

RESOLUTION NO. 2012-7

Applicant: H2O Entertainment Group LLC
Sahara Sam's Oasis Indoor Water Park
Property: Block 1101 Lot 16
535 Route 73 North
Zone: C-2 Highway Commercial

Application for proposed twelve Solar Panel Arrays with use variance and side yard set back

RESOLUTION OF THE BERLIN TOWNSHIP PLANNING/ZONING BOARD
GRANTING APPLICATION FOR (AMENDED) MINOR SITE PLAN FOR
INSTALLATION OF RAISED SOLAR PANEL CANOPIES
WITH USE VARIANCE AND A 15' SIDE YARD VARIANCE

APPLICATION IS APPROVD

WHEREAS. On October 25th 2011, the above application was considered by the Planning/Zoning Board of the Township of Berlin, Camden County, New Jersey, for a minor site plan for installation of raised solar panel canopies and proposed parking areas. The applicant appeared before the Board and was represented by Brian Guest Esq. Also appearing for the applicant was Michael E. Avila P.E., and

WHEREAS. The Planning Board having received a plan for the minor site plan, and the Plan being prepared by Michael E. Avila P.E. of Avila Engineering, dated 10/14/11, and the plan having been reviewed by the Board's engineer Charles J. Riebel Jr., P.E., P.L.S., P.P., C.M.E, with a report submitted and dated October 21st 2011, and

WHEREAS. Also appearing in opposition to the minor site plan submission was Andrew B. Cohen Esq., representing adjacent property owner Resin Tech. Also appearing on behalf of Resin Tech was Brian S. Peterman P.E., C.M.E. of Peterman Maxcy Associates LLC Engineers. The noted opposition was limited to arguments related to application completeness and not to the applicant's intended use of raised solar panel canopies.

WHEREAS. The Board has determined that the application was properly before the Board with notice and publication being submitted. The Board also determined that the application was complete as to submission.

WHEREAS. The Board received all the testimony and has further determined;

WHEREAS. The applicant is applying for an minor site plan approval for property known as Block 1101 Lot 16, and

WHEREAS. The applicant has made application for site plan approval to install of raised solar panel canopies and proposed parking areas, and

WHEREAS. The property is located in the C-2 Highway Commercial Zone, and

WHEREAS. The Board has received and reviewed all reports filed by the applicant's professionals and the Board engineer, and

The Board first addressed the applicant's request for a use variance.

Following a review of the application for use variance, and the receipt of testimony, the Board determined;

The property is located in the C-2 Highway Commercial zone and the proposed solar field is not a permitted use in the zoning district. As part of the applicant's submitted documents, the Board received brief arguments by the applicant's attorney referencing the Municipal Land Use Law policy supporting the expansion of renewable energy resources, such as solar panels. It was presented, and the Board agreed, that solar energy fields are included in the definition of "Inherently Beneficial Use".

There was discussion on the impact solar panels will have on the immediate community as well as the Township. The Board evaluated the public interest at stake, any detrimental effect that may result from the granting of the use variance, site suitability and the intent and purpose of zoning. It was argued and the Board agreed that the solar panels have little or no impact on the community, would not create drainage issues and could be granted without any substantial detriment to the public good or deviation from the intent and purpose of zoning.

Following the consideration, the Board determined to approve the applicant's request for use variance.

The application proceeded with the applicant's request to construct twelve-panel array as shown on the submitted plan dated 10/14/11. The proposed solar panel array will be installed within the existing and proposed parking area and along the northerly side of the driveway to Cooper Road and over roof tops. As part of the proposal, the applicant will require a side yard variance of 1.09 to 1.78 from the required 15 feet set back along the north property line and a side yard set back of 9.28 and 10.33 feet from the required 15 feet side yard set back along the south property line.

The applicant presented several documents marked A-1 through and including A-9 as part of the testimony and in addition to the plans submitted and filed. The exhibits were submitted and intended to provide the Board with a visual display of the solar panel array as they relate to the parking area, neighboring property, design, structure, column strength and solar analysis.

There was much discussion on the location of existing evergreen trees along the property lines, as well as the wooded area at the proposed parking expansion. There was concern that as the trees mature, they would interfere with the solar panels and the applicant would remove existing trees. There was also discussion on the removal of existing landscaping. The applicant agreed that the relocation of existing landscaping and trees would be submitted to the Board engineer for review and approval.

There was also much discussion on the support structure for the solar panel canopy. The applicant presented testimony that the solar panel column will support the array of solar panel and will also provide sufficient support and strength against any motor vehicle contact. Concern was also expressed over the columns interfering with the existing subsurface storm water management system. The applicant agreed to provide the Board engineer with structure support calculations, as well as the location placement of footings so as not to interfere with the subsurface drainage system.

The Board expressed concern over vehicle traffic and turning radii, especially commercial buses and fire emergency apparatus. The applicant agrees to appropriately make commercial bus parking in the area of solar panel array # 2 and 4. The Board was also concerned over sufficient light in the parking area for pedestrian and motor vehicle travel. The main concern centered in the area of solar panel array #7. The applicant agreed to address the lighting concerns with the Board engineer and to propose a slight shift in panel array #7 so as not to interfere with necessary lighting. The lighting concern and panel shift will be established by demonstration of plan submittal to the Board engineer.

The testimony presented and the Board engineer agreed that there would be no need for additional storm water management measures since there is no proposed change to the surface conditions.

The addition of and location of equipment inverters was discussed and the applicant agreed to amend the plan to place the equipment inverters in the trash pad area as a measure to control noise affects on adjacent property owners.

Following the testimony, the Board determined that granting the use variance as well as the side yard set back variance to permit installation of a solar panel canopy array would not impose a substantial detriment to the community or a substantial deviation from the intent and purpose of zoning.

NOW THEREFORE, BE IT RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the application for a use variance to permit the installation of twelve solar panel arrays is hereby granted.

BE IT RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the application for amendment to final site plan to permit the installation of twelve solar panel array as presented is hereby granted.

BE IT FURTHER RESOLVED as part of the amended site plan application for a side yard variance is granted as follows;

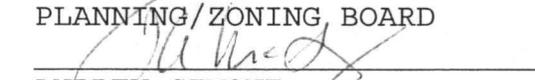
- 1) a side yard variance of 1.09 to 1.78 from the required 15 feet set back along the north property line.
- 2) a side yard set back of 9.28 and 10.33 feet from the required 15 feet side yard set back along the south property line.

BE IT FURTHER RESOLVED that the following are conditions to this amendment approval;

1. The applicant shall provide to the Board engineer calculations on column strength, with the understanding that if the calculations do not pass the Board engineers review, no construction permits will be issued.
2. Location and or relocation of existing landscaping and trees are to be shown on the plan for Board engineer review and approval.
3. The applicant will provide to the Board engineer reports to establish that the turning radii will not interfere with the solar panel columns.

ATTEST:


KELLY MCCAULEY
Secretary

BERLIN TOWNSHIP
PLANNING/ZONING BOARD

~~ANDREW SIMONE~~
Chairman 

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Berlin Township Planning/Zoning Board at a meeting held on October 25th 2011.


KELLY MCCAULEY, Secretary