

**MEETING MINUTES  
BOARD OF ZONING APPEALS  
FOR CAROLINE COUNTY, MARYLAND**

**DATE:** July 17, 2018

**PLACE:** Health & Public Services Building  
403 S. 7<sup>th</sup> Street, 1<sup>st</sup> Floor, Room 110  
Denton, Maryland 21629-1335

**BOARD MEMBERS  
(PRESENT):** Bryan Saathoff, Chairman  
René Swafford, Member  
Mary Leavell, Member  
Mark Faulstick, Alternate Member

**ALSO, PRESENT:** Bob Merriken, Attorney  
Crystal Dadds, Assistant Director of Codes  
Melanie Smith, Board Administrative Assistant  
Matt Kaczynski, Development Review Coordinator

Chairman Saathoff called the Caroline County Board of Zoning Appeals to order at 6:07 p.m. and proceeded to describe the procedures of the hearing.

## **PUBLIC HEARING**

### **CHERRYWOOD SOLAR –Special Use Exception (#201800006)**

Chairman Saathoff read the notice of public hearing into the record.

Ms. Dadds read the exhibits into the record:

- Exhibit 1 - Department of Planning & Codes Staff Report
- Exhibit 2 - Application for Special Use Exception (37 pgs.)
- Exhibit 3 - Real Property Data Sheets (27 pgs.)
- Exhibit 4 - Photographs of Properties taken on 6/29/18 & 7/2/18 (69 pgs.)
- Exhibit 5 - List of Notified Adjoining Property Owners (7 pgs.)
- Exhibit 6 – Professional Site Plan (32 pgs.)
- Exhibit 7 - Notice of Hearing to Applicant (23 pgs.)
- Exhibit 8 - Notice of Public Hearing Published in Times Record on 7/4/18 and 7/11/18

Exhibits added during testimony:

- Applicant's Exhibit 1 – TDR Receiving Area Map dated 11/2/17
- Applicant's Exhibit 2 – Solar Farm Estimated Income Worksheet
- Applicant's Exhibit 3 - Kirkland Appraisals, LLC Impact Analysis
- Applicant's Exhibit 4 – Environmental Review Report
- Applicant's Exhibit 5 – Hard Copy of the Power Point Presentation

Ms. Swafford disclosed that she attended the initial informational session that took place in Denton in November 2017. She had asked questions on behalf of the Town of Greensboro at the time. She did not feel that will influence her ability to be fair and impartial in deliberating at this hearing. There were no objections.

#### **APPLICANTS PRESENTATION:**

Chairman Saathoff swore in:

The applicant:

Cyrus Tashakkori, Open Road Renewables, 1105 Navasota St, Austin, TX 78702  
Attorney Ryan Showalter appeared to represent the applicant.

Witnesses called by Mr. Showalter:

Jeanette Delude, Town Manager of Greensboro, 108 Church St, Greensboro, MD  
Bob Jarrell, Attorney, 5 North 1<sup>st</sup> Street, Denton, MD  
William McCain, 5298 James Landing Rd, Salisbury, MD 21801  
Craig Zinter, 11558 Woodwinds Ct, Cordova, MD 21625  
Bob Rich, 7655 Tred Avon Circle, Easton, MD 21601  
Dane Bauer, 12814 Heathland Dr, Bishopville, MD

Guests with questions or testimony:

BJ Tarr, 25670 Paradise Ln, Goldsboro, MD  
Rebecca Martin, 13800 Cedar Ln, Greensboro, MD  
Karen Stubbs, 421 Valentine St, Greensboro, MD  
Mark Mank, 5993 Newton Rd, Preston, MD  
Charles Kemp, 15778 Jackson Ln, Goldsboro, MD  
Marlene Kincaid, 15772 Jackson Ln, Goldsboro, MD  
Ron Siarnicki, 14875 Greensboro Rd. Goldsboro, MD  
Leslie Siebold, 311 Valentine St, Greensboro, MD  
Sherman Councill, PO Box 52, Goldsboro, MD  
Dan Gazenbaker, 14558 Greensboro Rd, Goldsboro, MD  
David Sakers, 26720 Sandtown Rd, Goldsboro, MD  
Jim Lewis, 25019 Harrington Rd, Greensboro, MD  
Sam Enfield, 3037 42<sup>nd</sup> Ave West, Seattle, WA 98199  
Bill Caple, 1249 Youngs Farm Rd, Annapolis, MD  
Ann Brown, 215 Wildflower Circle, Magnolia, DE 19962  
Ron Spiering, 25802 Bridgetown Rd, Goldsboro, MD  
Eva Wright, 15774 Jackson Lane, Goldsboro, MD  
William Councill, 11082 Garland Rd, Goldsboro, MD

