

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT
REORGANIZATION AND REGULAR MEETING
JANUARY 12, 2022**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

SILENT PRAYER

OPEN PUBLIC MEETINGS STATEMENT: "Adequate notice of this meeting has been provided indicating the time and place in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star-Ledger and The Express-Times and by posting a copy on the bulletin board in the Municipal Building."

REAPPOINT, APPOINT AND SWEAR-IN

Attorney Bryce: Okay so we have some people we are appointing and reappointing, correct? Alright. So, I am going to administer the oath to you, right?

Chairman Gary: No. It's ...

Attorney Bryce: It's you.

Secretary Segeda: We have the reappointment of Andy Horun term to December 31, 2025. Are we going to do them all at the same or no?

Attorney Bryce: No. We will do them individually. I'm just going to administer the oath.

Member Horun. Okay.

Attorney Bryce: So if you raise your right hand. Do you solemnly swear and affirm that you will support the Constitution of the United States, The Constitution of the State of New Jersey and that you will bear true faith and allegiance to the same and to the governments established in the United States and in this State under the authority of the people and that you will faithfully, impartially and justly perform all the duties of a Zoning Board member of the Township of Lopatcong according to the best of your ability?

Member Horun. I will.

Attorney Bryce: Congratulations.

Secretary Segeda: We now have the appointment of Greg Troxell for the expiring term of Gary Wolf til December 31, 2022.

Attorney Bryce: Congratulations.

Greg Troxell: Thank you very much. Appreciate it.

Attorney Bryce: Raise your right hand. Do you solemnly swear and affirm that you will support the Constitution of the United States, The Constitution of the State of New Jersey and that you will bear true faith and allegiance to the same and to the governments established in the United States and in this State under the authority of the people and that you will faithfully, impartially and justly perform all the duties of the office a Zoning Board of Adjustment member of the Township of Lopatcong according to the best of your ability.

Greg Troxell: I do.

Attorney Bryce: Congratulations.

Member Troxell: Thanks.

Secretary Segeda: Alright. We have to appoint alternate number one, Jose Valente. Term til December 31, 2022.

Attorney Bryce: Alright Mr. Valente. Congratulations and I'm just going to administer the oath. Do you solemnly swear that you will support the Constitution of the United States and The Constitution of the State of New Jersey, that you will bear true faith and allegiance to the same and to the governments established in the United States and in this State under the authority of the people and that you will faithfully, impartially and justly perform all the duties of the Office of Zoning Board of Adjustment member of the Township of Lopatcong according to the best of your ability?

Jose Valente: I will.

Attorney Bryce: Congratulations.

Member Valente: Thank you.

Attorney Bryce: Gentlemen, those people that we just sworn, afterward there's actually a signed document. Just see Patty afterwards. Sign it and you guys are officially now members.

Secretary Segeda: Okay, I'm gonna take roll call of the members of the Zoning Board of Adjustment.

ROLL CALL

Present: Members Fred Gary, Gus Rutledge, Andrew Horun, Douglas Mace, Michael Unangst, Greg Troxell and Jose Valente

ELECTION OF OFFICER'S & SECRETARY

Secretary Segeda: At this time, we are going to do the election of officers. Specifically, we are going to open nominations for the Chairman. Do I have a motion ... nomination?

Member Mace: Mr. Gary.

Member Horun: I'll second it.

ELECTION OF CHAIRMAN

Nomination of: Fred Gary

Nomination by: Member Mace

Seconded by: Member Horun

Attorney Bryce: Any further.

Secretary Segeda: Any further nominations for the Chairman?

Attorney Bryce: I seen none.

Secretary Segeda: We do not have any further nominations. I'm going to do a roll call.

ROLL CALL

AYES: Chairman Gary, Members Rutledge, Horun, Mace, Unangst, Troxell and Valente

NAYS: None

ABSTAIN: None

Secretary Segeda: At this time, I will hand this over to you so you can continue.

Chairman Gary: The gavel's there. (Inaudible)

Secretary Segeda: Alright.

Attorney Bryce: Good job Patty.

Member Horun: Nice job.

Attorney Bryce: Very nice.

