

**BOROUGH OF BERLIN
PLANNING BOARD MEETING
January 10, 2011**

Jack Gangluff, Chairman, called the meeting of the Board to order and stated that it was being held in compliance with the "Open Public Meetings Act" and has been duly noticed and published as required by law.

All new members and reappointed members were sworn in.

ROLL CALL:

Mayor John Armano, Joe Adolf, Councilman Nick Maccaroni, Richard Crain, Daniel MacDonnell, Jack Hall, Bonnie Deery, Carl Canfield, Chairman Jack Gangluff, Ken Clegg, Dan Pomponio were all present.

APPOINTMENT OF SOLICITOR:

A motion to appoint Mark Rinaldi Esq. as Solicitor was made by Richard Crain, and seconded by Joe Adolf. On roll call, all members voted aye.

APPOINTMENT OF OFFICERS:

A motion to appoint Jack Gangluff as Chairman was made by Mayor Armano, and seconded by Bonnie Deery, on roll call, all members voted aye.

A motion to appoint Dan MacDonnell as Vice Chairman was made by Richard Crain, and seconded by Joe Adolf, on roll call, all members voted aye.

APPOINTMENT OF SECRETARY:

A motion to appoint Debbie Simone as Secretary was made by Joe Adolf, and seconded by Mayor Armano, on roll call, all members voted aye.

APPOINTMENT OF ENGINEER:

A motion to appoint Maser Consulting as Planning Board Engineer was made by Dan MacDonnell and seconded by Mayor Armano, on roll call all members voted aye.

APPOINTMENT OF PLANNER:

A motion to appoint Clarke Caton Hintz as Borough Planner was made by Mayor Armano, and seconded by Dan MacDonnell, on roll call all members voted aye.

RE-ADOPTION OF RULES AND REGULATIONS:

A motion to re-adopt rules and regulations was made by Carl Canfield, and seconded by Joe Adolf, on roll call all members voted aye.

FEE FOR NOTICE OF MEETING

A motion to approve the fee increase to \$35.00 for notice of meetings was made by Mayor Armano, and seconded by Jack Hall, on roll call all members voted aye.

MEETING DATES:

The second Monday of the month is reserved for Planning Board Meetings, and the fourth Monday of each month is reserved for Special Meetings should it be necessary due to large agendas, or special schedules as needed.

A motion to adopt the meeting dates as written, was made by Carl Canfield, and seconded by Dan MacDonnell, on roll call all members voted aye.

SITE PLAN REVIEW COMMITTEE:

Chairman Gangluff requested that Joe Adolf, Carl Canfield, and Ken Clegg remain as liaisons for the Site Plan Review Committee, all agreed.

REPORT BY BOROUGH OF BERLIN PLANNING BOARD ON VARIANCE APPLICATIONS DURING 2010.

A motion to approve the provided report was made by Joe Adolf, and seconded by Mayor Armano.

ROLL CALL:

Mayor John Armano Yes, Joe Adolf Yes, Councilman Nick Maccaroni Yes, Richard Crain Yes, Daniel MacDonnell Abstain, Dan Pomponio Abstain, Bonnie Deery Yes, Carl Canfield Yes, Chairman Gangluff Yes, Jack Hall Yes, Ken Clegg Yes

PUBLIC PORTION:

None

ADJOURNMENT OF RE-ORGANIZATION

REGULAR MEETING:

MINUTES:

A motion to approve the minutes for December 13th, 2010 was made by Mayor Armano, and seconded by Carl Canfield.

ROLL CALL:

Mayor John Armano Yes, Councilman Nick Maccaroni Yes, Bonnie Deery Yes, Carl Canfield Yes, Chairman Jack Gangluff Yes, Ken Clegg Yes

RESOLUTIONS:

Case # 10:11-1

Seven Aces LLC

121 Route 73

Block: 1001 Lot: 1

Preliminary Major Site Plan

With Variances, and Design Waivers

A motion to approve the resolution for Seven Aces LLC, Case # 10:11-1 was made by Mayor John Armano, and seconded by Ken Clegg

ROLL CALL:

Mayor John Armano Yes, Councilman Nick Maccaroni Yes, Bonnie Deery Yes, Carl Canfield Yes, Chairman Jack Gangluff Yes, Ken Clegg Yes

OLD BUSINESS:

None

NEW BUSINESS:

Case # 10:11-2

K.B. Properties LLC

37 Clementon Road

Block: 401 Lot: 4

Minor Site Plan with Variances

Mayor Armano and Councilman Nick Maccaroni excused themselves from this application due to the D Variance request, and the board will be functioning as a Zoning Board.