Mr. Showalter introduced an application that includes two special exception uses. The first is a large-scale utility solar project. The second is a power substation that is required to transfer the power that is generated by the solar panels onto the electrical grid. He noted that the plans that are

included for the power substation are conceptual at this point and will be owned by Delmarva Power. Because the substation is an integral part of the project the Board allowed the combined uses as part of this one application.

Mr. Showalter explained that they would start with a power point presentation by Open Roads Renewables and Cherrywood Solar One, LLC President, Cyrus Tashakkori. He would next address the concerns of the Town of Greensboro and then introduce expert witnesses to give their testimony about the project.

Mr. Tashakkori thanked everyone for their time and the work they have done on behalf of the project. He then outlined his power point presentation which can be found on line at [www.psc.state.md.us/public-comment-hearing/cpcn-cases](http://www.psc.state.md.us/public-comment-hearing/cpcn-cases) Case #9477:

- Introduction of Open Road Renewables, a Greenfield Developer;
- Introduction of Cherrywood Solar One, LLC;
- Conversations with the Town of Greensboro;
- Screening and Setback Plans;
- Cherrywood Scholarship;
- Economic Impact Study by the University of Baltimore;
- Wetlands and Drainage;
- The Permitting Schedule.

Chairman Saathoff asked for a definition of “Greenfield Developer”. Mr. Tashakkori explained that they begin projects from a clean slate as opposed to other types of developers that may purchase a project already constructed or one that subcontracts the work. At the Boards request, Mr. Showalter will submit a copy of the Articles of Organization for Cherrywood Solar One, LLC.

Cherrywood is located between the towns of Greensboro and Goldsboro and is west of the Choptank River. It includes approximately sixteen parcels and approximately 1,000 acres. It is separated into three areas (the northern, central and southern areas). They have designed it to avoid major roads, businesses and sensitive receptors within three years of commercial operation, critical areas, wetlands, floodplains, blueline streams, and environmentally sensitive areas. The lifespan is predicted to survive up to 40 years. They will not be cutting down any forests and they will not be grading the land. The setbacks and buffers meet or exceed the state and local regulations. Later he testified that the screening will require more vegetation than all the nurseries in Caroline County can provide. They will be maintained by watering. The project will be screened from neighbors and fenced for safety. The substation will be constructed and owned and operated by Delmarva Power along an existing high voltage transmission corridor. A decommissioning plan will provide financial assurance that will guarantee restoration of the land to its current use at the end of its life.

They have been in discussions with the Town of Greensboro and Cherrywood will facilitate an annexation of 414 acres of the project into the town, which was a long-term initiative for the town. The annexation will include a PILOT program that will provide new revenue to the town in addition to the revenue the County will receive on the same acreage. At decommissioning the land will be returned to its original state and be owned by the Town of Greensboro.

Mr. Showalter introduced Jeanette Delude, Town Manager of Greensboro. She stated that the Town is in discussions with Open Road Renewables regarding the 414 acres being annexed into Greensboro. She stated that, on the condition that they come to an agreement, they have the full support of the Town of Greensboro. Greensboro Attorney, Brynja Booth, later repeated this testimony on behalf of the Town.

The Board asked what financial protections are provided to the County should Cherrywood Solar lose their business and who is responsible for maintaining the vegetative buffer. Mr. Showalter explained that the project owner, Cherrywood Solar, would be responsible for the survivability of and replacement of vegetation that dies during the survivability phase of the buffers. A Bond or Assurity Agreement, of 125% of the cost of installation and maintenance, will be made with the Commissioners of Caroline County before a permit would be granted.

The project will have a massive economic impact in/around Caroline County, including \$28m in construction wages in year one, \$1.6m in annual wages over the life of the project, and millions in local property taxes and/or payments in lieu. Four hundred jobs will be filled during construction. It will stimulate spending at local businesses: from gas stations, restaurants, mechanics, seed suppliers & local greenhouses to electricians, landscape managers, construction workers, etc. In partnership with Caroline County Schools an annual scholarship fund for \$10k/year will be awarded to Caroline County High School Seniors for the duration of the project (30-40 years). The initial award was given to four students in June 2018. Annual contributions will go to the Goldsboro and Greensboro Fire Departments.

