.

Commission Hayes asked so, for security purpose, if an inquiring mind and kids get together and want to climb the fence, what kind of protection do they have? I mean, what kind of damage can they get into? Can they get into like electrocution if they were to get involved with the connection of the solar panels and use? Would they be guards on the site or is it just the fence is their protection to keep the kids out but you know inquiring minds and kids going to want to investigate and see what's going on.

Mr. Camp stated I understand, and the code also requires warning signs be placed on the fence. So, there will be signage, but also, you know, all the electrical connections will be housed in weatherproof lockable enclosures. So, it's not like someone's going to go out there and touch a solar panel and get electrocuted. Now if they, you know, come out there and cut wires, then that's a different story. But it's not dangerous to the touch, and everything out there will be grounded to code. And Chris has designed and built multiple farms and can speak more to that if you guys have some more detailed questions.

Commissioner Mosley stated that I have two questions if it's okay. What's the lifespan on the panels? How long do they last before it has to be?

Mr. Camp answered they are warrantied for 25 years. They last much longer than that, but their performance degrades over time. So, you know, solar has not been around long enough to see how this goes. But most likely

what will happen is at a certain point, the technology available will surpass the cost burden to swap out modules and some projects will come in and install new modules. What happens to the old modules is a valid question and I think a lot of those will get sold on the secondary market because they do still work. And there's a lot of work in the industry right now to develop recycling facilities as well. So that will mature in the coming decade or so.

Commissioner McBrayer asked if any of these would wind up in our landfill.

Mr. Camp stated he can't guarantee that but that's the goal for sure.

Commissioner Mosley asked would there be cameras on site.

Mr. Camp stated not from a security perspective. There are some there, there will be some monitoring, but it's mostly for performance. The fence line is going to be long. So, I think from a security perspective, the fence itself is you know, it's not super easy to climb. Six feet with three lines of barbed wire is not super easy to get over.

Commissioner Thomas asked if the Carters are going to maintain ownership of the property and Rutabaga/Birdseye are going to lease it, right. You also mentioned you're looking at paying \$6 million over 20 years in taxes. What type of taxes will you be paying? Because I'm sure The Carter Family currently has this property in agricultural use. So, they're paying \$1 to \$1 and a half an acre. What taxes will be paid to the county and the department of revenue?

Mr. Camp stated there is revenue tax, but that doesn't go to the county. So, the property tax goes to the county, and that's what I'm referring to here. The property tax will be paid for by the project. The project will pay the property taxes because the equipment that's installed is the valuable piece and that's what the property tax will be based on. And the project will own all that equipment.

Commissioner Thomas then asked the question will the Carters still be able to sell timber and everything off the property once this goes into effect?

Mr. Camp stated outside of the fence line, yes. So, once we commence construction, we will determine a lease boundary with the Carter family. And within that lease boundary will have full control over the land and they would not be able to timber outside of that lease boundary. They would have full control and they would be able to timber or however they want to manage that land.

Commissioner Thomas asked has there been any talks about if that's the case, then whatever portion of that property, you all will be a control of will no longer be eligible for the Ag use. So has there been discussion of who's going to pay the roll backs with the three years that rollbacks. Within those negotiations with the county, a rollback it's going to get thrown out like they do so many other times, or are y'all going to pay? The only reason I'm asking I see so many times the county get screwed out of money, so to speak, and it just gets kind of frustrating.

Mr. Camp stated we're in discussions right now with the Economic Development Department for a fee in lieu of taxes. And that's basically to set a consistent flat rate across the life of the project. That helps on our finance team and so I don't, you know, that does not actually include rollback taxes. Because it sets a flat rate up. We're working through those issues with Rob Long and with I believe his name is Michael Kozlarek the county tax attorney.

