

Cherrytree Township Board of Supervisors
Public Hearing – Ordinance 02-2020 (Solar Regulations)
August 24, 2020
6:00 p.m.

The Cherrytree Township Board of Supervisors held a public hearing on Monday, August 24, 2020, at 6:00 p.m., at the township building. The purpose of the hearing was to receive public input regarding Ordinance 02-2020, a proposed curative amendment to the zoning ordinance that includes regulations pertaining to solar development in the township. In attendance were Jim Waugh, Dave Zdarko, and Rob Kellogg, Supervisors, Christine Kurelowech, Secretary-Treasurer, and Alan Shaddinger, Solicitor.

Call to Order

Jim Waugh called the hearing to order.

Public Comment

Jamey Miller, Cherrytree Township Planning Commission member, read a prepared statement to those in attendance. He asked the Supervisors to consider two things before voting to pass the proposed ordinance. First of all, when a corporation is planning to use 10, 20, or hundreds of acres for a commercial operation (solar farm), the land should be zoned as commercial. The proposed ordinance would allow a solar farm to be permitted in an R/A (Residential/Agricultural) zone by conditional use. He noted that, in his opinion, “Granting conditional use for land zoned Residential/Agricultural for commercial usage spanning decades is circumventing the spirit and intentions of our zoning ordinance. The primary purpose of zoning is to segregate uses that are thought to be incompatible. In practice, zoning also is used to prevent new development from interfering with existing uses and/or to preserve the “character” of a community. Due process and consideration should be made prior to allowing a commercial venture to occupy Residential/Agricultural zoned lands. Insisting on a zoning change affords Cherrytree residents the proper consideration”. Jamey Miller’s second point was that solar panels should be considered impervious surfaces for the purpose of stormwater calculations/requirements. The proposed ordinance considers the panels to be impervious, but in recent meetings and hearings, some have argued that the panels should be considered pervious. He stated that, “Solar panels are typically 6 feet by 4 feet in size. However, they are joined together to make massive arrays. Large areas of solar panels will definitely have an impact on how stormwater flows. The panels may channelize the flows and create higher velocities of stormwater. A municipality should pay special attention to the stormwater management on a solar site and require best management practices. Considering the ground under solar panels as impervious ensures stormwater runoff and ground conservation will be fully addressed”.

Karen McGrath asked the Supervisors where solar farms are being proposed in the township and Jim Waugh said there is one being planned along Route 8, across from Timberlake Lodge, between Fairview Road and Buxton Road, near the old North Star station. He also said landowners have been approached by solar companies wishing to lease land for solar development in other areas of the township as well.

Mark McDowell asked if the township will see a significant tax revenue increase from solar farms. Jim Waugh said that the township will not see a significant tax revenue increase and that, changing the zoning on a parcel of land from Rural Agricultural (R/A) to Commercial/Light Industrial (C/I) will make no difference in tax revenue to the township. All property is taxed at the same rate. However, once buildings are put on a parcel, then the assessment increases. Jamey Miller noted that, if a solar development project is permitted by conditional use and is delayed, the taxes will not increase, but once buildings on the property are assessed as commercial, the taxes will increase. He said that zoning is supposed to protect property values in

the township and Mark McDowell agreed. Jim Waugh said that, if a parcel is rezoned to Commercial/Light Industrial (C/I) for the purpose of a solar farm and the solar company backs out and ends the project, the property remains zoned as Commercial/Light Industrial (C/I) until the township goes through the process to change it back to Rural/Agricultural (R/A). However, with a conditional use, the property would remain Rural/Agricultural (R/A) so any other commercial business would have to approach the township for permission (variance, conditional use, etc.) to move forward. Jamey Miller argued that the Supervisors are not protecting the residents of Cherrytree Township and the intent of zoning. He also said that the Supervisors do have a say as to what types of development are permitted in a Commercial/Light Industrial (C/I) zone.

Tim McGrath noted that several people representing solar companies were in attendance, many from California, and asked those people why there is so much interest in using Cherrytree Township for solar development. Perry Fontana, of Fontana Energy (representing Recurrent Energy) responded by saying that there is a lot of space in Cherrytree Township and that there are utility companies and co-ops in the area that are interested in buying renewable energy. Nate Fox, an attorney representing Cypress Creek Renewables said that they are able to lease land in Cherrytree Township that meets their needs and is close to infrastructure (i.e. the land is relatively flat and is near the power grid). Jamey Miller asked the solar company representatives if it is true that they are able to lease large areas of land in Cherrytree Township for cheaper than in other parts of the country. Perry Fontana said that the land in Cherrytree Township is not the cheapest, but it is not the most expensive either. Tim McGrath asked the solar representatives why they do not use land owned by the state for solar development and Perry Fontana said the solar companies “cast a broad net” and typically do not find large tracts of land owned by the state that are available for solar development. He said his company is considering Cherrytree Township because it contains large tracts of land, interested landowners, and the technology is available to make it feasible.

Karen McGrath asked the solar representatives why they would consider solar development in an area that receives little sunlight, as compared to other parts of the country. Perry Fontana said solar development started in the southwestern part of the country, but that technology has improved and made solar development possible in areas where there is little sunlight. Because of the technology improvements and the fact that there are customers in the area who want renewable energy, his company is interested in Cherrytree Township. Karen McGrath also asked the solar representatives what assurances they could give owners of neighboring properties that adequate drainage will be used, the panels are not toxic, etc. Perry Fontana said that there are different types of solar panels and the company he represents uses panels that “do not have toxic concerns”. Additionally, he said that the township ordinances require proper drainage, screening, etc.

