

**CLAYTON PLANNING BOARD
PLANNING BOARD MEETING MINUTES
OCTOBER 23, 2023**

The regular meeting of the Clayton Planning Board was called to order at 7:00 PM. Invocation was given and we had a Salute to the Flag.

SUNSHINE LAW

The public notice of this meeting pursuant to the Open Public Meeting Act of 1975 has been properly given in the following manner:

- A. Posting written notice on the Official Bulletin Board in the Municipal Building.
- B. Mailing written notice to the South Jersey Times and the Franklinville Sentinel.
- C. Filing written notices with the Clerk of the Borough of Clayton.

ROLL CALL:

Ayes: Abate, Cerone, Culver, Miller, B. Saban, T. Saban, Wise, DePoe, Wiseburn
Absent: Bianco, Thomas, Vondran

APPROVAL OF MINUTES

M/ B. Saban, S/ Cerone - Approve the Minutes of the regular meeting of the Clayton Planning Board/Zoning Board held on September 25, 2023.

Ayes: Abate, Cerone, Culver, Miller, B. Saban, T. Saban, Wiseburn
Abstain: Wise, DePoe

OLD BUSINESS:

NJ Solar Power – 709 N. Delsea Dr., a/k/a Block 1512, Lot 25 – this matter was originally scheduled for the September 25, 2023 meeting and was continued to tonight's meeting as they did not have an attorney present. Alexis Smith, Solicitor, indicated that Tony Saban will be stepping down during this application.

Alexis Smith, Solicitor, swore in the professionals on this application. Peter Rhoades, Esquire represented the applicant, NJ Solar Power as well as the owner of the property. This application is for the installation of ground mount solar panels. There is no development at this property and there will not be any future development. Photographs were submitted to the board and they were marked as Exhibit A. The proposed use has been deemed a beneficial use in the State of NJ as it provides green energy which is must needed in our State. The owner of the property is LCA Properties, LLC. It's sole owner is Leo Abrahamian.

Leo Abrahamian advised the board that the property has a retention pond with no water and has never seen water in it. He has owned this property since 2013. He also owns the laundromat at the site. During ownership of this property and during the worst storms Mr. Abrahamian testified that it has not had any water in it. He is proposing to put the solar panels on the left side of the property from the front of the fence to the back of the fence. No solar panels are proposed in the gravel section.

Phil Howey, a representative, from NJ Solar also attended the meeting. He presented a photograph of ground mount solar panels. The maximum height of the retention basin is approximately 46". The bottom edge of the array will be at four feet. The system is mounted on schedule 40 pipe which is a structure. There are no electrical components at all. It will be in the water even if the water retention would fill up all of the way.

A photo of the array was submitted and marked as Exhibit C. The entire array itself will be enclosed with four foot chain-link fencing. There will be a gate so the array can be accessed. Joe Abate clarified that they will be putting a chain-link fence around it and Mr. Howey responded yes. Joe asked how high and he said as high as the array is. It will be about 6 ½ feet. Joe also asked if the gate is going to have a lock on it. Mr. Howey answered it can and Joe responded that he would prefer that.

Doc Cerone clarified if the retention basin was totally filled with water which is hardly ever is it would be 46 inches high. The lowest part of the panels would still be above the water which would be approximately eight inches. They responded yes. He asked if they were across from the church and they responded yes. They added that they will also be putting panels on the roof as well as the laundromat needs a lot of power.

Joe Abate referenced the photograph given to him and what side the panels will be on. He also asked if the trees were going to block the panels. He was advised that they may have to trim them back a little bit to get sun light back there. That is their property as well. There are houses behind the property. Joe Abate asked if there would be any glare from the solar panels to disturb the parking lot or the residents. They advised no as the solar panels absorb the light. Joe added that there are companies now who clean solar panels and that they want to look into that since there is a lot of vegetation around them. Joe asked what their lifespan is and they advised that the warranty is 25 years and produce at least 80 percent. Joe also asked how will the panels be recycled once their life span is up? He was advised that they are now starting to replace systems that they first put in and there are companies that are popping up that do recycle them. Joe asked if they will have a recycling plan in their proposal and he was told no that it's not possible right now because of technology in 20 years. Joe Abate asked if they can put in their proposal the fact that they will be recycled when their lifespan is done. He doesn't want the Borough of Clayton being responsible for picking up old solar panels. Alexis added that they can put some language in their proposal that the panels be recycled as to what the current standards are at that time.