Mr. Camp then stated if he can just run through the solar ordinance for the R2 District. So, our site plan was submitted with some supplemental exhibits. Those supplemental exhibits do include profile drawings of the solar racking and modules. The main site plan also includes the snow loads, several notes that discuss our buffer commitments and security fencing as well. Your ordinance requires a permit letter from an electric service provider. What we're asking for is for a couple of these requirements to be put off until we apply for a building permit because it's later in the development process that these things would be obtained. The permit letter from the service provider will be in this case, the interconnection agreement with Duke Energy. And like I said, the study processes we're in right now will come to a completion May of next year, and we will sign that interconnection agreement at that time and can share a redacted copy of that with the county. The DHEC stormwater permit is a required permit for any land development project. That would be obtained and shared prior to applying for a building permit. And as far as insurance goes, right now, my company Birdseye Renewable Energy is owned by Dominion Energy, which is a utility that operates in South Carolina, North Carolina, and Virginia. Dominion is self-insured, just by nature of being so large, they self-insure and cover any expenses that may arise from doing business. So, we can find some documentation of that if you would like. But I did not include that in the submission package. Systems and structures shall not exceed 25 feet in height when ground mounted. Solar arrays rarely exceed 15 feet in height. This project will include a substation and the substation on the southeastern side there where you see the transmission line running north to south. That's where our substation will be, and that will exceed the 25-foot height restriction. But I believe that most substations are exempt from that. And this substation will be jointly owned by the project and Duke Energy. So, requirement F ground mounted solar energy systems, as part of a solar farm shall meet the minimum zoning setback in which it is located. I think we far exceed any of those setbacks or buffer requirements. I think the setback in R2 is a maximum setback is 25 feet and so we're at a minimum of 50 feet. And requirement G electric solar system components must have UL listing or equip equivalent. We make that commitment on the site plan in site note 17. Sites note 17 also addresses compliance with the National Electric Code. We have submitted a draft decommissioning plan and that can be updated as we come to a final design later down the line. But site plan note 18 also addresses that the facility project owner will decommission the project if it ceases to operate. That is also included in our lease agreements with the Carters, so we've agreed that if we cease to operate as a solar farm, within six months, we will have all that equipment off their property.

Commissioner Hayes stated the Carter Family owns the property and you are just leasing it from them.

Mr. Camp answered by stating that's correct. And that's a common agreement for solar farms. A lot of these landowners want to keep the land in the family they want to give you know their kids and grandkids some income and this is a good way to do that.

Mr. Camp continued requirement J the six-foot security fence is like I said, national electric code requirement. K reasonable access for emergency vehicles and a 25-foot required easement a right of way what we've committed to is that all our driveways entering the site will meet this requirement and allow emergency vehicles to enter. We've spoken with the fire marshal here in Chester County. He's signed off on the site plan and agreed to take his folks to some solar training so that they know how to react if there is an emergency on site. And we've submitted what we call a draft emergency action plan that will be supplemented at the time of construction based on the current conditions but that basically outlines how construction crews and maintenance crews will communicate with any emergency personnel in the county if the need arises. And so, then your requirement L is that no signage is allowed on solar farm fencing except for a sign displaying the facility name, address, and emergency contact info. And my only comment to that is that the National Electric Code does require warning signage on any electrical generating facility and it's a small, 1x1 size sign that gets attached to the fence every 50 feet. Again, feel free to jump in and ask questions. But just want to point out that the use as a

solar farm in the R2 district in this area of the county is consistent with the land use plan. And with the 2020-2030 Comprehensive Plan, it maintains a low-density rural character and after construction should be very low impact on the surrounding area. What we are requesting is a special exception permit with no expiration. So, the other handout that I gave you there, the last bullet outlined outlines that a zoning permit unless otherwise specified will expire in six months. So, we're asking you to extend that to allow us to adapt to Duke Energy's schedule as that unfolds. It's an uncertain process. And we respectfully request, the time that it takes to reach completion on this project. We are in the meantime making very large nonrefundable payments to Duke as part of that interconnection study process. To date, I believe this project has made or we will next week, make a payment that brings us over \$3 million in total deposits to Duke Energy. So, we're committed to bringing this project to fruition and it's just a matter of, of working with Duke to get through their upgrade process so that we can build the project. And with that, I'll open the floor to questions.

Commissioner McBrayer asked Director Levister with the 5-year reverter clause is there an opportunity where they can appeal for an extension?