According to an Economic Impact study by the University of Baltimore, the project will bring \$343 million during construction and \$180 million from operations into Caroline County. Chairman Saathoff asked why the tax revenue will increase so drastically from the current use. Mr. Tashakkori explained that Caroline County passed an ordinance last year for a new personal property tax specific to solar which is much higher than that for an agricultural use. The exemption given to farmers will not exist while the solar project is active.

Ms. Swafford asked if the project will reduce the cost of energy to the County citizens. Mr. Tashakkori explained that it should ultimately reduce the price indirectly. It would decrease the need to send money to the Nuclear Plant in New Jersey or the Coal Refineries in Pennsylvania and Virginia for power and because of the increased generation of in state electric the wholesale price should decrease also.

Mr. Showalter called Robert Jarrell to testify. Mr. Jarrell detailed the research that went into Caroline County's preparation for a large-scale solar project. He explained that a task force was assembled to brainstorm the impact such a project would make on Caroline County and what guidelines needed to be set to make it a viable project in the County. Mr. Jarrell's family property is included in the project because of this thorough research. Applicant's Exhibit 1 – TDR Receiving Area Map dated 11.2.17 and Applicant's Exhibit 2 – Solar Farm Estimated Income Worksheet were entered into evidence.

Mr. Showalter called William McCain, President and CEO of W.R. McCain & Associates Real Estate Valuation & Consultation Firm and asked for his credentials. Mr. McCain stated that he received an MBA degree from the Perdue School of Business at Salisbury University and a BA degree in Economics and Sociology from Washington College in Chestertown, Maryland. Mr.

McCain is a Certified General Appraiser in the states of Maryland, Delaware, and Virginia. He holds the MAI designation with the Appraisal Institute. The MAI designation indicates an advanced level of expertise and experience in the valuation of real estate. The Appraisal Institute is the premier organization of experienced real estate appraisal professionals in the United States. He has been appraising property on the Delmarva Peninsula for 35 years. Mr. Showalter asked that the Board recognize Mr. McCain as an expert in the field of property valuation. Entered into evidence was Applicant's Exhibit 3 - Kirkland Appraisals, LLC Impact Analysis of Cherrywood Solar 1 Project.

Mr. McCain noted in the conclusion on page 7, Mr. Kirkland, in his professional opinion, found the Cherrywood Solar 1 solar project not injurious to the value of adjoining or abutting property and that the proposed use is in harmony with the area in which it is located. Mr. McCain, as an expert in the field agreed with the findings in the Kirkland Appraisals Impact Analysis of the Cherrywood Solar I, LLC Project. Mr. McCain further noted that lenders will question appraisers about potential negative impacts to a property they are reviewing for a loan located near a salvage yard or sand & gravel business. The criteria for making downward adjustments on property values such as appearance, noise, odor, hazardous material, and traffic all indicate that a solar project is a compatible use for rural/residential transition areas.

Mr. McCain is familiar with projects along Delmarva and the Cherrywood project as well. He noted that the buffer they plan to construct is the most substantial buffer he has ever seen used. While he did not write the report, he was asked to review the report for his professional opinion as a Maryland appraiser.

BJ Tarr and Rebecca Martin gave testimony on property appraisal in opposition of the report. Mr. Faulstick asked if they were stating they do not want to see a solar field near their homes. Ms. Tarr answered that she moved to the Eastern Shore to see farm land, wildlife and pastures. Karen Stubbs was upset about construction traffic on Valentine Street and the noise caused by pile driving the poles into the ground.

The ladies expressed concern that from information they obtained from the internet they would lose 50% of the value of their homes. Mr. Faulstick explained that they have a professional study on record and a local expert that testified that a solar project has no negative effect on property values to adjacent properties or homes in the vicinity.

He enlightened them that local farmers could have chosen to increase income by erecting chicken houses on their property without having to notify adjacent neighbors.

Mark Mank asked to speak on behalf of the project. Mr. Mank who lives in Caroline but works for the Department of the Environment as a toxicologist on the Western Shore wanted to respond to the ladies' concerns. He explained that there are many laws in place, that if you had a complaint for a noise or dust violation or hazard to public health, that he would encourage them to report this first to Cherrywood Solar 1. He suggested they get their contact information. If they are not happy with their response, and they are tearing up the road or leaving trash, then escalate their complaint to the Board of Zoning Appeals or the Commissioners of Caroline County. They will have mechanisms in place to ensure that the work does not interfere with public health, safety and welfare and quality of life. They should hear about those safeguards as they go over the project at this hearing.

