Zoning Hearing Board
Lower Saucon Township
Town Hall
March 18, 2013

MINUTES

The meeting was called to order at 7:00 p.m. by Secretary Keith Easley.

Roll Call

Present at the meeting were Secretary Keith Easley and Board Members Lachlan Peeke and Austin Kunsman. Chairman Jason Banonis and Vice Chairman Ted Griggs were absent. The Solicitor, George A. Heitczman, was present.

Minutes

The Board had before it for approval the minutes of the meeting of January 21, 2013. Mr. Easley moved to accept the minutes as submitted. The motion was seconded by Mr. Peeke and passed by a vote of 3 to 0.

Bills

The Board had before it for approval a bill from the Morning Call for advertising the meeting of January 21, 2013, the Court Reporter's bill for attendance at the meeting of January 21, 2013, and the Solicitor's invoice for the month of January, 2013. Mr. Easley moved to pay the bills as submitted. The motion was seconded by Mr. Kunsman, and passed by a vote of 3 to 0.

Variance Appeal of Tyler Colodonato - Variance 01-13

Chris Garges, the Zoning Officer, was sworn and testified that Applicant

would like to construct a 6' tall fence which will be located in the required front yard setback. The property is located in an R12 zoning district. The Zoning Ordinance in §180-97C(2)(a) only permits a fence to have a maximum height of 4' in the required front yard. The lot is approximately 3,900 square feet in size. The property contains a single family attached dwelling (twin) . The lot has frontage on Old Philadelphia Pike and Walter Street, so it has two front yards. Applicant is proposing to place a 6' high fence in the required yard on Walter Street. Applicant will need approximately 2' of relief from the required maximum height of fences of 4' in a required front yard. There were no prior variances granted for this property.

Mr. Garges told the board that a similar request had been made last year for a property across the street from this property, and the fence as installed had no traffic sight line issues.

Township Council took no action the matter.

Mr. Colodonato was sworn and testified that the proposed fence will be replacing a previously existing fence. He says he wants to raise the height to 6' to ensure privacy and believes it will be more aesthetically pleasing.

Mr. Garges told the Board that there is not enough room to comply with the setback requirements because of the geography of the lot.

There was no one in the audience who wished to be heard concerning the matter.

Mr. Kunsman moved, seconded by Mr. Peeke, to grant the variance as requested. The motion passed by a vote of 3 to 0.

Special Exception Appeal of Bethlehem Renewable Energy, LLC - Special Exception 01-13

Chris Garges having been previously sworn testified that Applicant is proposing to construct a hazardous substance storage container to service the

existing power generating plant that generates electricity from landfill gas via a turbine engine. The storage will involve waste liquid from the gas stripping process in which landfill gas is treated to a point that it is a viable fuel for the turbine. Applicant has submitted a site plan in conjunction with this application. The Planning Commission reviewed the application at their February 28, 2013, meeting and had no comment. The property is located in an LI zoning district and contains the existing IESI landfill. The land development/site plan proposal is a revision to the approved land development plan for the IESI landfill. Applicant leases a portion of the land from the owner IESI.

Mr. Garges noted that the property had received a special exception in 1993 in order to expand the time it was owned by the City of Bethlehem. IESI had also received a special exception for expansion in 2000, as well as a special exception in 2003 to add turbine engines to generate electricity from the gas generated in the landfill.

Applicant now seeks a special exception under §180-80B(4) in order to have storage tanks for waste liquid generated when the methane gas produced by the landfill is dry before it is burned.

Township Council took no action.

Attorney James Preston appeared on behalf of Applicant. Attorney Preston told the Board that he was seeking on behalf of his clients first an interpretation that the material to be stored is not a hazardous or toxic waste within the meaning of the Zoning Ordinance, and secondly, if it was interpreted to be such, that his client receive a special exception which is allowed under the Zoning Ordinance.

Attorney Preston introduced the Board to Roger Williamson and Robert Hollis who are representatives of Bethlehem Renewable Energy, LLC, which is the Applicant.

Mr. Williamson is the environmental and safety manager for the company.

He referred to the list contained in §180-96G of the Ordinance of materials that are hazardous and toxic materials and stated that none of these materials were in the liquid that would be stored.

He identified as Applicant's Exhibit A-1 a site plan showing the proposed construction of temporary waste storage tanks. He stated that the process is to pull methane gas from the landfill and condense it. Water is entrained in the gas and this is separated during this process.

Previously the water had been sent to the wastewater treatment plant in Bethlehem, but now it will be stored and disposed of elsewhere. The reason for this change is that a discharge slug went to the Bethlehem plant and caused problems. This was investigated and determined to have come from the landfill. The landfill owner, IESI, then required Applicant to separate its discharge from that of IESI and separately monitor it. At this point it was determined that an alternative to sending the water to the Bethlehem treatment plant was needed.

Mr. Williamson testified that this condensate water is not considered hazardous waste under any Federal or DEP guidelines. He stated that DEP did give notice of a hazardous substance on one occasion to Applicant, but that notice was withdrawn as being inaccurate.

He identified Applicant's Exhibit A-2 as an analysis of the condensate water as of April 3, 2012, and Exhibit A-3 as an analysis of the condensate water on April 4, 2012. He identified Applicant's Exhibit A-4 as a summary of results of split samples taken by Applicant and the Bethlehem sewage plant. The tests show that there is no hazardous waste but that the water contained substances that can interfere with the sewage treatment plant which uses living organisms to help digest the waste.

In response to a question from the Board, Mr. Williamson stated that it is anticipated that the water will be trucked off of the site once a week. In response to a question from Attorney Preston, he referred to §180-96G and stated that none

of these materials would be found in the condensate water except for possibly in trace amounts.

Mr. Williamson testified that the specific requirements pertaining to a special exception to store hazardous and toxic substances listed in §180-96G(2-7) would be met.

He testified that there would be no impoundments containing toxic substances, §180-96G(2); that the impermeable surface requirement of §180-96G(3) would be met; that the proposed tanks would not be within 300' of any water supply, §180-96G(4); the requirement of an inventory under §180-96G(5) would be met; the groundwater monitoring requirement of §180-96G(6) is met by the existing IESI wells, and §180-96G(7) does apply as no de-icing salt facilities are involved. The Solicitor then told the Board that the Ordinance contains the language "Hazardous and toxic materials include but are not limited to the following:" In view of this, and in view of the fact that the water was no longer acceptable to the Bethlehem water treatment plant as it contained materials toxic to the process, he suggested that the Board not consider an interpretation that this material was not hazardous or toxic material within meaning of the Ordinance, but rather consider the condensate to be a toxic material and grant the requested special exception to permit the storage of this material so long as the requirements of §180-96G(2-7) are met.

A member of the audience, Donna Louder testified that she is on the Township Landfill Committee. She had a report from the Township Engineer concerning the design of the proposed containment vessels and was informed by the Board this was not a matter for their consideration.

Mr. Peeke moved, seconded by Mr. Kunsman, to consider the condensate water to be a toxic material and to grant the requested special exception under §180-80B(4) subject to the express condition that there be strict compliance with the requirements of §180-96G(2-7). The motion passed by a vote of 3 to 0.

Old Business

There was no old business before the Board.

New Business

There was no new business before the Board.

Adjournment

There being no further business before the Board, Mr.Peeke moved, seconded by Mr. Kunsman, to adjourn the meeting. The motion passed by a vote of 3 to 0 and the meeting adjourned at 8:00 p.m.

Respectfully submitted,

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George A. Heitczman
Solicitor

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