Jeff Baron, Esq. appeared on behalf of the applicant. Mr. Baron summarized the application by stating it is a Use Variance, a Bulk Variance, a Dual Use Variance, as well as a Variance for buffer, and no loading spaces. The project is for a 35,962 square ft. canopy, just under 1 acre. Those providing testimony were sworn in. Chris Kolovos, part owner of Lucien's and K.B. Properties LLC, John Scorsone CEO of Solare America, John Dolceamore from Solare America, Robert Rosen from Robert Rosen Associates, Engineer, and Michael Tamburri, Vice President of Tamburri Associates, Structural Steel fabricators and erectors, and James Biegen, Maser Consulting, Berlin Borough Planning Board Engineer.

Mr. Baron stated that the current zoning of the property is R2, and is surrounded by commercial zoning. Providing testimony is John Scorsone of Solare America. Mr. Scorsone stated that due to the irregularities of the previous site for Lucien's this lot is geographically better for the solar project, to power Lucien's Manor. The intention is to not build the Solar Canopy on the Lucien's Manor site, and Mr. Baron clarified that the applicant is still seeking other approvals from the previous application. Mr. Scorsone continued with testimony that the panels are about 3ft. x 6ft. and carry 438 KW, total of 1960 panels. The panels absorb light they do not reflect it. The panels are angled to the rear. The height from the ground to the bottom of the façade is 14 ft., and the design is to match the current conditions. Mr. Scorsone added that there would be Columns that will match the existing, and be esthetically pleasing.

Mr. Rinaldi added that the current presentation is on a power point, and will be documented as Exhibit A. A copy can be provided if needed for the file.

Mr. Pomponio asked if this would also serve as a parking garage. Mr. Scorsone said yes that is the dual benefit, and the intent is to not close in the structure, it is simply to hold the solar panels only, there is just an additional benefit that the structure will provide shelter from the elements as well. Jack Hall asked if the roofline will hide the existing users in the center or will they be seen. Mr. Scorsone stated they would be seen through the parking canopy, as it will be open. Chairman Gangluff asked if the power was solely for Lucien's Manor. Mr. Scorsone testified that it is solely for the Manor not the Plaza.

Mr. Rinaldi asked Mr. Baron that by making this application, would the applicant then be abandoning the solar portion of the previous approval? Mr. Scorsone stated the applicant would be seeking to keep the approvals for the outdoor area with a cover, and rescind the approval for the solar project only, providing they receive approvals from this application.

Chris Kolovos testified by identifying certain photos from the area, showing certain criteria relating to the project. He stated he was not present when the photos were taken, however he was able to identify each photo. Chairman Gangluff questioned the trees that were removed, and Mr. Kolovos testified that the trees were dead. Chairman Gangluff addressed the fact that the original approval included that the trees were to remain to serve as a buffer. Mr. Kolovos testified that 2 trees were lost in the storm in the summer. Mr. Kolovos also testified that he would be willing to work with the Borough Engineer to install additional plantings to provide screening. Mr. Dolceamore testified that he suggested the tree removal as his past experience as a landscaper he was able to determine the trees were unsafe. Mr. Scorsone stated those trees have no effect on the solar in the front of the building. Mr. Kolovos agreed to waive any approvals for solar on the previous application if this application is approved.

Next to provide testimony is Robert Rosen, Engineer. Mr. Rosen testified that he prepared the plan submitted. There is a 50ft. setback required from any structure, and due to pre-existing conditions that would be a variance request. There is a requirement for a 45% building coverage in the R2 zone, and this application is proposed to have 72%, which includes the area of the cover, there are no loading spaces as this type of use does not require them. Also a 50ft. buffer is required, and 5ft. buffer is proposed along Kerhardt drive. Solar is not listed as a permitted use in this zone, so a use variance is requested. Mr. Baron stated that the 88 spaces

designated for the overflow parking for Lucien's Manor will remain in place, and there are 60 spaces for the stores. Mr. Rinaldi and Mr. Baron discussed the legalities of a lease agreement, or something to ensure no changes since the principal use is on one block and lot and the accessory use is on a separate block and lot. There will be underground conduit ran under Clementon Road to the Manor.

Mr. Biegen commented that he was not aware that any part of the previous application would be kept or abolished, and would need to look at that, since the entire application was approved as one. Mr. Baron addressed Mr. Biegen's letter of comments.