Director Levister stated he was not aware of that; it comes from county council. They had so many years to make their completion and they had so many years to make the connection to Duke Energy. I don't remember the exact year.

Mr. Camp stated it was an extra two years after project completion for Duke Energy to finalize that interconnection to the grid. you know it changes and it's evolving because as more solar comes online and is you know really this is a complicated discussion but the grid itself the transmission grid is evolving from a model where you know very large coal and nuclear plants were previously the main source of energy. And now you're seeing smaller gas plants and solar plants and hydro plants that are distributed throughout the landscape coming online and producing the energy that we use. That stresses the transmission grid in different ways. It's the same as if you were to plop a big city in the middle of an existing rural road system you need to upgrade all those roads so that cars could move back and forth. That's what Duke is doing right now is they're adjusting to the modern electrical generation paradigm and it's happening across the country. This is happening in every utility territory right now. And it just means upgrading those lines and equipment to account for different electrical flows and you know addressing resiliency and upgrading their control over that system as they go.

Commissioner McBrayer stated that it seems to him that last part of their request proves a special exception with no expiration it seems to me like there is an expiration five years.

Mr. Camp stated that's something that we'll have to work with the county council on your right at this point. Our rezoning will revert after five years if the project is not completed. So, you know, our request is that we can rely on that five years and leave this one without an expiration.

Chairman Walley asked if any members of the public that would like to speak.

My name is Daniel Dean Slagle, I live at 4675 Mel Nunnery Road Fort Lawn, SC, 29714. Something this size of magnitude is going to change the thermal dynamics of that area and I'm wondering how that's going to affect, is that going to cause tornadoes because that area since we've lived there, let's just say we've had a few tornadoes. One right across the street which took a trailer straight up flipped upside down exploded right in front of Barbara. Scared the bleep out of her and the cats and we just had another tornado this year. I mean, I literally was out there watching the swirl. Barb was literally in the car with a bag, saying which way is this sucker going to come down at it. Luckily it came down like two or three miles down the road. But like I said,

we have a history of tornadoes in that area. large open areas, different temperature patterns are what causes these guys. Is this going to increase or decrease the number of tornadoes we're going to have.

Chris Sandifer stated he lives at 3118 Green Road, Spring Hope, North Carolina. There have been several studies done on thermal impact. The University of Virginia has done it, and University of North Carolina has done it, NC State I'm sorry, has done impacts and they have determined that there would be no impact. I have done those studies personally myself for heat island effects, and there's just not enough mass on in these panels. These panels are half the size of a sheet of plywood, and they weigh maybe 75 pounds. So, and they're sitting them off the ground about four feet. So, when the sun hits them, and they are very efficient. So, they pull in 30% of the energy out and send it somewhere else anyway. And so, there's just not a lot of math there to store heat or to impact the amount of heat that would normally be there.

Samuel Slagle stated from looking at the trees. You get down in the forest, how much cooler if it's not in the sun coming in. These guys aren't going to do that. they're going to take up 30%.

Mr. Sandifer stated that these panels about 35 times more efficient than a pine tree. Photosynthesis does not compete with photovoltaics.

Mr. Slagle then stated then you say you go into a solar field. It's nice and cool in there.

Mr. Sandifer stated No, I'm saying that the heat that is reradiated would be no different than the heat reradiated from some tree that has transpiration every it puts out moisture and that moisture evaporates these panels will not absorb any moisture from the air. They won't change the humidity there.

Mr. Slagle wanted it on the record that there will not be more tornados.

Commissioner Mosley stated I was thinking more about the tornadoes and the damage to the solar farms with them being able to be tossed around. Which I know you can't account for weather. I was just wondering about damage or how heavy they were. I just curious about.

Mr. Sandifer stated yes absolutely. In North Carolina, there's already eight gigawatts connected, and North Carolina is not the largest state that has the most solar panels at this time. There are several I think North Carolina is number three. And so, South Carolina has come in that way. They're you know, they're going to eventually going to close coal plants and then nuclear plants at some point. So is the future we've had I'm going to say since the 90s, hundreds of megawatts online in North Carolina. We've had tornadoes. We've had floods, we've had hurricanes, we've had fires we've had just about every disaster that you can have would normally occur and we have had no impact to the environment from any of those forms today. Did I answer the question? I mean, we've got a lot of experience with those so far.