Mr. Mank asked Mr. McCain if what he understands is, that there is no industry standard to show there is a negative effect on property values, and the study and his finding agree with that conclusion. Mr. McCain agreed. Mr. Mank explained that when there is no standard this is how a study is done. By taking blind statistics and comparing them point for point. He is familiar with the types of things that bring property values down, such as hazardous materials, excessive and long-term noise, consistent and offensive odors, increased volume of traffic, or stigmas such as you would have if a prison or drug rehabilitation center was being erected.

Charles Kemp stated that his only concern for being present was the property value for his son's property on Jackson Road. He will not mind the view and preferred it to chicken houses.

Marlene Kincaid stated that it upsets her that the property owners and the County will be compensated for the project, but she is going to lose property value. She claimed Mr. Tashakkori has not reached out to her but also stated that he took care of the complaint she made regarding her driveway.

Mr. Showalter called Craig Zinter to testify. He has a degree in Agriculture from the University of Maryland and has been the District Manager of the Talbot Soil Conservation District for 29 years. Mr. Showalter asked that he be considered an expert witness. Mr. Zinter explained that the project will have no effect on the soil. They may lose some organic matter, but he was encouraged that the panels rotated which allows for normal water filtration. The pollinator plantings are beneficial, and he believes they may need to amend the productivity of the soil at the end of the project.

Mr. Showalter called Bob Rich to testify. He is a farmer in Talbot County and has an undergraduate degree in Plant Life and Economics from the University of Delaware. Mr. Showalter asked that he be considered an expert in the field of Agronomy. Mr. Rich concurred with Mr. Zinter's findings. He stated that fallowing land recharges it with water and stabilizes the nutrients found in the soils. It also protects the land from the damage of stray compaction. He believes that once the project is complete a farmer could plant a corn crop at a higher yield than they would receive today.

Mr. Showalter called Dane Bauer to testify. Mr. Bauer has a microbiology degree from the University of Maryland and a master's degree in environmental engineering from the Johns Hopkins University. He has served as the Director of Engineering and Operations for Maryland Environmental Services (MES), Deputy Director of Water Management Administration for MES, an Associate of the George, Miles & Buhr Firm, Senior Vice President and Managing Director of Daft-McCune-Walker Firm and is currently the Vice President of H&B Solutions LLC. Mr. Showalter asked that he be considered an expert in the field of solar development and construction.

Mr. Bauer stated that he has walked the project several times to review the project with the various agencies and will incorporate, Applicant's Exhibit 4 – Environmental Review Report into his testimony. They have provided setbacks above the required minimum to avoid ditches, wetlands and environmental areas. The area is heavily wooded, but they have agreed not to cut any forest down to increase the size of the project. He added that there will be no grading which he has also never seen with a solar project. There are no impervious surfaces, the internal roads are grass, making the storm water requirements nil. He stated this project is one of the least impacted projects he has seen in the public service commission.

In response to the concerns about noise, Mr. Bauer assured them the machines that will be used are no louder than the equipment used now to till the fields. Additionally, the machines will be at a distance from the perimeter, decreasing the sound, and are only used temporarily. The dust will be of no concern as the field will no longer be tilled but grassed and landscaped. He pointed out that state and local code refers to permanent impacts on neighbors, not temporary conditions.

Mr. Bauer praised Mr. Tashakkori for the care he has generously put into this project. It was his demand that no trees be removed. It was also his decision to create a 50-foot lush buffer where the project faces a residence. It is the only project that he has ever seen to do this, and the buffers include substantial pollinators which has been proven to be very beneficial. Mr. Tashakkori approved to increase the buffer 10 feet more than was required. They also removed sloped areas from the project to prevent having to grade the land.

In advance of any concerns, Mr. Bauer explained that the three-year plant growth allowance isn't in the code as a concession to the builder. But because trees that are 3-5 feet tall will root successfully when transplanted and grow to the desired height in a three-year span.

Mr. Showalter asked him to respond to the concerns that were mentioned earlier. Mr. Bauer stated that the code requires a 200-foot setback from any residence. Cedar Lane will be used for construction access. Project trenching will be directionally drilled to avoid unnecessary disturbance. The only maintenance required will be mowing the grass a few times a year. The array is monitored remotely and if there were a problem a pick-up truck would access the project at the direct point of the problem. He repeated that the dust is not a concern because grass will cover the fields that were once tilled.