Chairman Gary: I need to sit next to Jim. He's my right hand.

Member Mace: Do you need to change our tag here so we know who we are talking to?

Chairman Gary: Moving on. Accepting the nomination for Vice-Chairman. Are there any nominations? Or is there a nomination?

Member Horun: I'll nominate Mr. Rutledge again.

Chairman Gary: Is there a second?

ELECTION OF VICE-CHAIRMAN

Nomination of: Gus Rutledge

Nomination by: Member Horun

Seconded by: Member Unangst

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Members Horun, Mace, Unangst, Troxell and Valente

NAYS: None

ABSTAIN: None

Chairman Gary: Moving on to secretary. I would nominate Patty Segeda

Secretary Segeda: Segeda

Chairman Gary. Segeda. Ya see, I asked you and I still got it wrong. Patty Segeda as our secretary.

Member Unangst: I second.

ELECTION OF SECRETARY

Nomination of: Patty Segeda

Nomination by: Member Mace

Seconded by: Member Unangst

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Members Horun, Mace, Unangst, Troxell and Valente

NAYS: None

ABSTAIN: None

APPOINTMENT OF PROFESSIONALS

Chairman Gary: Okay, appointment of professionals. I'm gonna group these unless someone has any other thoughts or nominations. Or I should say any other ideas of appointment.

Anyway. So. Appointment James T. Bryce, Esquire as Zoning Board ... as our Board attorney. Appointment of George Ritter of Ruggiero Plante Land Design, LLC as our planner and Colliers Engineering & Design as our engineer for the Board.

Appointment of: James T. Bryce, Esq. as Attorney

Appointment of: George Ritter of Ruggiero Plante Land Design, LLC as Planner

Appointment of: Colliers Engineering & Design as Engineer

Motion by: Chairman Gary

Seconded by: Vice-Chairman Rutledge

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Members Horun, Mace, Unangst, Troxell and Valente

NAYS: None

ABSTAIN: None

Attorney Bryce: And thank you guys all.

Chairman Gary: You're welcome.

Secretary Segeda: And who was the first?

Attorney Bryce: It was the Chairman.

Chairman Gary: We couldn't do it without you Jim.

NEW BUSINESS:

RESOLUTIONS

- Adopt Resolution 22-01 – To Approve Calendar of Meetings for 2022
- Adopt Resolution 22-02 – Designate Newspapers to Receive Notices of Meetings
- Adopt Resolution 22-03 – Adopting Robert's Rules of Order as a basic guide for fair and orderly procedure in meetings.
- Adopt Resolution 22-04 – Appointing James T. Bryce of Murphy McKean, P.C. as Zoning Board of Adjustment Attorney.

- Adopt Resolution 22-05 – Appointing George Ritter of Ruggiero Plante Land Design, LLC as Zoning Board of Adjustment Planner.
- Adopt Resolution 22-06 – Appointing Colliers Engineering & Design as Zoning Board of Adjustment Engineer.
- Adopt Resolution 22-07 – Adopting the 2021 Annual Report

Chairman Gary: Alright. As to the Resolutions. Resolutions 22-01 through 22-07. I would say that we ... I would move that we adopt those resolutions.

Member Mace: Second.

Vice-Chairman Rutledge: Second.

Member Unangst: Second.

Secretary Segeda: I don't know (inaudible) at the same time.

Attorney Bryce: Fielder's choice.

Motion by: Chairman Gary

Seconded by: Member Mace

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Members Horun, Mace, Unangst, Troxell and Valente

NAYS: None

ABSTAIN: None

OLD BUSINESS

- Approve the Regular Meeting Minutes – December 8, 2021.

Chairman Gary: Okay is there a motion to approve the regular meeting minutes from December 8, 2021?

Vice-Chairman Rutledge: So moved.

Chairman Gary: I'll second.

Motion by: Vice-Chairman Rutledge

Seconded by: Chairman Gary

ROLL CALL

AYES: Chairman Gary, Vice-Chairman Rutledge, Members Horun, Mace and Unangst

NAYS: None

ABSTAIN: Member Troxell and Member Valente

PUBLIC COMMENT

Chairman Gary: Is there anyone from the public who would like to speak to the Board? Please come forward. You know we don't have any applications tonight though ... you aware of that? Correct?