Nancy Wally with the planning commission. I'm at 3207 Mountain Gap Road Richburg, South Carolina. You referenced several times that in 20 years, \$6 million in tax money. Is that to the county? Is that what you're saying? So, we should expect a \$300,000 or so check from rutabaga holdings to the county each year.

Mr. Camp answered that's correct. That's still to be determined. We have not finalized our fee and lieu agreement with economic development. Currently, we're still in discussions. So just want to caveat that but at the price point that we're zeroing in on is roughly that, yes.

Chairman Walley asked if there was anyone that wanted to speak against this. I have a name David that wants to speak about something.

David Cousar at 1014 First Class Row in Fort Lawn, South Carolina. I really didn't have anything to say. I just really wanted to come and find out what was going on. Because the Carter's land they are talking about is right across the street from my address. So, I was just curious about what was really going on because I wasn't at the first meeting when they first talked about it.

Roxanne James stated she lives at 3007 Steel Village Road, Rock Hill, South Carolina, which is in Chester County. I pay Chester County taxes. I've got two questions. Is there a lot of sound coming from the solar panels?

Mr. Sandifer stated he looked at equipment specs for this project and the manufacturer says at three feet it's 70 DB, which probably didn't mean anything to you but at 100 feet, it was 66 DB at 100 feet within plain sight. And that would be equivalent to basically it's a fan and there's electronic components need to get warm, and they must have air flowing across them to keep them cool. So, what you would hear if you could hear would be a fan blowing and so at 100 feet the sound would be around 66 DB, which would be like what you would find in a summer evening at night. If you just walked outside, the ambient noise that you would hear that would be but we're going another 100 feet. Okay, which drops it and half again because of the way to sound dispersion and obeying these if you look at the plan, the inverters are being nested inside of the panel. So, for every place you'd have a panel you're going to have several 100 feet of panels that act like baffles so it's not going to be just a direct line of sight to that fan. So, at the property boundary at fence, you would not hear those fans running at all during the day and then like they don't run, so only run during the daytime and you could not hear them at the property boundary.

Roxanne James then state she believed last week maybe two weeks ago there was an Amazon warehouse burnt down because the solar panels stored there.

Mr. Sandifer then stated the panels that would be installed, there's nothing in the panels that are flammable. The only thing that would burn, and we've had wildfires come out in Nash County. We have them and our policy in that county is the welfare if the developer does not keep the fuel load down, they just let it burn out. They just go around, and they disk around it. And they contained it. They don't even go into fence. And these guys will do a better job because it's a very capital-intensive investment and they're going to do everything they can do to protect it. And so, but there's nothing in the panel itself that can burn but there are conductors that connect on to have insulation on and those can get damaged in a fire. And so, but there's nothing there that can burn. And so, the ones that you're talking about or where there were bad connections, and that would be the same thing as a toaster or anything else when you had a bad connection you have arcs and spark and that ignites a house which is flammable, but the panel's themselves are not flammable.

Timothy Cousar and I live at 6101 Thrailkill Rd at the corner of Mt Vernon and Thrailkill Rd. I was listening to everything, and I couldn't make it to the other meetings. But I know this has already been approved and going forward on the question that I have at this point would be pertaining to Duke Power and the solar energy. Now there's interconnections that are going to happen. So does that mean that the existing people that are now with Duke are we going to be asked to convert to solar energy or do we still have an option.

Mr. Camp stated so this project will connect to the Duke Energy transmission grid. That's 100 kV. It's the large line on the big lattice towers that runs north to south coming out of Fort Lawn up beside highway 21. That line

does not feed your house that line feeds you know the general southeastern Duke territory. And so, this doesn't really change anything about your service from Duke.