Ms. Stubbs asked Mr. Bauers about the flooding that occurs at the end of Cedar Lane. He explained that 40-50 years ago they put ditches in to lower the water table that would allow the farmers to farm the wetland areas that existed. Now that the land will be grassed and no longer tilled or worked the soil will be stabilized and better able to absorb the storm water.

He added that they are required to do considerable sediment control and abide by the state storm water regulations. While he would not promise her land will no longer flood, he explained that the project will increase the solution to her problem.

Ms. Stubbs stated that this project only benefits Delmarva Power. Mr. Bauer explained that it benefits the State of Maryland. The State is the largest importer of electricity and this project will benefit all Maryland citizens.

Ms. Tarr's property could be found on the top left corner of sheet C-4 of the site plans. They measured the site from her home and measured 600 feet. Mr. Tashakkori added the setback is 50 feet from the edge of the road.

Mr. Showalter than referred to the substation that is proposed for an interior lot of the project. He said it would be owned by Delmarva Power. There will be minimal downlit lighting, no sound and no traffic. Ms. Leavell asked about plans for signage. Mr. Showalter stated they will have the required signs that identify project contacts.

Mr. Showalter closed by reviewing the narrative that was provided with the application (Exhibit 2) responding to the requirements of approval for §175-13 and §175-46 of the Caroline County Zoning Ordinance.

Mr. Showalter verified this is a photovoltaic solar project where the panels absorb the sun's rays and converts them into energy. Chairman Saathoff asked him to explain the bonding if the project should change owners. Mr. Showalter explained that the bond is required to be 125% of the cost of the project. The bond can be placed in any of the following combinations; fully in the County's name, fully in the Public Service Commission's name or equal portions to both.

At decommissioning all the panels, stabilizing poles, wiring, underground cables will be removed, and the field returned to an agricultural state. Mr. Showalter stated that the Planning Commission has required them to return the buffer to its original state at decommissioning. This will require them to remove all the vegetation. Once a decommissioning estimate is formed and agreed upon a bond will be put up for that amount.

Ron Siarnicki explained that his property is surrounded by the project on three sides and separated by Rt. 313. There are drainage ditches all around his house that he maintains and a culvert to Lake Bonnie that has never been maintained. He asked if the culvert will be maintained when the project is approved so there is proper drainage. Mr. Bauers and Mr. Tashakkori confirmed that they will be required to clean up the culvert and maintain it appropriately. Mr. Siarnicki's property will be screened by the lush 50-foot buffer on three sides. He understands that Cherrywood is responsible for the health of the landscaping and it will be covered by a bond either with the County or the Public Service Commission.

Ms. Tarr asked that the Board not allow the project to eliminate property lines on contiguous properties for the project. Mr. Showalter explained that this Board does not have the authority to set such a rule.

Leslie Siebold explained that she owns three properties that are adjacent to the project that were put on the market the day the notices were put out for the project. She was devastated when she saw this and immediately started asking questions and did research. She wanted to share the positive aspects she has discovered about this project.

She explained that she works for a builder and is familiar with a lot of the requirements they have discussed. She assured them that Open Road Renewables were meeting and exceeding all guidelines. She explained that she once had a neighbor down the road that kept junk and trash all over his yard that she had no control over. The landscaping they are proposing is preferable and insured. She added that her kids must leave the County for work and this project will provide the County with plenty of work while in the building process and some long term. She asked everyone to consider what a benefit this will be to local small businesses. They have stated that they will need more plants and seedlings than all the nurseries in Caroline could hope to provide. They will need building supplies, fuel, food for lunch, etc. This project will help them to thrive. They are creating clean energy, so we will be less dependent on outside sources that use coal and nuclear power. She explained that there is no water discharge, no fuel spills, and no pollution associated with this energy. Caroline County is the second poorest county in the state and because of this we lack so many benefits the others take for granted. She is concerned about the children in the county that lack medical care, food, school supplies and daycare. She pleaded for everyone to see this as



an opportunity to invest resources into benefitting our children. The increase in tax revenue that will go to public services that will help with their needs is huge. They are offering a \$10,000 scholarship to Caroline students annually for the life of the project.

Mr. Showalter stepped down after submitting Applicant's Exhibit 5 – a hard copy of the power point presentation.

