

**BEFORE THE BOARD OF APPEALS OF QUEEN ANNE’S COUNTY**

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In the Matter of the Application of  
**Jones Farm Lane Solar, LLC,**  
**Lessee**  
and  
**John M. Stoltzfus and Ruth R. Stoltzfus,**  
**Property Owners**  
for Conditional Use and Variance Approvals

Case No. CU-17040011

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**OPINION AND ORDER**

**Proceedings**

The matter before the Board of Appeals of Queen Anne’s County (“Board”) in this case involves a conditional use application and related variance requests filed by Jones Farm Lane Solar, LLC (“Applicant”). The Applicant seeks zoning approval for a solar array facility and an adjunct public utility use that together will occupy about 343 acres. The real property involved in the applications is part of a larger tract of land owned by John M. Stoltzfus and Ruth R. Stoltzfus. As the property owners, the Board will consider Mr. and Ms. Stoltzfus to be co-applicants; however, all references to the Applicant in this decision are to Jones Farm Lane Solar, LLC, unless specifically noted otherwise.

On February 7, 2018, beginning at 5:00 p.m., the Board conducted a public hearing in the main meeting room in the County’s office building at 110 Vincit Street, Centreville, Maryland, to consider the Applicant’s conditional use and companion variance applications. At the beginning of the hearing, the Board established that all requirements were met governing (1) the filing of the conditional use and variance applications, and (2) notice of the February 7, 2018

public hearing. No one attending the public hearing objected to the Board's jurisdiction to hear the Applicant's case. Board members hearing the case were Mr. Kenneth R. Scott, Chairman; Mr. Craig W. McGinnes, Member; and Mr. William D. Moore, Alternate Member.

### **Applicant's Request**

The Applicant requests conditional use approval under the provisions of § 18:1-14.C.(25) and § 18:1-95.S. of the Code of Public Laws of Queen's Anne County ("Code") to construct and operate a solar array facility on a leased area of approximately 343 acres. The leased area is part of an agricultural tract totaling 647.31 acres in size ("Stoltzfus Tract"). In addition, the Applicant requests conditional use approval under the provisions of § 18:1-14.C.(19) and § 18:1-94 of the Code to authorize a 69 kV electrical substation. An electrical substation is considered a public utility use. Delmarva Power will own and operate the substation. The substation will enable electricity generated by the solar array to be added to the electrical grid serving Queen Anne's County and the Delmarva region.

In connection with the proposed substation, the Applicant requests approval of a variance from the standard in § 18:1-14.E.(2)(b) of the Code that requires lots in the AG zoning district to have 35 feet of frontage along a public road. The Applicant proposes a 2.5-acre lot for the substation that will gain access to a public road via a private access easement, but the lot itself will have no public road frontage. In addition, for both the substation lot and the remaining leased area on which the Applicant proposes the solar array, the Applicant requests a variance from § 18:1-14.E.(2)(c)[4] of the Code, which requires a nonresidential use in the AG district to maintain side-yard and rear-yard setbacks of at least 10 feet. The Applicant proposes a side-yard setback and a rear-yard setback of zero feet for structures and equipment needed to connect the solar array to the substation. To establish the connection, such structures and equipment must be in close proximity to the common property line.

At peak operation, the solar array will generate up to 64 megawatts (MW) of renewable power from about 206,000 photovoltaic solar panels. Because the solar panels produce direct current, the facility will include power inverters to convert DC current into AC current. Once converted into AC current, the proposed substation will step-up the voltage to match the voltage in the closest Delmarva Power transmission line. The closest transmission line is located within a 150-foot right-of-way that traverses the Stoltzfus Tract generally along the northeast side of Andover Branch. The substation will be built next to this transmission line. Delmarva Power will own the substation parcel and will operate the substation as part of its regional transmission and local distribution systems.

### **Conditional Use Standards**

The Board must evaluate the Applicant's conditional use requests by applying standards found in several sections of the Code. First, for the solar array facility, the Board must evaluate whether the proposed use meets the specific standards for a solar array conditional use, as set forth in § 18:1-95.S. of the Code.<sup>1</sup>

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<sup>1</sup>On January 23, 2018, the County Commissioners adopted County Ordinance No. 17-17, along with two amendments to the Ordinance. Ordinance 17-17 was part of a trio of ordinances the County Commissioners adopted to regulate solar arrays. Ordinance 17-15 establishes a Utility Scale Solar Array Overlay (USSA) District for lands within two miles of electrical transmission lines with a capacity of at least 69 kV. Ordinance 17-16 establishes standards for the USSA District, as well as defines two types of solar arrays, a Small Scale Solar Array and a Utility Scale Solar Array. In this case, the Applicant proposes a Utility Scale Solar Array.

Ordinance 17-17 revises § 18:1-95.S. of the Code to establish new specific standards for solar arrays. The new standards took effect on March 10, 2018. Although the new standards were not in effect on February 7, 2018 when the Board heard this case, at the hearing the Applicant indicated it would comply with the new standards, and the witnesses addressed those standards. Furthermore, the Board's written Opinion and Order is being issued on March 23, 2018. Under the *Yorkdale* rule, the Board concludes it must apply the law that is in effect on the date the Board issues its written decision. *See Layton v. Howard County Board of Appeals*, 399 Md. 36, 922 A.2d 576 (2007) (reaffirming the *Yorkdale* rule that a substantive change in relevant statutory law taking place during litigation of a zoning case must be applied retrospectively). Accordingly, the § 18:1-95.S. standards set forth in this Opinion are from Ordinance No. 17-17, as amended.