Pictures were submitted showing the pipes which are cleaned and maintained. They are cleaned every couple of years and they are in good shape. There is nothing wrong with the retention. Joe asked don't we have a maintenance plan for the Borough. Wayne Roorda responded that he is going to touch base on it in his letter.

Wayne Roorda, Jr., went through his letter dated September 20, 2023. This application is for a ground mounted solar facility within a stormwater management basin which is not explicitly permitted. It does still hold some water. This thing isn't holding water long term. Wayne is good with the height but is concerned with the actual equipment as far as

disconnect switches, switch gear, any transformers, etc... I assume these will be located outside of the basin? They advised that the equipment will be at the building. Wayne asked how will they get into maintain the property in the future. He's also concerned that when they maintain it will they be turning the system off? He asking for a maintenance plan that will show if there is a problem. Wayne also asked if this is the first time they went into a basin and they said yes cause they had to go a bit more further into this one because of lack of property.

They addressed some of Wayne's questions. It's very strict these days because of changes in the code, the fire code, the firemen, the signage, the amount of work they have to do with the towns to get these projects approved. There is signage that shows where the disconnects are. They call that rapid shutdown. As soon as there is a fire, they come in and pull out the meter to make sure there isn't any power in the building before they put water on it. They also shut off the solar system. There is a shut off right next to the meter. As soon as you do that, everything is unenergized. At the panel level everything shuts off. There is a kill switch right by the meter. They agree to provide some kind of plan. They are also going to put down some weed fabric with some stones. They really don't want anything growing under there if they can help it. Wayne added if they can provide him with the plan so he can review it along with giving a copy to the Borough and Fire Department as well.

Wayne addressed their lowest point of the basin is 48 inches but what about the lowest wire. They advised him that that's what they are talking about. The first electrical component will be 48 inches high. In regards to the glare, there isn't any and it absorbs it. Will there be any glare on the houses or will there be any vegetation damage with the landscaping? They use these at airports and there is no glare.

MOTION TO OPEN TO THE PUBLIC

M/ Abate, S/ B. Saban

Ayes: Unanimous

Doc Cerone asked about the panels being recycled and what the panels are made of. The cells are made of polysilicon. They also have aluminum and glass.

MOTION TO CLOSE TO THE PUBLIC

M/ B. Saban, S/ Culver

Ayes: Unanimous

Mr. Rhoades touched briefly on the positive and negative criteria. He feels it will help the community and will not add any glare to the neighboring properties.

MOTION TO APPROVE THE USE VARIANCE

M/ B. Saban, S/ Wise

Ayes: Abate, Cerone, Culver, B. Saban, Wise, DePoe, Wiseburn

Alexis Smith advised Sue that they only need seven votes so Sue Miller withdrew her vote.

Doc asked out of curiosity you're doing the roof and this. What percentage of the electricity generated is coming from this. They advised more than half. It will be about 65-70% and the rest from the roof.

John & Bonnie Nikituk – 272 W. Clayton Ave., Clayton, NJ a/k/a Block 807, Lot 13 – Use Variance

Dale Taylor, Esquire represents the applicant, John & Bonnie Nikituk. They are looking to use the property for truck parking and storage containers for recyclable materials where currently exists a concrete manufacturing facility. This property goes back approximately 50 years as a concrete facility since 1975. It was sold in 2013 and they manufacture concrete at the location. Some members on the board may remember Mr. & Mrs. Nikituk coming before the board several years ago regarding a recycling facility and eventually withdrawing their application.

We are asking to use this vacant facility which is still on the market for concrete. As long as this use hasn't been changed it is still considered a concrete facility. What's coming before the board tonight is to potentially see another concrete factory or what is being proposed a far less negative impact to not only the facility but the neighbors also.

The property is in the RIO-1 zone district. The proposed use is not permitted. However, if you look at the other permitted uses assembly, light manufacturing, warehousing and distribution would have significantly more impact than what is being proposed. While this is not listed as a permitted use, in fact, it's less of an impact of what you could put there as a matter of zoning.

The positive criteria is the facility is particularly beneficial and suitable for this use. There is no conflict with the neighboring municipalities, the County or the State. It is a sufficient size for this use. Regarding the negative criteria there has to be substantial detriment to qualify under a use variance application for this not to be approved. When you hear the hours of operation of what is being done there, it is significantly less of what was already there. The permitted uses in the Borough's Code is more intense as to what they are looking to put here.