Sherman Councell is a County native and his family has been living in Delmarva for several generations. Their farm is part of the project and the farm is near and dear to his heart. He is surprised at what he has heard from his neighbors who are infringing on what he wants to do with his property. He stated that he didn't know when it became the farmers responsibility to provide scenery for the County. He said its much appreciated, but when you hold it against the farmer and what he wants to do with his own land because you don't have the view that you once had, there is something fundamentally wrong. He said that farmers are environmentalists too. He is choosing now to farm sunrays rather than vegetables to create a better environment. He hears people saying they don't want to see change. But if we don't change we will be left out as Caroline County always has been. He reminded everyone how this project is going to ease their rising property tax.

David Sakers concurred with the testimony in support of the project. He appreciated the increase in property taxes the County will receive for the land and the job opportunities it will provide. He visited a site in Princess Anne that Mr. Tashakkori did and said it was beautiful. He wanted people to know what kind of man Mr. Tashakkori is. Mr. Sakers had his leg amputated last fall. When Mr. Tashakkori called to see how he was Mrs. Sakers said that Mr. Sakers was concerned about getting the firewood in for the winter. When he returned from the hospital there was a cord of wood in his yard that Cyrus had sent him. Mr. Sakers stated that is the kind of neighbor and business partner he wants in his County.

Jim Lewis owns property in every direction of the project and just received thirteen tax bills in the mail from the County to support them. He left his 50<sup>th</sup> birthday party to appear tonight because he feels strongly about property rights. He stated that if there is no pollution to him and his neighbors and it has no effect to his using his own property than he has no right to complain about what people want to do with their own property. As much as he hates to admit it solar is more environmentally safe than agriculture but we all must eat.

Sam Enfield testified from a different perspective; as a business that owns land underneath solar projects. He is very careful what developers he chooses to work with. He stated that everyone can see the quality of work Open Road Renewables and Mr. Tashakkori provides in the extreme buffers and maximum setbacks. He is a substantial property owner in this project and are only here because of the success and quality of work they have shown. He encourages everyone to move the project forward.

Bill Caple and his brother inherited their property when their mother passed away two months ago. He said as for the value of the land this is the best use he could ask for. He works with green technology and once considered wind energy and found it to be surprisingly evasive. He thinks this project is a perfect fit for the land that he owns.

Ann Brown stated that she and her family own property that is part of the project. After they researched the company they saw it as a viable solution for their farm. It has been in the family for

generations. She has a career and is not interested in going into farming. This solution will keep the farm together and within their family while not requiring them to give up their careers to care for it.

Ron Spiering has property in the project and he can't imagine how anyone can find anything to complain about it. They couldn't find a better man to work with than Mr. Tashakkori. He is in full support.

Eva Wright stated that she would like to see them sign an agreement to make up any difference in property value her property suffers if she goes to sell it in the future. She wants to have it in writing that the vegetation will be maintained.

William Councill grew up in farming until he was diagnosed with epilepsy. He wants an autonomous car and tractor, so he can return to farming. So, he supports clean energy. He stated that the way we are making power now is bad for the environment. He said we are the poorest County, and suggested they live with the change.

No one else wished to speak so Chairman Saathoff asked if anyone had a concluding statement for the Board.

Mr. Showalter concluded by stating that the record and testimony demonstrated compliance with the special use exception criteria and substantive use of a proposed substation facility. He added that the Board's approval is subject to the validity established by Ordinance #2017-2 that was enacted by the County Commissioners on December 12, 2017. Therefore, the proposed use is presumably permitted if the applicant satisfies the provisions of the Solar Ordinance.

Unique circumstances that, if presented, would substantiate denial of the special exception must be above and beyond those inherently associated with the location of a special exception use anywhere else within the Rural Zone. Statements by those opposing the project did not provide probative evidence sufficient to overcome the strong presumption of validity established by the legislative action of the County Commissioners.

Testimony by Mr. McCain, as an expert in the valuation of real estate, agreed with the findings in the Kirkland Appraisals Impact Analysis of the Cherrywood solar project would not be injurious to the value of adjoining or abutting property and that the proposed use is in harmony with the area in which it is located.

Testimony by Mr. Bauer, an expert in the field of solar development and construction, praised this project as one of the least impacted projects seen in the public service commission. Furthermore, Cherrywood is providing 10 feet more buffer than is required.