Donna Schneider: I do. Yeah.

Chairman Gary: Could you state your name?

Donna Schneider: It's not on.

Secretary Segeda: It's broken. I'm sorry.

Donna Schneider: Oh it's broken.

Secretary Segeda: It's completely ... I don't know what is wrong with it.

Donna Schneider: Okay. Alright. I'll talk louder. Donna Schneider, 26 Meadowview Drive. First, I would ... I don't know when you guys are supposed to put the agenda up but it would be really appreciative if you could do it 24 hours before. I don't know when you get it or how it's changed. But it would really be appreciative so we can kind of know what ... ya know, if we feel the need to come or just so we know what's going on and I'm prepared for the night.

Attorney Bryce: Sure.

Donna Schneider: I'd just appreciate it if that could be done.

Chairman Gary: Excuse me. Patty when is that on the website?

Secretary Patty: Well, I do the agenda and then I send it to the webmaster and then they have to upload it.

Donna Schneider: When do you send it? Did you send it today?

Secretary Segeda: I sent it yesterday.

Donna Schneider: Yeah, it never gets up on there. I've had this same problem with the Planning Board and with the Town Council and I've addressed it at those meetings and I know it's not your ... I know it's the webmaster and I'd appreciate it if maybe someone would let her know that.

Chairman Gary: Okay. We may have spoke to the Mayor about that.

Donna Schneider: Yeah. I know he's aware of ... he's aware.

Chairman Gary: Sound like he probably is.

Donna Schneider: Also, I don't know if you read the newspaper articles regarding the agrivoltaics that is supposed to be coming to Lopatcong.

Member Mace: Sorry. The what?

Donna Schneider: Agrivoltaics farm.

Member Mace: Oh okay.

Donna Schneider: Have you ... has anyone read the article from the Lehigh Valley ... Okay, I'll try to make this really quick. So, this is an agrivoltaics proposal. Agrivoltaics is a solar farm that has panels 17 feet up in the air on farmland and is supposedly ... you are ... you can farm underneath and you get the benefit of the solar and you still get to farm and it's a dual purpose field. So, Phillipsburg has been approached by this Phoebus Company. It's a solar company and they went into contract with them to purchase the solar from this company while it will be built in Lopatcong off Belvidere Drive. Also known as the Clifford Farm. Its 108 acres of farmland. So, I did a little research on Phoebus and to date, they've only been to Lopatcong once, last January and did a very high level five minute presentation. They've been to Phillipsburg twice and it's been on their agenda three times. There was some issues with the numbers. I'll tell you from Phillipsburg, the news article said it's going to save the Township of Phillipsburg, which would be the recipient of all of the energy ... None would be left for Lopatcong ... \$350,000 a year over the course of 25 years to save the township six million dollars. Phillipsburg! The CFO of Phillipsburg and former council woman DeGerolamo checked those numbers and determined they're wrong. It's \$250,000 savings over the course of 25 years. So roughly \$10,000 a year savings for Phillipsburg, The CFO also commented that their energy bills right now are only \$260,000 a year which is very reasonable according to them ... it's cheap. So, not sure why they would switch. But council went ahead and approved it. I'm here to tell you that I live on that property ... Right up against that property. Their proposal said there's ... the farmland is surrounded by trees. It's surrounded by 54 homes, 85 within 200 feet and at 17 feet up in the air, hundreds of homes would be able to see this farm. I've also spoke to the farmers who farm the land ... Two sets of farmers ... They're tenants who farm the land. First set of farmers said there is no way you get a combine or any of their equipment onto the land and farm it. It's like trying to drive a Maserati on a rocky road. You're not going to get good traction and there's just no way they could do it. So they're out. They're not going to be able to farm it. The other farmer ... a set of farmers ... two brothers informed us pretty much, screw you people that live around that land. I didn't get enough money for this land ya know so, we're gonna sell out and the landlords are gonna sell out because solar is throwing out silly amounts of money to these farmers to convert into solar. The farmer wants the windfall. Understandable. But that would be a detriment of our township. A hundred and eight acres of solar. The field on Strykers Road is only 80 acres and this is 108. So, we're ... actually 60 acres, I believe. So, we're ... it's 48 acres