The specific § 18:1-95.S. standards are:

(1) Purpose and intent. The purpose of this subsection is to establish guidelines for the siting of a utility scale solar array and accessory equipment, buildings or facilities that generate, maintain, operate, manage, store, distribute and transmit power, other than facilities designed for small scale solar array applications.

(a) The goals of this subsection are to:

[1] Protect existing residential areas and land uses from potential adverse impacts, while accommodating utility scale solar arrays in the County's solar array overlay map.

[2] Encourage the configuration of solar arrays so that adverse visual impacts are minimized through careful design, siting, and landscaping screening and buffering.

[3] Encourage the configuration of solar arrays so that the health, safety, and general welfare of the public are protected.

(2) All applications for zoning permits for solar arrays requiring conditional use approval shall, in addition to what is otherwise required for a conditional use permit, present a special application in accordance with § 18:1-143 to the Planning Commission during a public meeting. The Planning Commission shall forward its report and recommendations to the Board of Appeals, within 60 days of the Planning Commission's review. The Board of Appeals shall not render its decision until the Planning Commission recommendations have been received and reviewed.

(3) Submission requirements for Board of Appeals conditional use approval.

(a) In addition to other conditional use requirements set forth in Chapter 18:1, Part 5, Article XVII, applications for utility scale solar arrays shall provide and show the following:

[1] Preliminary engineered construction drawings, including but not limited to grading and stormwater management.

[2] The proposed location of equipment and/or storage structures and shelters, landscaping, and site access including during and after construction.

[3] All existing conditions, structures, and site access.

[a] Existing conditions, including documentation of consultation with Maryland Historical Trust, shall show historic structures or features or other heritage and cultural resources. If a project uses federal or state monies, a Section 106 shall be filed. The utility scale solar array shall minimize adverse impacts to view sheds of designated historic sites and scenic corridors, and further, shall not be located in a scenic byway.

[4] A written statement that describes the project including the anticipated generating capacity, the proposed type, size, and cost of the solar panels, and the intended length of operation.

[5] Information about the applicant and its renewal energy portfolio including whether the applicant intends to operate the solar array, identity of likely future owners, and a process by which the future owners and/or utility operators will be identified to the County.

[6] At minimum, a conceptual stormwater management plan in accordance with all County and State stormwater management regulations. Additional plan information shall be provided as may be further deemed necessary by the Department of Public Works for the protection, maintenance, and enhancement of public health, safety, and general welfare through controlling the impacts associated with stormwater runoff.

[7] Evidence that lighting shall be in accordance with § 18:1-85.C, Exterior lighting standards, of this chapter.

[8] Signage shall be in accordance with Article XII.

[9] Interior site circulation and parking including where construction vehicles and materials will be stored while the site is under construction.

[10] Site access and circulation for emergency vehicles.

[11] Projected trip generation information regarding site preparation, construction, and operation, which may include local traffic conditions, roadway conditions, and school bus schedules.

[12] Identification of any public or private runway, airstrip or airport within one mile of the proposed solar array, and provision of any FAA/MAA clearance that may include a glare analysis or other documentation as necessary.

(b) Environment:

[1] All existing vegetation, including general size and composition, environmental features, showing buffers as necessary, shall be identified and located on the plan.

[2] All forested areas impacted or proposed for removal shall be mitigated and protected in accordance with Chapter 18:2, Forest Conservation Act.

[a] If restoration is required, planting may be incorporated as landscaping per § 18:2-14.A.

[3] Show that the gross usable area for panels will exclude wetland areas that are regulated by the Maryland Department of the Environment or the U.S. Department of the Interior (administered by the U.S. Army Corps of Engineers). Impacts associated

with access or interior roads and utility crossings shall provide the necessary Authorization for any disturbances.

[4] All natural resources are to be identified and protected in accordance with Chapter 18:1, Part 4, Article IX.

[5] Identification on the plan of the site's soil type and composition. Existing top soil shall not be removed from the site.

[6] To the maximum extent practicable, the solar arrays shall be sited using natural topography and vegetation to buffer it from the view of adjacent properties and roads and/or rights of way.

[7] Solar arrays shall not be located in special flood hazard areas within the jurisdiction of Queen Anne's County and identified in § 14:3-5 without the proper review and approval by the Floodplain Administrator.

(c) Landscaping:

[1] Provide a detailed landscape plan, which may be a combination of plantings, existing vegetation, fencing, berms, and at a minimum shows the following:

[a] A vegetated buffer that is a minimum of 50 feet wide around the perimeter of the site area of the utility scale solar array. This buffer may be located within the required setback.

[b] Existing healthy vegetation within the required buffer area may be used to satisfy the specific buffer standards.

(1) In the event that healthy vegetation which is intended to meet the buffer planting requirements is cleared, damaged, or destroyed, the vegetation shall be replaced with the same species or with an approved substitute. The removal of any existing vegetation shall void any credit received and a revised landscape plan shall be submitted.

[c] Where existing vegetation is retained, a required berm installation may be reduced in whole or in part by the Board of Appeals.

[d] The site plan shall be prepared by a licensed landscape architect registered in the State of Maryland.

[e] Where a phased construction plan is proposed, the landscape plan shall identify the phasing of the plantings applicable to each construction phase.

(1) Regardless of phasing, a minimum 50% of the landscaping shall be installed prior to initial certificate of occupancy.

[f] The vegetation shall visually screen the solar array from all adjacent residential uses and zones, from publicly traveled ways (public roads, trails, waterways, scenic highways and byways) publicly owned properties, open space, preserved farms, and historic resources including sites and buildings listed or eligible for listing on the state and national registers of historic places.

[g] The vegetation shall screen the solar array upon maturity or within five years.

[h] Native plant species are recommended. Non-native plant species shall not total more than fifty percent (50%) of all plantings. Invasive species shall not be permitted.