Mr. Showalter stated that through expert testimony and submission of studies, impact analyses, and exhibits, Cherrywood took on the burden of proving that there is no adverse impact on surrounding properties and that all criteria for approving the use has been satisfied. Therefore, he asked that the special use exception be approved.

Mr. Tashakkori posted the website <https://www.psc.state.md.us/public-comment-hearings/cpcn-cases/> and case number #9477 on the board for the audience to review the progress of their

Certificate of Public Convenience and Necessity status. At this time, Chairman Saathoff closed the public portion of the meeting to deliberate.

## **DELIBERATION**

### **CHERRYWOOD SOLAR –Special Use Exception (#201800006)**

Chairman Saathoff consulted and the Board discussed the table of uses which states that a solar power plant is permitted in an R-Rural zone with the approval of a Special Use Exception application. The Board referred to Ordinance #2017-2 for the conditions of approval for a solar energy system. The conditions of approval were considered below:

- A. **Siting.** A commercial solar energy system that complies with the provision of this section may be permitted as described in §175-13, table of uses. *The project does not exceed the 2000-acre cap of commercial solar energy systems within the county. The parcels are not located in the transferable development rights receiving area. Nor are they under a land preservation easement and the Towns of Greensboro and Goldsboro were appropriately notified and Greensboro representatives were in attendance.*
- B. **Design Standards.** *Testimony was given that consideration was made to avoid visual corridors and scenic areas designated by the County. The project avoided sloped land and no grading will be required. Proposed changes would increase the solution to potential storm water runoff because of the tillable land being covered by grass and shrubbery. They proposed an additional 10 feet of buffer than is required and included pollinator habitat in the landscaping. Chairman Saathoff confirmed with staff that maintenance of the landscaping is guaranteed by a bond made out to the County. The applicant stated that no trees will be removed.*

*Chairman Saathoff asked for clarification from staff about Ms. Tarr's appeal that the Board prohibit them from eliminating property lines on contiguous properties for the project. Staff explained that Ms. Tarr was referring to another ordinance that does not apply here.*

*When asked, Ms. Tarr explained she also wanted the Board to prohibit them from doing setback modifications. When told that the Board cannot make their own rules but must adhere to the rules of the ordinance; Ms. Tarr argued that the Board has done this in the past. The Attorney's explained to Ms. Tarr that she is referring to a condition in a separate Ordinance that does not apply here.*

*They show the height of the panels are well below 15 feet. There is an interconnection agreement with the utility provider that complies with all applicable codes and public utility requirements.*

*The system will be screened from public right-of-way and adjacent residentially-zoned parcels. The panels absorb the sun rather than reflect it, therefore glare is not an issue. There will be minimal and downcast lighting at the substation only. An eight-foot fence will enclose the project.*

improvements. *Ms. Swafford pointed out that solar panels do not go to school. The Board agreed the project will have no effect on public services.*

(e) Conforms in all other respects to this chapter and especially to the applicable regulations of the zoning district in which it is to be located. *The Board agreed the project conforms in all other respects to this chapter of the Ordinance.*

(f) Will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the critical area and that the granting of the special use exception will be in accordance with the "Critical Area Program for Caroline County," the critical area law and this chapter. *The project is not within the Critical Area. Ms. Leavell noted that the project will decrease erosion with the proposed landscaping.*

**Motion:** Ms. Swafford made a motion to grant the special use exception for the large scale commercial solar energy system and power substation subject to the recommendations by the County in Exhibit 1 and that they complete the building permit/zoning certificate process.

**Second:** Ms. Leavell seconded the motion.

**In Favor:** The application was unanimously approved (3-0).

## REVIEW AND APPROVAL OF MINUTES

All members read the minutes of the June 12, 2018 Board of Zoning Appeals meeting. No changes were needed. Chairman Saathoff approved and signed them.

**Motion:** Mr. Faulstick made a motion to approve the minutes as written.

**Second:** Ms. Swafford seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

## FOREFRONT DECISION

All members read the decision that approved the Special Use Exception Application for Forefront Power at the June meeting. No changes were needed. Chairman Saathoff signed them.

## ADJOURNMENT

**Motion:** Ms. Leavell made a motion to adjourn the meeting at 10:30 p.m.

**Second:** Ms. Swafford seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The meeting was adjourned at 10:30 p.m.

BOARD OF ZONING APPEALS

Bryan A. Saathoff, Chairman



Minutes prepared by: Melanie Smith