John Nikituk was sworn in by Alexis Smith, Solicitor. He owns East Coast Waste Services & East Coast Metal Recovery. Recycling is his business which he has been in since 2005. He recycles cardboards, any kind of metal, and wood. He doesn't recycle garbage or waste or combustible material. They do recycle concrete also. Brief discussion took place.

At any given time, they will have from three to ten trucks a day. Some areas will have containers where the items need to be sorted. Some items he may sit on a little bit. Scrap metal is down right now. Once the cardboard is full, he will take it and get rid of it. He doesn't know how traffic is going to be. Conrail does go through town right now. The latest they will be there till about 6 p.m. They are open on Saturday till about the same time. The summer time is there busy time. When it starts getting dark earlier like it is

now they will probably shut down about 5 p.m. Once in a while if there is an emergency and if he is overbooked on Monday he would probably come in on Sunday and pick up a delivery and catch up on some paperwork. He would probably be there himself. There will be no other employees just the drivers dropping off stuff. Mr. Nikituk would be picking it up. This operation is quiet. They are licensed by the State of NJ to haul trash and heavily regulated by the State.

Doc Cerone asked how many people will be working there. He was advised just him and the truck drivers that come in. He asked if there was any pollution involved and they said no. It stays in the container or the truck. It's just a temporary storage until it's moved out. It will not be disturbing the public. They also will not be coming in all hours of the night. He also asked what needs to be done before they open for business. Dale Taylor answered they will be open pretty quick since it's already there. Brief discussion took place. It's a low impact use which is good for the environment. They will also ask the police department to occasionally drive by to make sure no one is on the property. We would also ask the neighbors that if they see anything to call the police. Dale Taylor advised that he received a lot of phone calls saying this is a lot better than having another concrete place at the property.

Scott Wiseburn asked what they use for security. Dale Taylor answered that it is high fencing around the property. He asked if they would be installing cameras. They were told they don't have them at their other facilities. There will be no metal or copper outside they most likely will be kept in the containers.

Bill Culver questioned if they are just moving dumpsters around. Mr. Nikituk answered that he will pick up some stuff and bring it back to his facility or truck drivers drop stuff off at his facility. It then has to be sorted which for the most part he does by hand. He does have a bobcat that he uses rarely. He has three containers that are side by side. There is another container that he has there every two weeks. He owns about 50 containers he will probably have about half at this location.

Dale Taylor added that since they are not making any changes and are using what's there at the property they are asking for a site plan waiver as part of the application.

Doc Cerone asked how long the property has been vacant. It's been vacant about a year to a year and a half.

Wayne Roorda, PE, PP referenced his letter dated October 6, 2023. They already went through the positive/negative criteria. In regards to his second comment about the proposed traffic intensity for the proposed use. Dale Taylor advised that he would like everything in the addendum added into the record. Wayne was fine with that. It will be a less intensive traffic use. Wayne asked if the location is going to have an additional use on the property such as sorting. They responded yes. There will be no odors related to this, explosive materials, chemicals, or anything that would be a fire hazard. He doesn't collect anything like that.

Wayne asked if any items have asbestos on them what do they do with that. He doesn't haul any asbestos siding anymore. When he did do it, it had to be doubled bagged with a plastic liner and tape it shut. He also doesn't sort trash. He only handles recyclables. There won't be a lot of vehicles daily.

Doc Cerone asked if he had a refrigerator that would he pick up a refrigerator that is broke. The applicant responded yes and he said or you can even drop it off. He said he also goes through the town and picks up scrap metal. Joe Abate told him that there a lot of people who drive through town picking up scrap metal will they be dropping the stuff at his facility. He said no. Rachel Wise asked how many hours is he on-site personally. He said he could be there two hours or all day. If he is there all day, then things are really slow. He usually starts between 8-9 a.m. and will be there one going back around 6 p.m. Hope DePoe asked that he isn't really doing anything to the site. He said he will be cleaning it up. They are going to take the conveyer system down and he would like to try and sell it. She asked if there will be anything washed there and he said no. She also asked about the recycling of cardboard. He said he picks up from some businesses and they are already crushed.

Wayne asked about any cardboard or trash blowing all over. He said no because it's already tarped and bungeed down. It's the law that they have to be covered. They are pretty strict with the laws. The police will ticket if they see something not tarped. Wayne had acknowledged that they were asking for a waiver of a site plan. He said he is still leaning towards asking for a minimum minor site plan to show what they are doing. He knows they are going to abandon the concrete plant use but as far as the facility you are going to dismantle this over time. His concern he has is the layout and how you are going to navigate on the site, where you are parking, what will residents be able to see, there may be a need for buffering. My concerns are what is a neighbor going to see and do we need any shielding for buffering.