[i] To ensure adequate variety, and avoid monotony and uniformity within the buffer, plant materials shall not include more than twenty-five percent (25%) of any single species. Plantings, detailed in a plant schedule on the plan, shall include a mix of evergreen and deciduous trees, understory trees, shrubs, and flowering herbaceous layer.

[j] All plant material shall conform to the plant size specifications as established by the American Standard for Nursery Stock ANSI Z60.1-2014 and shall be planted to the following specifications:

(1) A minimum of two staggered rows of evergreen trees that at installation, shall be at least 6 feet in height, planted on centers of 6 to 12 feet depending on plant type. Evergreen tree species shall be a varied mixture of compatible types and achieve a height of 8 feet in a minimum of 2 years.

(2) Deciduous shade trees with a minimum size at installation of 2 inch caliper shall be interspersed with the evergreens, planted on center no greater than 100 feet.

(3) Understory trees with a minimum size at installation of 1 inch caliper or 6 feet in overall height each planted on center no greater than 100 feet.

(4) Shrubs, intermediate or tall, with a minimum size at installation of 24 inches in height or 30 inches in spread.

(5) The buffer shall include a flowering herbaceous layer for pollinators or other beneficial habitat. The layer mixture shall be planted a minimum of 5 feet wide and include a minimum of 10 plant species with a minimum of 2 flowering seasons. The herbaceous layer, if seeded, shall demonstrate 75% growth within a 3 year surety period.

(6) The heights of proposed plantings may require alternatives based upon the site elevation and visibility from adjacent properties and roads and/or

rights of ways. If necessary, an elevation or perspective illustration exhibit shall be provided with viewpoints from relevant locations around the site.

[k] A landscape berm, a minimum of three (3) feet high to assist in screening may be required. The requirement of providing a berm will be evaluated by staff, may be recommended by the Planning Commission, but finally determined by the Board of Appeals.

(1) The design of any berm shall be such that the natural drainage patterns of the site will not be altered.

[l] Irrigation shall be provided for maintaining plant materials in a healthy condition for all newly created landscape buffer areas.

(1) Plants shall be watered in a manner adequate to ensure establishment and survival. The landscape plan shall include a watering schedule appropriate for the plantings, which may include service by on-site irrigation or water truck, until the plant material is sufficiently established to survive on natural soil moisture. An irrigation system is subject to the following:

[i] The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas such as adjacent properties, roadways, or structures.

[ii] All automatic irrigation systems shall be designed to minimize water usage, and shall be manually shut off during water emergencies or water rationing periods.

[iii] An alternative form of irrigation for a particular site may be approved through the applicable review process upon determining that underground irrigation is not necessary or available for the type of plant material being proposed.

[m] A maintenance agreement shall be provided with a surety or other financial assurance per Part 7, Article XXVII of Chapter 18 to cover replacement of the plantings and/or irrigation system for any failed plantings and/or irrigation system. All plantings shall be maintained in a live, healthy condition for the duration of the solar array use and shall be replaced by the solar array operator or owner as necessary to maintain all required screening.

[n] The surety, which may be provided on a phased basis per a landscaping plan, and is based upon an estimate no more than a year old, shall be held by the County for a period of 3 years following planting, after which the County, upon satisfactory inspection of the landscape buffer, may release 50% of the surety. After an additional 2 years, to ensure proper survival and maintenance of the planted material, and upon satisfactory inspection, the County may release the remainder of



the surety. The County reserves the right to inspect and require replacement of failed plant material for the duration of the solar array.

(d) Setbacks:

[1] 75 feet from any lot line, except as provided in Subsection (d)[3] herein.

[2] 100 feet from any road and/or right of way, unless a greater setback is required under Subsection (d)[3] herein, in which event the greater setback shall apply along the entire road and/or right-of-way.

[3] 300 feet from the nearest lot line of a single-family, cluster, or sliding scale lot.

[4] Setbacks shall be measured from the nearest solar panel/structure within the solar array.

[5] If multiple abutting parcels are proposed as part of the solar array, setbacks of § 18:1-14.E.(2)(c) shall apply.

(4) Solar arrays shall be constructed and maintained according to the following:

(a) If solvents are required for cleaning of solar modules, they must be biodegradable.

(b) All broken or waste solar modules shall be removed from the site within 60 days of being taken out of service.

(c) All wiring not on the solar arrays shall be underground except where necessary to connect to the public utility.

(d) Any required utility right of way shall be secured through an easement, lease, service agreement or other legally binding document.

(e) The solar array shall be enclosed by a fence or other appropriate barrier at the interior edge of the required landscape buffer or immediately adjacent to the solar array. The fence or barrier shall:

[1] Secure the facility at all times and prevent unauthorized persons or vehicles from gaining access.

[2] All access gates shall provide a sign that identifies the responsible parties or owners and 24 hour contact information.

[3] Be a maximum of 8 feet in height. Wire mesh shall be black or green vinyl. Barbed or razor wire is prohibited.

(f) Provide documentation that noise generated by the facility shall be limited to 60 DBA as measured at the property line except when a back-up generator is needed for maintenance. Construction on the site is exempt from this standard.

(g) Solar arrays, including the electrical and mechanical components, shall conform to relevant and applicable local, state and national codes.

(h) To protect adjacent properties, and not interfere with roadways or create a safety hazard, evidence shall be provided that the solar panels are designed to avoid glare and/or reflection with anti-reflective coating or non-glare technology and, if necessary, have been evaluated with a solar glare hazard analysis tool.

