
**BEFORE THE ZONING HEARING BOARD OF CARROLL TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

IN RE:	:	Docket No.: 2024-003
	:	
YORK COUNTY PA S3, LLC	:	Hearing Date: April 22, 2024
<i>Applicant.</i>	:	
	:	

FINAL DECISION

AND NOW, this 22nd day of April, 2024, after consideration and hearing upon the application for a special exception filed by York County PA S3, LLC, pursuant to § 450-212 (Table of Land Uses by District) of the Carroll Township Zoning Ordinance, the Zoning Hearing Board of Carroll Township hereby conditionally grants the Applicant a special exception as set forth more fully herein:

FINDINGS OF FACT

1. Sharon and James Hess own and control the real property situate at 45 Golf Course Road, Dillsburg, PA 17019 (UPI #: 20-000-NC-0072.00-00000) (“Property”).
2. The Property is approximately seventy (70) acres and is located in the Mixed-Use 1 (“MU-1”) Zoning District of Carroll Township.
3. York County PA S3, LLC (“Applicant”) has the contractual right to lease an approximately 34-acre portion of the Property.
4. Currently, the Property is improved with and is used as a residential dwelling; however, Applicant is proposing to use the Property as a solar farm.
5. By application dated March 27, 2024, Applicant submitted an application (“Application”) to the Zoning Hearing Board of Carroll Township (“Board”) requesting a special exception to operate a commercial solar power facility on the Property, pursuant to § 450-212.
6. A hearing upon Application 2024-003 (“Hearing”) was held before the Board on April 22, 2024, at approximately 6:05 P.M.

7. The Board conducted the Hearing at the Carroll Township Municipal Building located at 555 Chestnut Grove Road, Dillsburg, PA 17019.

8. Present at the hearing was Chairman Reihart, Board Member Setlak, and Alternate Member Heishman, together constituting a quorum of members that were able to attend the Hearing, participate in the proceeding, and vote on the Application.

9. At the beginning of the Hearing, a motion was made by Board member Setlak, and seconded by Chairman Reihart, to appoint Alternate Member Heishman as a voting member for purposes of this proceeding.

10. Also in attendance was Alternate Member Fiscus, who participated in the Hearing but did not take any part in the vote.

11. At the beginning of the Hearing, the following individuals expressed the intention to become a party to this Hearing and/or were sworn in for the purpose of providing testimony:

- (a) Michael Kissinger (on behalf of Applicant), 158 West Gay Street, West Chester, PA 19382;
- (b) Scott Temple (on behalf of Applicant), 10171 East 240th Street, Lakeville, Minnesota 55044;
- (c) Alviez Chagan (on behalf of Applicant), 2698 Gray Mill Way, Loganville, Georgia, 30052; and
- (d) Brandon Slatt (Zoning Officer), 555 Chestnut Grove Road, Dillsburg, PA 17019.

12. The Board accepted the following exhibits into the record:

- (a) Applicant Exhibit A-1 – site plan;
- (b) Applicant Exhibit A-2 – written decision of Board granting special exception application in 2019-006; and
- (c) Township Exhibit T-1 – engineer review letter (dated April 19, 2024).

13. Once the parties were sworn in, Zoning Officer Slatt provided the following general testimony regarding this Application:

- (a) the Property was posted and notice was provided to the appropriate parties in accordance with the law;
- (b) the Hearing was advertised in accordance with the Ordinance; and
- (c) the application fee was paid by the Applicant.

14. Following this testimony from Zoning Officer Slatt, Applicant provided testimony in support of its Application as follows:

- (a) The footprint of the solar panels to be installed at the Property will be no more than 17.71 acres;
- (b) The proposed use would involve the addition of impervious surfaces, including gravel roads (0.8 acres), concrete pads (0.06 acres), and solar panel bases (0.7 acres);
- (c) The access drive (as illustrated on Exhibit A-1) will be relocated to align with the Dillsburg Cemetery access drive;
- (d) Landscape buffering is proposed and buffering will be provided along all residentially-zoned properties as required by the Township's regulations;
- (e) A landscape buffer will be provided around the western, eastern, and certain northern portions of the solar farm;
- (f) A glare study will be conducted and provided to the Township;
- (g) The solar panels will be pile-driven into the ground to minimize soil disturbance and to prevent tilting of panels;
- (h) Vegetation will be cultivated and maintained underneath the solar panels;
- (i) Emergency contact information will be provided to the Township and will be located at the Property;
- (j) Applicant will utilize "string-inverters" to convert captured energy;
- (k) Applicant is aware of a study conducted by the manufacturer of Applicant's inverters that compares the noise generated by these inverters to that of an air conditioning unit;
- (l) There will be little to no sound created by the proposed use that will be audible at the surrounding properties;
- (m) An eight-foot high chain-link fence will be constructed surrounding the installed solar panels;
- (n) A Memorandum of Option, which gives SolAmericaEnergy, LLC the exclusive option to lease up to 34 acres on the Property, has been recorded in the Office of the Recorder of Deeds in and for York County at Book 2556, Page 8278.
- (o) The term of the above-referenced option is twenty-five years;
- (p) The panels to be utilized are 550 watt panels;
- (q) The access drive, though marked as a gravel road on Exhibit A-1, will be paved per the Ordinance requirements; and
- (r) The proposed use does not have any need for either water or sewer utilities.

15. Zoning Officer Slatt cross-examined the Applicant, which yielded the following testimony:

- (a) There will not be any grading done of the Property beyond what is needed for the roads and concrete pads;
- (b) The proposed use would have either a neutral or positive impact on the Property's soil;
- (c) Applicant is willing to provide a decommissioning bond, to the extent that the same is required; and
- (d) The anticipated traffic generation by the proposed use is one to two trips per quarter.

16. David Hazen of 2 Grandview Drive, Dillsburg, PA 17019 provided public comment.

17. After public comment, Chairman Reihart closed testimony, and pursuant to 65 Pa.C.S.A. § 708, the Board recessed the Hearing to hold an executive session for purposes of quasi-judicial deliberations.

18. Following this executive session, the Board reconvened the Hearing and rendered its decision on the Application.

CONCLUSIONS OF LAW

19. Pursuant to § 450-212 of the Ordinance, a commercial solar energy facility is permitted by special exception within the MU-1 Zoning District.

20. As such, the Applicant requires special exception approval from the Board to use the Property as a commercial solar energy facility.

21. The Applicant provided testimony and evidence sufficient to carry its burden of proving compliance with the terms of the Ordinance.

22. As testified to by the Applicant, this proposed use meets and will continue to meet the MU-1 Zoning District regulations set forth in § 450-206 of the Ordinance.

23. As testified to by the Applicant, this proposed use meets and will continue to meet the specific use regulations set forth in § 450-316 of the Ordinance.

24. As testified to by the Applicant, this proposed use meets and will continue to meet the special exception criteria set forth in § 450-605.B of the Ordinance.

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A motion was made by Board Member Setlak, and seconded by Board Member Heishman, to conditionally approve Applicant's request for a special exception, pursuant to § 450-212, allowing Applicant to operate a commercial solar energy facility at the Property, subject to the following conditions:

1. The buffering requirements set forth in § 450-206 and § 450-316 will be satisfied by the Applicant;
2. Both principal uses on the Property will meet all the density, lot, and yard requirements, as though these two principal uses were on individual lots, pursuant to § 450-409; and
3. The proposed use will be carried out in the manner and at the location testified to by Applicant at the Hearing.

Chairman Reihart called for a roll call vote on this motion, which yielded the following results: Board Member Setlak voted to approve; Alternate Member Heishman voted to approve; and Chairman Reihart voted not to approve the motion. Accordingly, the motion to grant Applicant's special exception¹ was passed by the Board with a vote of 2-1.

BOARD SIGNATURES:



Gary Reihart, Chairman



Frank Setlak, Secretary

Mark Heishman, Voting Alternate

Dated: April 22, 2024

Date of Mailing: 6-5-2024

Note: Any party aggrieved by this decision may appeal to the Court of Common Pleas of York County within thirty (30) days of the date of this written decision.

¹ Applicant is reminded of the established timeframe to secure the necessary permits and/or commence work authorized by this Board's decision, pursuant to § 450-604.B of the Ordinance.