more. As far as looking into agrivoltaics, the only agrivoltaics in the country ... one is in Arizona University. It's a couple of acres and the other one, the biggest one, is in Boulder, Colorado on four acres in the middle of 100 acres. There are no homes impacted. There is nothing being impacted by this. This is 108. It would be the first one of its kind probably in the world. The only other places that do this are Japan, Germany and Italy. No one else in this country does it. There is no history of it. There's no data. And this would be the first one this company ever would do. Brand new. Has never done it before and yet they're going to Phillipsburg and telling everyone that it's coming here. And I believe it needs a zoning change. Is that true?

Attorney Bryce: I don't know. We have not seen anything here.

Chairman Gary: It may come before the Planning Board before us.

Donna Schneider: I'm not sure how the process works but I did look at our zoning and solar is not permitted.

Member Mace: But there are things that go on with solar and agriculture. My understanding was, cause I think I'm an adjoining property owner by the way, that this is a Planning Board issue the way it's set up now because of certain ... as I understood it ... certain agricultural exemption. So.

Donna Schneider: Right, with the State.

Member Mace: I have to ask our attorney ... We're kinda hearing testimony on something ...

Attorney Bryce: Well, it's a ...

Member Mace: Is this okay?

Chairman Gary: It's information, right?

Attorney Bryce: Just so the Board is aware, this is not a Board of Education nor is it a governing body so this Board does not need to have public comment under the Open Public Meetings Act. However, as a customary matter, this Board does and it does allow people, whether it's on the agenda or not, to provide public comment to the Board and certainly, you know, it would not be part of a record if any issue were to come before this Board regarding this. That, it would not be part of that record. That, the Board would not be able to consider the comments.

Donna Schneider: Right. Yes, cause you would have a whole new thing and then public comment would come in after that and that would be the comments that apply to the testimony.

Attorney Bryce: But just to ... just to clarify, if it's a zone change it would be really at the council level.

Donna Schneider: Okay, so ... so, alright ... Can you just briefly ... can you tell me how that would work. So they need a zoning change?

Attorney Bryce: Yeah. Well, I can tell you afterwards just so I don't belabor everybody here. I'll be happy to tell you how.

Donna Schneider: Okay.

Attorney Bryce: That ... it can either go down.

Donna Schneider: Okay.

Chairman Gary: But I think we have the gist of what you are trying to tell us. So.

Donna Schneider: Okay. And just one last thing. On a personal level, my whole back of my house faces this farm. My house is situated where the whole house on the back is livable. It's my family room, it's my kitchen and my son, who has a disability, his room is in the back of the house and he is sitting in his bed all day looking out the window. He cannot get out of bed without assistance. He is not well and that would ruin his entire view. That would ruin everything in our backyard. We built our backyard ... we spent a lot of money trying to research that property. It was zoned residential. There's high tension wires on it. We went to the power company. They said they have a right-of-way easement. There's nowhere for anything really to be built on there. Maybe some residential, which we were fine with. We did a lot of research. We purchased that home. We purchased that land. And for it to be changed is really ... it's just not right to change residential for the purpose of one farmer to make a windfall of money. So, those are my less personal concerns. You know, as far as the others, I hope that ... I'm not sure how it works and if it ever comes to this Board but it said it needed a zoning change so I came to you to kinda make you aware of the situation. So ... and I went to council the other night and the words of Councilman Belcaro, "we don't care about Phillipburg". So, we don't care about Phillipsburg as a zero ... zero benefit to this township cause we are receiving no energy. It's zero benefit. So, that's all I have to say.

Chairman Gary: Frankly, I'll just say this, I read ... I think I read that article and I don't understand how you can get a tractor or combine ... unless they're suspended in the air somehow, ya know. I don't get it.

Member Mace: Chairman, I thought it was incredibly interesting in the picture. I saw something ...

Chairman Gary: Oh. You saw a picture?