(5) Decommissioning and Abandonment:

(a) A bond or other financial assurance shall be required to assure complete removal of a utility scale solar array. The financial assurance shall be automatically renewable. The amount shall include a mechanism for calculating increased removal costs due to inflation to ensure the amount is adequate for the cost of removal and restoration of the site. A financial assurance provided to satisfy the conditions of the Maryland Public Service Commission's Certificate of Public Convenience and Necessity may also satisfy this requirement provided it complies with the foregoing and is enforceable by the County. Removal shall occur within one (1) year of the earlier of:

[1] The end of the life of the solar array with a decommissioning plan; or

[2] Abandonment.

(b) The operator of a solar array shall provide written notice to Queen Anne's County whenever the solar array is out of active production for 6 or more months.

(c) Any utility scale solar array that has not operated for a continuous period of 12 months shall be considered unused and abandoned and the conditional use will expire unless the Board of Appeals grants an extension. The owner of the solar array may present substantial evidence that cessation of the solar array occurred from causes beyond the owner's reasonable control, that there is no intent to abandon the solar array, and that resumption of the solar array is reasonably practicable.

(d) Removal of a solar array and restoration of the site shall occur within 1 year of receipt of notice from Queen Anne's County notifying the owner of the equipment removal requirement. Removal includes removing any underground structures or supports and electrical transmission wire. All materials must be legally removed from the site. The site shall be restored to its original condition after removal when abandoned or in accordance with a decommissioning plan.

(e) A decommissioning plan shall include but is not limited to:

[1] The expected life of the solar array.

[2] Time frame for decommissioning of the solar array.

[3] An estimate of the costs associated with the removal of the solar array minus with any salvage value.

[4] Proposed stabilization measures including an approved sediment and erosion control plan.

[5] Removal of all above and underground equipment, structures, fencing, and access roads.

[6] Only like-kind topsoil may be used for restoration.

[7] Legal documents shall be created outlining the legal responsibility for any environmental pollution that occurs after the solar array is removed.

[8] Any alteration to the decommissioning plan or necessary restoration shall require Board of Appeals approval.

[9] An End Use plan showing the following:

[a] The proposed condition of the site once the solar array has been removed.

[b] The property owner may request to retain vegetation planted and/or berms that were required by the solar array use, as well as access or interior roads, and fencing.

[c] If the End Use is to be open space, then documentation shall be provided in the form of restrictive covenants.

[d] Any afforestation or reforestation or other vegetative planting.

Second, for both the proposed solar array and the proposed public utility use,<sup>2</sup> the Board must apply the general standards set forth in §18:1-94 of the Code, which provide as follows:

An application for a conditional use may not be approved unless the Board of Appeals specifically finds the proposed conditional use appropriate in the location for which it is proposed, based on the following criteria:

A. The proposed use at the proposed location shall be consistent with the general purpose, goals, objectives, and standards of the Comprehensive Plan, this Chapter 18:1,

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<sup>2</sup>The County Code does not contain specific standards for a public utility use. Thus, only the general conditional use standards found in §18:1-94 and § 18:1-123.B of the Code, and in § 1-303 of the Land Use Article of the Annotated Code of Maryland, apply to the proposed substation.

or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County.

B. The proposed use at the proposed location will not result in substantial or undue adverse impacts on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare.

C. The proposed use at the proposed location will be adequately served by, and will not impose an undue burden on, any of the required improvements referred to in this Chapter 18:1, Part 7. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use at the proposed location, the applicant shall, as part of the application and as a condition of approval of the conditional use, be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with the Comprehensive Plan, this Chapter 18:1, and other plans, programs, maps, and ordinances adopted by the County.

Third, § 18:1-123.B of the Code, which also applies to both the proposed solar array and the proposed public utility use, requires the Board to make the following findings to grant each conditional use:

- (1) The conditions concerning that conditional use as detailed in this Chapter 18:1 exist;
- (2) The conditional use conforms to the Comprehensive Plan; and
- (3) The conditional use is compatible with the existing neighborhood.

Finally, to approve a conditional use, the Board must make certain comprehensive plan consistency findings required by § 1-303 of the Land Use Article of the Annotated Code of Maryland. The Board must make these findings for both the proposed solar array and the proposed public utility use. As may be applicable, the Board must find that approval of each requested conditional use will “further, and not be contrary to, the following items in the [comprehensive] plan:

- (1) policies;
- (2) timing of the implementation of the plan;
- (3) timing of development;
- (4) timing of rezoning;
- (5) development patterns;

- (6) land uses; and
- (7) densities or intensities.”

Regarding the two variances the Applicant requests in conjunction with the public utility use, to grant each variance the Board must consider whether the evidence is sufficient for the Board to make the findings set forth in § 18:1-121.B. of the Code, as follows:

1. Literal enforcement of Chapter 18:1 of the Code would result in unnecessary hardship or practical difficulty as the result of specified conditions;
2. Those conditions are peculiar to the property involved;
3. Those conditions are not the result of any action taken by the appellant;
4. The variance will not be contrary to the public interest; and
5. Evaluation of the alternatives proves a variance is required.

In addition, under the provisions of § 18:1-122 of the Code, the Board must find that each requested variance associated with the proposed substation is no greater than the variance minimally required to ameliorate the circumstances giving rise to any practical difficulties or unnecessary hardship.

#### **Property and Neighborhood Description**

The property that is the subject of the conditional use and variance applications is a 343-acre leased area within a 647.31-acre tract located in the First Election District of Queen Anne’s County at 148 Jones Farm Lane, about five miles driving distance southeast of the Town of Millington (“Property”). The Property fronts the south side of Blanco Road about a mile west of the Maryland/Delaware state line. The Property is designated as part of Lot 1, Parcel 5, on Sectional Zoning Map No. 8. The Property is zoned AG-Agricultural. The Property is not located in the Chesapeake Bay Critical Area.