Dale answered there are surrounding teams buffering it. When it was the concrete place, you could still see it because of its high pitch but that is not going to be used. We feel if the existing buffering for almost 50 years was good enough for a concrete company then I think it is sufficient enough for what we are doing and proposing. He would like them to get in there and work around it and if there are issues then they will work with the Borough. Brief discussion took place. Dale Taylor asked Wayne Roorda if he had a chance to go out to the property. He answered that he has been by the property but not in the property. Dale said as a condition of approval they will agree to have the applicant and planner meet on site and see if there is any additional landscaping that might be necessary. Joe Abate said he was thinking of some type of modified site plan that can be drawn up to the Borough Officials know what they are doing out there. Dale said they will agree to that. Additional discussion took place about lighting, etc... Dale said they can meet at the property and look at it. Notes can be made and a surveyor can add it to the plan.

MOTION TO OPEN TO THE PUBLIC:

M/ B. Saban, S/ Wise

Harry Simpson – 110 Cedar Ave – He was sworn in by the Solicitor. He doesn't have an issue with the hours of 8 a.m. to 6 p.m. approximately. The concrete plant usually started at 7 a.m. and ended around 3 p.m. The concrete plant didn't make too much noise and he got used to it. He has concerns about hydraulic cylinders and the oil usually drips onto the ground. He doesn't haul that. He hauls forklifts for a couple of people. They all have to be drained too. You can't sell that with oil in it. In the past, Mr. Simpson has called the cops as there have been people on the property after hours. It was usually kids in there goofing around. They would climb through the gate. They will put signage up.

He also brought up drainage and said there is a problem on Cedar Ave. It drains into the property and that property floods out. That water table comes from the lowest point up the street and backs into the street. Public Works has been out to his property on many times and they tell him to call the owner of the property. He feels that issue needs to be looked into and addressed.

He said that he is the only one here today and wanted to know how many of his neighbors got served. Dale Taylor advised everyone within 200' in all directions. He wanted to know if they all picked up their notices and was advised by Mr. Taylor that he did not know. He asked how far in advance must the notices go out and he was advised 10 days as it's State law. He asked if it's 10 working days or calendar days and was told 10 calendar days.

He said that when Redy Mixt was there and there were heavy rains they were there with a sump pump. Dale responded that they do have a letter from the Public Works Director, Greg Sawyer, and read that into the record. It will be looked into. Someone can get in touch with Mr. Simpson. He's on the road a lot but you can leave a message and he will get back to him.

MOTION TO CLOSE TO THE PUBLIC:

M/ B. Saban, S/ Wise

Alexis asked Wayne if they want the applicant to come back for a minor site plan. Wayne indicated that they will get together on this and look over everything and they will need to submit some kind of plan showing the layout with proposed lighting, etc... Dale would like to meet with the Borough's Planner and go over everything and hopefully satisfy him. If they can't, then they will come back before the board. They both agree that it will be a condition of approval.

The applicant asked if he would be able to put any containers there ahead of this and he was told no not until they have some kind of plan.

MOTION TO APPROVE THE D-1 USE VARIANCE WITH CONDITIONS

M/ Wise, S/ Barb S.

Ayes: Abate, Cerone, Culver, B. Saban, Wise, DePoe, Wiseburn

MOTION TO OPEN TO THE PUBLIC – There was no public

M/ B. Saban, S/ Abate

CORRESPONDENCE:

None

DISCUSSION:

None

RESOLUTIONS:

Res. #21-2023 – Granting Minor Subdivision & Waivers – Block 1814, Lot 15 (110 Earl Ave.) – Bruce Anderson

M/ Wiseburn, S/ Culver

Ayes: Abate, Cerone, Culver, Miller, B. Saban, T. Saban, Wiseburn

Abstain: Wise, DePoe

Res. #22-2023 – Granting Minor Subdivision & Waivers – Block 1303, Lot 5 (46 E. Center St.) – Build More Contractors, LLC

M/ B. Saban, S/ Abate

Ayes: Abate, Cerone, Culver, Miller, B. Saban, Wiseburn

Abstain: Wise, DePoe

ADJOURNMENT

M/ Miller, S/ T. Saban

Ayes: Unanimous

Submitted by,


Debbie Schlosser, PB Secretary