Mark McDowell was concerned about decommissioning and asked how decommissioning would be handled if a solar company goes bankrupt and abandons a project in the township. Nate Fox noted that it is typical for a solar company to put up a bond to ensure the solar farm is decommissioned properly at the end of its life. He also noted that a solar farm would have to go through the county as a “land development project” and adhere to the county’s land development regulations as well.

Ron Stewart asked if there are any solar farms within 3 hours (driving time) of Cherrytree Township and the solar representatives said there are none. Nate Fox said his company has not constructed a solar farm in Pennsylvania yet, but has solar farms in western Maryland, Virginia, New York, and in the New England region. Ron Stewart noted that, whenever the solar representatives are asked for locations of existing solar farms, they always say, “We will get back to you”, but never do. He also said that pictures of solar farms would be welcome, but that the solar representatives have not provided pictures of their existing solar farms either.

Jamey Miller reminded the Supervisors that the decision on whether or not solar panels should be considered impervious or pervious is up to them, regardless of how the county feels about it.

Jamey Miller asked the solar representatives why they lease property as opposed to buying it. Steve Barna, a representative of Recurrent Energy, said that his company buys land and that the decision to sell or lease is up to the landowner.

Steve Anderson told the solar representatives that there have been several studies through major universities that have linked stray electric from solar farms to sterilization and mastitis in beef cattle. He asked them if they knew about this link and Perry Fontana responded by saying he had not seen the studies and could not comment. Steve Anderson noted that the studies were mentioned in an article that appeared in Farmshine magazine.

Mark McDowell said that he thought a solar farm could be built just 30 ft. from a home. Jim Waugh said that he thought there should be a 50 ft. setback from the road to prevent car accidents from becoming worse when motorists slide off the road and into a solar farm. Charlene Armstrong wanted to know how close a solar farm could be built on a property that is adjacent to her home on Route 8. Alan Shaddinger noted that there would be a 50 ft. front yard setback requirement and a 25 ft. side yard setback requirement for a solar farm in a Rural/Agricultural (R/A) zone. In a Commercial/Light Industrial (C/I) zone, there would be a 50 ft. front yard setback requirement and a 20 ft. side yard setback requirement for a solar farm.

Mark McDowell asked how much radiant heat a solar farm creates, noting that a house that is near a solar farm is going to need air conditioning to run much longer to cool down than a house that is located far from a solar farm. There seemed to be no answer to his question, but many people in attendance agreed that he brought up a valid concern.

Scott Preston asked if the township has any designated "agricultural security areas". He said this might be an option for farmers who wish to protect their land. The Supervisors were unaware of any designated areas. A petition would be submitted by farmers to the Supervisors to create an agricultural security area. Upon approval by the Supervisors, the area would be exempt from local ordinances and nuisance lawsuits that interfere with farming activities. A minimum of 250 acres is required to establish an agricultural security area. Each agricultural security area would need to be re-evaluated by the Supervisors every 7 years.

Scott Preston also asked if the money made from a solar farm is worth the cost of putting it in and Nate Fox said a solar project has to make financial sense to both the solar company and the landowner or it would not be worth pursuing.

Mark McDowell asked the solar representatives what part of their profits Cherrytree Township would receive. Jamey Miller said the township would only receive property taxes from solar farms unless solar farms are deemed tax exempt at some point.

Garrett Dvorkin asked the solar representatives how long it typically takes to construct a solar farm and they said it usually takes less than a year. Ron Stewart asked if there are any that are currently under construction and Steve Barna said there are some solar farms under construction in Texas and in Ohio as well.

Mark McDowell asked the solar representatives if their companies are responsible for paying taxes on the properties they lease and Steve Barna said the solar companies pay state and local taxes. Jim Waugh asked Steve Barna if the solar panels are considered "personal property" and are, therefore, tax exempt and Steve Barna said he would have to check. Jim Waugh said he was told by the Venango County Assessment Office that solar panels are not assessed.

Tim McGrath, Cherrytree VFD Fire Chief, commented on a recommendation made by Recurrent Energy that suggested a 20 ft. cartway is not necessary between arrays to allow emergency vehicles adequate access in the event of a fire. He said that the recommendation needs revisited because it is not feasible to have firefighters carrying hose such a distance on foot. By providing a 20 ft. cartway, the emergency vehicles would have much easier access to a fire. He also suggested that the VFD be provided a key that would be used to cut the power to an entire solar farm in the event of a fire at the facility. Jamey Miller suggested that, for the

protection of the firefighters, in the event of a fire, nobody should enter the solar facility until the power has been shut down by the company responsible.

Scott Preston asked the solar representatives how they handle vegetation control in and around solar farms. Nate Fox said that trimming vegetation and applying herbicides is part of the ongoing maintenance of a solar farm.

Lila Preston asked the solar representatives how a solar farm effects neighboring property values and Perry Fontana said there are no signs that say the property values drop. Karen McGrath said that she recently saw a study where, if a solar farm is 2 miles from your property, your property value will drop 3% - 7% and if a solar farm is 1 mile or less from your property, your property value will drop even more.

Lila Preston asked who is responsible for cleaning up the property when a solar farm is no longer functional and Alan Shaddinger said the solar company must decommission (clean up) the property within a year after going out of service. Perry Fontana added that the solar companies are required to put up security money when their projects begin to cover decommissioning expenses.

Adjournments

The hearing adjourned at 7:10 p.m.

Respectfully submitted,

Christine C. Kurelowech, Secretary-Treasurer