At present, most of the Property is farmed. Woodlands grow on the Stoltzfus Tract along Andover Branch, just to the southwest of the Property. There are also nontidal wetlands

associated with Andover Branch, but the proposed solar array and substation will not impact those wetlands. A right-of-way supporting a transmission line owned by Delmarva Power runs along the edge of the woodlands, generally to the north of Andover Branch.

The neighborhood is decidedly rural and dominated by large parcels devoted to agricultural uses, interspersed with streams and woodlands. The neighborhood includes a scattering of single-family homes, rural businesses, and a few institutional uses. From the Maryland/Delaware line to the east, the Queen Anne's County/Kent County line to the north, and the Templeville area to the south, the neighborhood is zoned AG, Agricultural all the way west to the Millington and Sudlersville areas.

#### **Agency Recommendations**

Ms. Holly Tompkins, the Development Review Principal Planner with the Department of Planning and Zoning ("P&Z"), presented and summarized a written staff report, which the Board accepted into evidence as P&Z Exhibit 1. In addition, the Board received a letter from the Queen Anne's County Planning Commission recommending conditional approval of the solar array. The Board accepted the Commission's letter into evidence as Applicant's Exhibit 3.

The Board also accepted into evidence a memorandum stating no objection from the Department of Environmental Health (Applicant's Exhibit 7) and a memorandum stating "no comments or issues" from the State Highway Administration's Regional Engineer (Applicant's Exhibit 8). Other agency communications accepted into evidence include a memorandum from the Department of Public Works (Applicant's Exhibit 9), comments from the Soil Conservation District (Applicant's Exhibit 10), comments from the Department of Economic and Tourism Development (Applicant's Exhibit 11), comments from the Planning Commission's attorney (Applicant's Exhibit 12), and a letter from the Maryland Historical Trust (Applicant's Exhibit 15). These communications address a variety of technical issues applicable to the solar array

project, including various details yet to be finalized. None of the communications, however, recommend denial of the project or express concerns that the Applicant will not be able to resolve the remaining technical issues.

During her testimony, Ms. Tompkins described the Property and the neighborhood, summarized the application review process, explained how the Applicant complies or proposes to comply with the specific conditional use standards, and highlighted various development issues raised during the review process. She told the Board the Applicant still needs to work out some details associated with several of the development issues. Nevertheless, concerning the specific standards for a solar array facility set forth in § 18:1-95.S. of the Code, as revised by County Ordinance 17-17, Ms. Tompkins concluded the Applicant's proposal meets, or is capable of meeting, these specific standards. In a brief appearance before the Board, Planning and Zoning Director Michael Wisnosky echoed Ms. Tompkins' testimony. Mr. Wisnosky said Planning and Zoning is very comfortable the Applicant will be able to resolve the remaining issues and comply with all relevant Code requirements.

In addition to testimony about the standards in § 18:1-95.S. of the Code, Ms. Tompkins explained newly adopted legislation that creates a Utility Scale Solar Array Overlay District ("USSA"). She testified the Property is in a USSA District, as established by County Ordinance 17-15. Ms. Tompkins further testified the proposed solar array is a Utility Scale Solar Array, as defined by Ordinance 17-16. In addition, Ms. Tompkins testified the proposed solar array and Property satisfy the USSA District standards established by County Ordinance 17-16.

Ms. Tompkins testified that she and Mr. Lee Edgar of the Department of Public Works visited the Property twice. Ms. Tompkins opined the Property is a desirable site for a solar array. The Property is cleared and relatively flat, the proposed solar array will not impact any sensitive environmental features, and the Property is served by an existing farm lane that the Applicant

will upgrade and use for access. Moreover, an existing Delmarva Power transmission line runs through the Stoltzfus Tract of which the Property is a part. The closest homes to the Property are well set back from Blanco Road, and some of these homes are surrounded by woodlands.

Regarding adequate public facilities, Ms. Tompkins testified impacts on public facilities would be nonexistent or so minor that the solar array project does not meet any of the thresholds for APFO review. Regarding the comprehensive plan, Ms. Tompkins observed the plan designates the Property and surrounding area for agricultural uses, solar arrays are allowed as a conditional use in AG zoning, and the Property is located within the newly created USSA District. Of note, the Property is in a priority preservation area, and the Plan sets a goal of preserving 80% of priority-preservation lands. But the Plan also recognizes the need for solar and other alternative energy generation.

Addressing the proposed substation, Ms. Tompkins explained the substation is a necessary adjunct to the proposed solar array and will be internally sited on the Property. Once constructed, Delmarva Power will operate the substation. The Applicant's variance request to eliminate the rear and side yards along the common lot line between the substation and the remaining Property will not have any negative impact because the solar array will surround the substation lot. Also, the variance is needed so that the solar array and the substation can be properly connected. Regarding the variance to eliminate the road frontage requirement for the substation lot, Ms. Tompkins noted the substation will utilize the solar array's access road, over which there will be 50-foot easement. Ms. Tompkins believes the 50-foot easement satisfies the 35-foot frontage requirement in spirit. For this reason, and because the substation will be unmanned, Ms. Tompkins believes the variance is reasonable.

Concluding her report to the Board, Ms. Tompkins testified the Department of Planning and Zoning has no objection to the variances the Applicant seeks, and no objection to approval



of a conditional use for the substation. Regarding the solar array conditional use, Ms. Tompkins testified the Department of Planning and Zoning has no objection to the use, but the Department suggests the Board attach conditions to any approval it might grant. The suggested conditions are set forth in P&Z Exhibit 1 and Applicant's Exhibit 3.