Commissioner McBrayer motioned to approve, seconded by Commissioner Hayes

Director Levister stated he just wants to make sure they are clear that he's asking for five years on the expiration so that needs to be in the motion if that's the decision of the ZBA board. If it's not then you can keep the motion and the second but whatever y'all decide, we need to remove the second and the motion and state what you like to put into motion.

Both Commissioners McBrayer and Hayes withdrew their motions and seconds.

Jenna Lee, Zoning and Legal Counsel for Rutabaga Holdings LLC stated that she thinks the request is to have no expiration. Understanding that the reverter that County Council put on would kind of go hand in hand with this you know with the special exception is only valid if we are zoned appropriately for the solar farm. So, for instance, if Birdseye at the four-year mark sees that the project is not going to be online by the sunset date. They could go back to county council and ask for an extension of course through the proper zoning process. And we would in an ideal scenario, maintain our special exception here, so that we would eliminate the need to come back to the ZBA to have an amendment to our special exception approval or to get another approval. So, I wanted to clarify that the special exception is by its very nature tied to the County Council's approval, but we'd ideally like to have it continue indefinitely.

Vice Chairman Jackson asked that their lease is for 20 years.

Mr. Camp stated that's right. It's a guaranteed term 249 months from the date of commencement, which is when we would start construction. So that's likely to be 2026. So, 249 months is 20 years plus a nine-month construction period. And then that includes on top of the 249 months for optional renewal periods of five years each. So, we have the option to keep bumping that lease out. What we're requesting is for the no expiration date means that effectively the rezoning reverter condition controls are permission from this point out. So, if because your zoning ordinance only allows solar farms in a district zone R2, and these parcels were zoned R3. We had them rezone to R2 and that rezoning has a five-year sunset on it if we don't complete the project within that timeline. So, if it did come to pass that our rezoning reverted to R3, then this permit would automatically become invalid because solar farms are not allowed in the R3 district. So as far as that goes, there's no need to tie it to the rezoning because it already is it'd be already gone. We're asking for no expiration so that if it happens that, you know we learn that we need some extra time that will allow us to go to county council and ask for an extension on that rezoning. And County Council would then be the ones responsible for extending all the permissions to build the project.

Commissioner McBrayer motion to approve, seconded by Commissioner Mosley

Commissioner McBrayer asked Director Levister to explain what the six months is talking about.

Director Levister stated what he gave you is what y'all give approval tonight. He must have construction started within a six-month period are the special exception is expired. The only concern I would have if it was basically forever. If they were to walk away after those five years, it is still tied with a special exception. You don't have control of who does the project. It can be another developer. There will still be a special exception, but the zoning goes away. I would tie it together. County Council does not have the authority to give a special exception.

Mr. Camp stated within the ordinance, the page that I gave you from the ordinance the piece about the six months that refers to your ability to specify an expiration date for a special exception, a normal zoning permit lasts six months. A special exception can be any timeline that you, this board approves and so we're requesting a no expiration for that permit. This board is determining the County ordinance and permitting.

Commissioner McBrayer asked what problem do you have with tying it to the 5-year sunset.

Miss Lee stated we don't know that we all didn't really have a problem if it causes concern. It was the point simply to eliminate a step in the event Birdseye can't complete the project within five years. So, they must go back to county council. If you tie it to county council approval with a five-year sunset and its year four and a half, they realize they need another approval. They will be in the position of need and go back to county council to seek an extension or effectively to start all over exactly. And then we would also need to come back to you anyway to get a new special exception. And by having no expiration we could cut out that step. You know it's just another step in the process. In the safeguard for the county, I think is that with the County Council's zoning condition that it reverts back and if Birdseye walks away in five years and says you know what, we're done and we can't build this project. Then the property reverts to R3 zoning, so this special exception is null and void effectively.

Mr. Slagle stepped back up to the podium and stated that this day and age, even they admitted that things are changing rapidly. They even said they used to only have the little solar farms I think grow. Things are changing. Our rules have changed. Chester County is changing a lot lately. Who's to say what the changes may occur in five years. There may be new laws in five years, restricting or doing something that may develop different in five years. We don't know. Giving him a blanket, no expiration takes the power away from the county. So, I say if county council wants to give them five years, they won't they didn't give them a no expiration. Why should you be expected given no expiration we don't know what things are going to be like in five years. Five years is more than enough. I think I mean, very generous.