Donna Schneider: Yeah.

Member Mace: I saw a rendering. It was very interesting that between the solar panels, they were growing sunflowers.

Donna Schneider: Yeah, sunflowers. This is a cornfield.

Member Mace: I don't know how it's (inaudible) for sunflowers.

Donna Schneider: Yeah, its roses and flowers with a 1950's truck parked next to it and a little guy in a hat picking a tomato. That's not what that farm is. It's corn and it's soy and I talked to both sets of tenants and both sets ... I have gave the names of them to the Mayor and Council for them to talk to them because they all said there is no way they can get those big machines through to farm that land. And, if they make it any other crop, they really can't because it's for corn and soy unless they want to make it a sheep farm which they probably could do. So, I just wanted to let you know ... be aware. You know. I've been looking at this for a very long time and it makes me sick to think that I have to look out my window everyday ... I made my home almost like a getaway because we're trapped in our home. Our son could not go anywhere. He cannot do anything except for Disney World and I would hate ... I wouldn't want to go on vacation and look outside to solar panels. So this is my vacation spot as well. So, I just wanna ...

Member Horun: How long ago did you first hear about this? How long ago was it?

Donna Schneider: Well, funny, the farmers truck stopped on my land, got out of his truck and said, "Hey what's going on with the solar, I thought you guys would have fought for us farmers, you know, with the farm" and I said, "What are you talking about"? And they said, "Yeah, they did a presentation in Lopatcong and they did one in Phillipsburg". And they were told that to only plant soy this year because solar was going in. It was a done deal. Lopatcong's doing it and don't plant anything other than the soy because it's easier to get rid of. So, ya know, this is what he told me in May so I've been ... we've talked to the farmers multiple times. They own the bowling alley out on 519. So you know, we talked to them several times. They said they can't get the equipment in. They're done. The farm owner ... the landowner wants to sell and it's a windfall with all the city money being thrown at solar right know, he'd be making millions to get this deal at the detriment of this township and all the homes around it. But I found out back ... so I've been actively going to the Phillipsburg meetings because they have yet to contact this township since last January according to our council. They have yet to contact us but yet they're in the newspaper telling everybody it's coming here.

Chairman Gary: Well, you know the news. You know the new media. So.

Member Mace: I just filled somebody in who was ... I'm an adjoining property owner ... so if anything comes to this Board, I'm out obviously. But there was a flyer that went around. Somebody, an individual, sent a flyer around in the mailboxes of all ... I guess all. I know I got one and my neighbors got one. So I'm assuming all the adjoining property owners. That was back sometime around Memorial Day, I think. So May, June or July sometime in there.

Donna Schneider: Yeah, that was me.

Member Mace: Oh, that was you. Okay.

Donna Schneider: Yeah.

Member Mace: Glad I didn't say anything ...

Everyone speaking at once. (Inaudible)

Donna Schneider: That was me. You know, no one else knew about it. Nobody knew about it and I needed to make my neighbors aware of it as well because I would hate ... You know, no one's happy about it in the area and if you are happy about it ...

Chairman Gary: Sounds like the farmers ...

Donna Schneider: The farmers are not happy. The landowner.

Chairman Gary: Well, I'm sorry, the landowner. Yeah.

Donna Schneider: So, yeah, I know I've spoken a lot and I did take a lot of time but I just wanted to let you know and what is possibly coming here. I don't know if it will ever reach your desks. I don't know how it works from here, but I just felt I needed to come down because I heard zoning change and you're the Zoning Board. So. Thank you very much for letting me stay up here for as long as you did. I appreciate it.

Chairman Gary: And you're welcome. Is there anyone else? Anything? Okay. Okay. Okay, there is no other public comment, then I would receive a motion to adjourn.

Member Horun: Motion.

Member Unangst: Second. Either. Either.

Chairman Gary: All in favor? Opposed? We are adjourned.

MOTION TO ADJOURN:

Motion by: Member Horun

Seconded by: Member Unangst

ALL IN FAVOR: Ayes

NAYS: None

Respectfully submitted by:

Patricia A. Segeda
Secretary, Zoning Board of Adjustment