Later in the hearing, the Board heard from Mr. Lee Edgar. Mr Edgar is a professional civil engineer and the Development Review Manager for the Department of Public Works. Mr. Edgar told the Board he has been directly involved in reviewing the Applicant's request since the Applicant first submitted it to the County. Mr. Edgar testified the solar array proposal will have minimal impact on County roads. Thus, the Department has not requested a surety for potential road impacts. Mr. Edgar told the Board the greatest use of County roads will be during construction of the array, but the construction process is not expected to impact roadways as much as, for example, a major excavation use. Mr. Edgar testified the Department is satisfied the proposed staging areas on the Property will be adequate for equipment storage, parking of construction vehicles, and parking for workers. Mr. Edgar said the Department would verify that construction vehicles and workers do not park along Blanco Road.

#### **Applicant's Presentation**

Mr. Ryan D. Showalter, Esquire, of McAllister, DeTar, Showalter & Walker LLC, appeared before the Board representing the Applicant. Mr. Showalter proffered part of the Applicant's case and presented 21 exhibits. The exhibits include a narrative addressing the conditional use and variance standards, as well as detailed reports addressing environmental impacts, stormwater management, project feasibility, and archaeological investigations. The Board admitted all 21 exhibits into evidence without objection. The Board also heard testimony from Ms. Erin A. Walkowiak, the Applicant's Project Manager, and from Mr. Jeffrey Wagg, the Applicant's Project Engineer. At the outset of the Applicant's presentation, Mr. Showalter told

the Board the Applicant is willing to comply with § 18:1-95.S. of the Code as amended by County Ordinance 17-17.

When fully built-out, the proposed solar array will be the largest in Maryland. The array will consist of approximately 206,000 photovoltaic panels expected to generate up to 64 MW of electrical power. This is enough power to supply 12,000 homes. Each panel in the array will sit on a single-axis tracker facing north-to-south, allowing east-to-west pivoting. Panels will be grouped in rows that share one axle. The shared axle will control all panels in a row. Because the Property is not perfectly level, solar panels will vary somewhat in height, which will allow all panels in each row to maintain the same elevation at the tops of the panels. On average, a tracker-panel combination will be about eight feet above the ground. Panels are designed to minimize glare.

No grading of the Property will be undertaken; placement of the panels will “work with the land.” Stormwater impacts will be minor. Trackers will be mounted on driven piles, and only a small amount of equipment will require impervious bases. The entire solar array will be fenced. The fence will have gates to allow access for maintenance and repairs. Each gate will have a sign providing emergency contact information. The Applicant will upgrade the access road into the Property to allow all-weather access. The Applicant will appropriately manage runoff from the access road.

During construction, the Applicant will provide storage and staging areas on the Property. After construction, the facility will be unmanned and monitored remotely. Construction will be phased over about 15 months. Thus, traffic impacts will be minor. Bringing the solar array equipment to the Property will involve about 150 trucks, possibly more. Truck traffic will include 18-wheel flatbeds and several types of smaller vehicles. All truck parking, as well as parking for workers, will be provided on-site. No parking will be allowed along Blanco Road.

Trucks coming to the Property and cars belonging to workers are not expected to damage Blanco Road or any other road. But if damage does occur, Ms. Walkowiak testified the Applicant will make necessary repairs.

The solar array facility will not be lighted, although there could be some low-level lighting associated with the substation. Delmarva Power will build and own the substation, which will serve only the proposed solar array. As typical, the substation will be built over a gravel base. The substation will contain a transformer, switch gears, breakers, and associated electrical equipment, surrounded by its own security fencing. The substation and solar array will connect via overhead electrical lines, but lines within the solar array will be underground.

Placing the substation lot along Blanco Road to achieve 35 feet of road frontage would make the substation more visible to the public. But placing the substation lot away from the road will have less impact, aesthetically and otherwise. In addition, according to the Applicant, placing the substation lot along Blanco Road would create a practical difficulty because such a location would not allow the substation to be located next to the existing transmission line.

The solar array project will not involve any forest clearing. Even so, forest conservation is required. The Applicant is currently working with the landowners to identify the boundaries of a 123-acre forest preservation area. The solar array project will not disturb nontidal wetlands. The project will not disturb any 100-year floodplain. No rare, threatened, or endangered species exist on the Property. In addition, the Applicant has completed a Phase II archeological study covering a five-acre portion of the Property that previously was identified as worthy of further study. Of the five acres, about 0.75 of an acre—an old farmhouse site—is eligible for listing with the Maryland Historical Trust (“MHT”). The Applicant is presently working with MHT to mitigate possible impacts to the farmhouse site and to make sure access to the site is available for follow-up study.

### **Testimony by Others**

Mr. David H. Thompson testified after the Applicant completed its case. Mr. Thompson told the Board his mother and he own the farm adjacent to the Property, on the other side of Andover Branch. Mr. Thompson said he is not opposed to the solar array project, but he has concerns about buffers and traffic on Blanco Road. He especially wanted to know routes truck traffic would take to reach and leave the Property. Mr. Thompson believes the best route would be in the direction of Millington. He would be very concerned if large numbers of trucks and other vehicles use Bolton Woods Road.

Responding to Mr. Thompson's concerns, Ms. Tompkins explained there will be a 50-foot-wide buffer around the entire project. The buffer will be planted, except near and under the existing transmission line. Ms. Walkowiak testified the Applicant will work with the project contractors to establish routes that will be used for construction of the solar array. Typically, construction traffic will travel to a site using several routes. Also, here, traffic will be spread out over the 15-month construction period, so there should not be a significant impact to any road.

No one else testified in favor of or in opposition to the conditional use requests or the requested variances.