Chairman Walley stated the special exception will be tied to the land, if someone comes in if they stop doing business, can they just pick up where they left off.

Director Levister stated because it wasn't stated if they went out of business. This is saying if it was not completed within five years, that's where I'm kind of confused on it. Like a lot of times, it says if it goes out of business it reverts back.

Mr. Camp stated that they are trying to get the special exception with no six-month timeline on the start of construction. The special exception is to construct the solar.

Commissioner McBrayer stated that a special exception allows for any timeline that the board right now is six months. And Duke Energy is really got the ball in their court even today. And if something happened, there's delays with that. Then there's a good possibility that they're going to have to apply for an extension.

Mr. Camp asked so if it helps you maybe the rezoning allowed for five years for the project to complete construction and then added another two years for Duke Energy to complete their system upgrades. Would it be easier to give a seven-year expiration date to cover those five years plus two years. Just trying to find something that everyone agrees on.

Commissioners McBrayer and Mosley withdrew their motions to approve

Vice Chairman Jackson makes motion to extend the exceptions to seven years starting tonight, seconded by Commissioner Hayes. Vote 7-0 Approved

Reference: CCSE22-03

Applicant: Rutabaga Holdings, LLC

Request: 5-701

R2 – Rural Two District Regulations: Special Exception: Solar Farm

Tax Map #: 155-00-00-025-000

Address: George Argus Rd

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Vice Chairman Jackson makes motion to extend the exceptions to seven years starting tonight, seconded by Commissioner Thomas. Vote 7-0 Approved

Reference: CCSE22-04

Applicant: Rutabaga Holdings, LLC

Request: 5-701

R2 – Rural Two District Regulations: Special Exception: Solar Farm

Tax Map #: 144-00-00-021-000

Address: Mt. Vernon Rd

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Chairman Walley makes motion to extend the exceptions to seven years starting tonight, seconded by Commissioner McBrayer. Vote 7-0 Approved

Reference: CCSE22-05

Applicant: Rutabaga Holdings, LLC

Request: 5-701

R2 – Rural Two District Regulations: Special Exception: Solar Farm

Tax Map #: 144-00-00-022-000

Address: Mt. Vernon Rd

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner McBrayer makes motion to extend the exceptions to seven years starting tonight, seconded by Commissioner Mosley. Vote 7-0 Approved

Reference: CCSE22-06

Applicant: Rutabaga Holdings, LLC

Request: 5-701

R2 – Rural Two District Regulations: Special Exception: Solar Farm

Tax Map #: 144-00-00-019-000

Address: Mt. Vernon and Thraikill Rd

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner McBrayer makes motion to extend the exceptions to seven years starting tonight, seconded by Vice Chairman Jackson. Vote 7-0 Approved

Reference: CCSE22-07
Applicant: Rutabaga Holdings, LLC
Request: 5-701
R2 – Rural Two District Regulations: Special Exception: Solar Farm
Tax Map #: 155-00-00-039-000
Address: Thrailkill Rd

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner McBrayer makes motion to extend the exceptions to seven years starting tonight, seconded by Commissioner Mosley. Vote 7-0 Approved

Reference: CCSE22-08
Applicant: Rutabaga Holdings, LLC
Request: 5-701
R2 – Rural Two District Regulations: Special Exception: Solar Farm
Tax Map #: 155-00-00-024-000
Address: Corbet Rd

Chairman Walley asked if anyone wished to speak for or against the request. There were none. Commissioner McBrayer makes motion to extend the exceptions to seven years starting tonight, seconded by Commissioner Hayes. Vote 7-0 Approved

Comments / Discussion- There was no discussion.

Adjourn- Vice Chairman Jackson motioned to adjourn, seconded by Commissioner Hayes. Vote 7-0 to adjourn.

Time: 7:58 pm

This is a summary of proceedings at the September 13, 2022, 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.