Mr. Baron commented that the application is based on the previous approval for the site, and no new outbound survey has been provided. The dumpster will be placed inside the enclosure. Mr. Biegen asked that he be provided with additional information regarding calculations on the drainage system. Mr. Biegen added that topographic survey was provided showing an as built condition, however it is not boundary survey, it refers to a 6year old survey. We need a current boundary survey to determine the proper variances. Mr. Biegen stated that the set backs are consistent with what was on the proposed site plan. The applicant agreed to provide an updated boundary survey. Chairman Gangluff asked for information regarding lighting. Mr. Scorsone commented that the plan is to have the same lighting as what was approved previously for Lucien's Manor. Mr. Baron added that the applicant would work with the Engineer regarding type and light spillage. Mr. Beigen addressed the trash enclosure, that the dumpster is outside the enclosure most of the time. Mr. Scorsone testified that is due to the temporary storage of panels, and the truck cannot maneuver around the storage. Mr. Biegen also wants the board to consider this application is not for just a solar array, it is a canopy with the solar array, the canopy for parking, and the solar as an accessory use on a different property. This is in the R2 zone, and variances still need to be compared to the R2 zone, however a use variance was granted, and C2 Zone surrounds the area, and this is a commercial use. Mr. Biegen mentioned that a utility use is permitted in the R2 Zone, however under the definition of Utility, this is not a utility use. Mr. Biegen asked if the Fire Official has been contacted. The applicant provided copies of the site plan to the Fire Official, and the board secretary confirmed that the Fire Official had no comments. Testimony was there would be no glare, Mr. Baron testified that there will be no noise, no vibrations, no odors, and along the residential side there will be minimal shading in the winter only, in the early am. As the sun passes during the day, that shading dissipates. No documentation has been provided to the Borough Engineer regarding this. Richard Crain asked if there is an access panel to the inverter, which is almost on the sidewalk, very close to it, and will it be lock. Mr. Scorsone testified there is an access panel, and it will be locked and the disconnect will be on the Lucien's Manor lot. If someone were to get into the locked box, they would only see switches and nothing that would be damaging. Mr. Pomponio asked the distance from the building to the canopy, and Mr. Baron testified the plan shows 62 feet from the façade. Mr. Scorsone stated there is a possibility that there will be smaller inverters on the canopy roof. The size of the canopy was determined by the amount of kilowatts they need from the solar array. Mr. Beigen asked with the generation of the inverter will there be any interference with surrounding radioactivity, and what will the people who park under the canopy see, Mr. Scorsone stated no, and the people under will see white, the underneath of the panel.

Chairman Gangluff summarized that this application is for a Use Variance, 2 front yard set back variances, building coverage, loading spaces, and a buffer variance, and preliminary and final site plan approval is being sought. There was additional conversation regarding the accessory use on a separate lot, if that lot is sold how will it effect he principal use, Mr. Baron stated that the lease agreement would cover it and he will work with Mr. Rinaldi on that.

With nothing further from the applicant or the board, Chairman Gangluff opened this portion of the meeting up to the public. With no one from the public wishing to comment on this application, the public portion was then closed. At this point, Mr. Crain left the meeting at 9:20pm.

Mr. Adolf made a motion to deny the application based on the fact that he is uncomfortable with an accessory use on one block and lot, and the principal use on a separate block and lot, and having a lease agreement that the board has no details of. Mr. Scorsone commented that leasing agreements are more common with the solar installations as they become in more demand that a particular building would have a lease to house the solar equipment. Mr. Hall asked if there would be a removal clause in the lease and Mr. Baron stated yes, and Mr. Hall asked what the useable years would be; Mr. Scorsone testified 40 plus years. Mr. MacDonnell seconded the motion for the reason that he feels that this is a secondary use for this property.

Joe Adolf	Yes to deny, Dan MacDonnell	Yes to deny, Bonnie Deery
Abstain, Carl Canfield	Yes to deny, Jack Hall	Yes to deny,
Chairman Jack Gangluff	Yes to deny, Ken Clegg	No

The majority of the vote is to deny, this application is denied. Mr. Baron stated that the applicant will continue with their previous approval from the previous site plan application.

PRIVELEGE OF THE FLOOR:

None

CORRESPONDENCE:

None

ADJOURNMENT:

With nothing further from the board, Joe Adolf made a motion to adjourn the meeting, and Dan MacDonnell seconded the motion. All members voted aye.

Respectfully Submitted,

Deborah Simone

Planning Board Secretary

CC:

Stacey DiVello, Finance Department Escrow

Theresa Stagliano, Tax Assessor

Michael DePalma, Construction Official

Bill Behnke, Fire Marshall

Lou DeMarco, Captain, EMS

Paul Miller, Fire Chief

Andrew Simone, Planning Board Chairman Berlin Twp.