### **Findings and Conclusions of the Board for the Conditional Uses**

Noting the absence of contrary evidence, the Board finds credible and persuasive the testimony and exhibits provided by the Applicant, as well as the written report and testimony provided by Ms. Tompkins of the Department of Planning and Zoning and the testimony of Mr. Edgar of the Department of Public Works. In addition, the Board views the lack of opposition to the project by nearby residents as an evidentiary inference the use is generally compatible with the specific rural area in which the solar array is proposed. The evidence also establishes the proposed solar array is well-located to meet a public need for renewable electric energy.

Based on Ms. Tompkins' testimony and report, and the testimony and exhibits provided by the Applicant, the Board finds the Applicant has met (or, for those standards that impose an on-going or future responsibility, the Applicant will be able to meet) all of the specific conditional use standards set forth in §18:1-95.S. of the Code for a solar array use. The Board will impose several conditions on the conditional use and variance requests, as recommended by the Planning Commission and the Department of Planning and Zoning. The Board's conditions will help ensure that during the permitting process for the project the Applicant must resolve any remaining details, and that after permits are approved the project will continue to satisfy the §18:1-95.S. standards.

The Board finds the evidence supports a conclusion that the conditional use application meets the general conditional use standards found in §18:1-94 and § 18:1-123.B of the Code, as well as the Comprehensive Plan consistency requirements set forth in the Land Use Article of the Annotated Code of Maryland. Concerning the comprehensive plan, the Board finds the proposed solar array and associated substation are consistent with, and conform to, both the area's agricultural plan-designation and the agricultural and low-density land uses that dominate the neighborhood. To begin with, the Plan recognizes the need for renewable energy sources. Although the Plan depicts the Property as falling within a preservation area, the Board finds that—in the long-run—use of the Property for a solar array project will preserve the land for agricultural and open space uses. The life of the solar array project is about 30 years, and the Applicant must commit to and bond a decommissioning plan. After decommissioning, the Property could once more be used for agricultural uses or devoted to open space.

Furthermore, although the Property is in an area generally mapped for sensitive-lands and ecological targeting, the project will not disturb any sensitive land or environmental features. Moreover, the project will result in 123 acres of permanently protected forest. The Board notes,

too, the Planning Commission recommended conditional approval of the solar array. The Commission, of course, plays an instrumental role in adopting and implementing the Comprehensive Plan. Furthermore, the Property is in the newly established USSA District. The County Commissioners' recent adoption of the USSA district reinforces the project's consistency with the Comprehensive Plan.

For the reasons set forth in the preceding two paragraphs, the Board also finds the proposed conditional uses are consistent with the general purpose, goals, objectives, and standards of other applicable plans, programs, maps, and ordinances adopted by the County or pending adoption by official notice.

Furthermore, the Board concludes the companion conditional uses are appropriate for the specific location proposed. Regarding the proposed location, the Board finds the location will not increase or exacerbate any of the potential impacts inherent in a solar array conditional use and a public utility conditional use, and in fact will decrease certain potential impacts (1) because mature woodlands exist around portions of the Property; (2) because the proposed array will not affect nontidal wetlands, floodplain, or other sensitive natural features; (3) because the Property is essentially flat, meaning the solar panels will not be readily visible from the surrounding neighborhood, and (4) because the Property is proximate to a Delmarva Power transmission line. Based on Ms. Tompkins' testimony and aerial photographs in evidence, the Board also finds there are fewer than a dozen homes within 1,000 feet of the Property, and most of these homes are well-buffered by existing woodlands.

Based on the testimony of Ms. Tompkins and Mr. Edgar, as well as information in the Applicant's exhibits, the Board finds the proposed solar array and substation, at the proposed location, will not result in substantial or undue adverse impacts on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or

rights-of-way, or other matters affecting the public health, safety, and general welfare. Notably, after initial construction, (1) the solar array and companion substation will be less intense than agricultural operations on the Property and in the neighborhood, (2) will generate only minimal traffic, and (3) will be well-buffered by both existing woodlands and the Applicant's proposed landscaping and fencing. In addition, the solar array will not generate appreciable noise and will not be lighted. Also, the substation will not use lighting on a routine basis. During construction, the Applicant will provide on-site staging, storage, and parking areas. Mr. Edgar agreed with the Applicant that construction of the solar array is not expected to result in damage to County roads. Mr. Edgar also testified the County will be monitoring construction, and thus will be able to spot road damage in the unlikely event there is any. Ms. Walkowiak testified the Applicant will repair road damage if damage occurs.

Concerning public improvements, facilities, utilities and services, the Board finds the proposed conditional uses at the locations proposed will use few public facilities and utilities, and will be adequately served by such facilities and utilities that may be used (only minimally), in a manner consistent with the Comprehensive Plan, Chapter 18:1, and other plans, programs, maps and ordinances adopted by the County. As Ms. Tompkins testified, potential impacts associated with the two conditional uses do not rise to a level that triggers APFO review.

The solar array is a passive use with virtually no permanent traffic impact. According to Mr. Edgar, public roads are adequate to serve traffic during construction, which will be phased over 15 months. The uses do not require public water or sewer, nor public storm drains. Ground beneath the solar panels will remain grassed or otherwise pervious, and in other areas of the project impervious surfaces will be curtailed, thus producing minimal stormwater runoff. Similarly, because the solar array and substation will be unmanned, new septic systems or wells for potable water will not be needed. The Department of Environmental Health has no objection

to the proposed uses (Applicant's Exhibit 7), and other review agencies either have no adverse comments or make comments about technical issues the Applicant can resolve (Applicant's Exhibits 8 through 12). The Board will impose conditions on its approval of the conditional uses and variances to help ensure the Applicant must satisfactorily address all such technical issues.

As required by § 18:1-123.B.(3) of the Code, the Board finds both conditional uses will be compatible with the existing neighborhood. As previously discussed, potential impacts will be minimal, or minimized, by the project's location and design. The proposed solar array and substation will not conflict with continued agricultural use of properties in the neighborhood. Nor will the two conditional uses conflict with the closest homes in the neighborhood, which will be well-buffered by distance, topography, and landscaping the Applicant is required to provide. The project will preserve 123 acres of forest. Operations will not produce disruptive noise levels at the edge of the Property. Significantly, the heights of the array panels and associated equipment will be less than building heights ordinarily associated with typical agricultural and residential structures, including structures in the neighborhood. Also important is placement of the substation well back from Blanco Road, near the existing Delmarva Power transmission line.

#### **Findings and Conclusions of the Board for the Variances**

Based on Ms. Tompkins' testimony and staff report, and the testimony and exhibits provided by the Applicant, the Board concludes the requested variances should be granted. The Board ordinarily would be reluctant to grant frontage and setback variances for a lot that has yet to be platted. In this case, however, the proposed lot will be platted internally within the overall solar array project, and the substation is intended to serve only the project. In addition, given the proposed location of the new substation lot, improvements on the lot will be practically indistinguishable from improvements associated with the much larger solar array use that will surround the substation.



The Board finds that strict compliance with frontage and setback requirements would result in practical difficulty.<sup>3</sup> Regarding road frontage, an existing Delmarva Power transmission line is located astride the Property within the Stoltzfus Tract. The substation is best located adjacent to the existing transmission line in terms of both the project and the neighborhood. Locating the substation along Blanco Road, and away from the transmission line, would create a significant and needless burden on the Applicant, Delmarva Power, and the public generally. In addition, because the substation use will be unmanned, the purposes underlying the road frontage requirement are not implicated. For an unmanned use, private road access serves just as well as direct access from a lot's public road frontage. Thus, granting a variance still observes the spirit of the frontage regulation. In this case, too, private road access allows the substation to be placed farther from Blanco Road and the residential properties along Blanco Road, virtually eliminating visual and other impacts inherent in a substation use. The Board finds that such placement does substantial justice to surrounding property owners.

Regarding the setback variance, the Board finds the variance is needed only because the solar array must be connected to the substation. Of necessity, structures to connect the two facilities must be located closer together than residential, agricultural, and other types of

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<sup>3</sup>In evaluating whether practical difficulty exists in this case, the Board is mindful of the definition of "practical difficulty" set forth in *McLean v. Soley*, 270 Md. 208, 310 A.2d 783 (1973). In *McLean*, 270 Md. at 214-15 and 310 A.2d at 787, the Court of Appeals adopted the following criteria for determining whether a practical difficulty has been established:

- 1) Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

structures typically found in the AG zoning district. As with the road frontage requirement, approval of the requested setback variances will observe the spirit of the setback regulations, (1) given the atypical nature of the connection structures, (2) the fact the substation lot will be internal to the overall project, and (3) the fact the connection structures will be well-removed from Blanco Road. Therefore, the Board finds that granting the requested setback variances does substantial justice to both the Applicant and surrounding landowners.

The Board also finds that unique physical conditions exist to justify the variances. These conditions include the odd-shaped boundaries of the leased area, which have been designed to avoid impacts to sensitive environmental features on the Stoltzfus Tract, as well as to limit tree removal. In turn, the shape of the leased area, combined with the location of Delmarva Power's existing easement and transmission line, drive the location of the substation lot.

The Board concludes the foregoing conditions are peculiar to the Property. The natural features of the Stoltzfus Tract have a unique impact on the design of the solar array and the placement of the substation lot. In addition, the other circumstances the Board has described are peculiar circumstances that add to the necessity for the lot-frontage and setback variances.

The Board concludes the foregoing unique and peculiar conditions are not the result of any action taken by the Applicant. The Applicant is not responsible for the natural features on the Stoltzfus Tract, nor for the need to connect the solar array with the substation lot, nor for the constraint of locating the substation lot near the existing transmission line.

The Board concludes granting the requested variances will not be contrary to the public interest. The variances will facilitate a necessary connection between the substation and the solar array. Facilitating such a connection facilitates the Applicant's ability to construct and operate the solar array, which will result in an important source of comparatively clean, renewable electric power to serve the public. The variances will have no adverse impact on

adjacent properties, given the very limited traffic to the substation (particularly relevant to the lot frontage variance) and the location of the substation internal to the project (particularly relevant to the setback variances).

The Board concludes that an evaluation of the alternatives proves the variances are required. Regarding the lot frontage requirement, the only theoretical alternatives would be not locating the substation lot near the existing transmission line or platting a lot that is unnecessarily large and odd-shaped to provide a 35-foot pipe-stem reaching Blanco Road. The Board finds both alternatives to be impractical and unduly burdensome. Regarding the setback requirements, the requested variance applies only to structures needed to connect the solar array with the substation. The Board finds that any alternative involving a larger separation of the connection structures, if one exists, is not a plausible alternative.

Finally, the Board concludes the requested variances are the minimum necessary required to ameliorate the circumstances giving rise to a practical difficulty. Eliminating the road frontage requirement is the only amount of variance the Board can grant for locating the substation lot near Delmarva Power's existing transmission line. Similarly, eliminating the side and rear-yard setbacks for structures necessary to connect the solar array to the substation is the only amount of variance that will allow such a connection. As the Board previously found, facilitating such a connection facilitates construction of the solar array, and construction of the solar array at this location benefits the public.

\* \* \* \* \*

Based on the foregoing findings and conclusions, by a vote of three in favor and none opposed, the Board conditionally grants to the Applicant: (a) a conditional use for a solar array of up to 343 acres; (b) a conditional use for a public utility (electrical substation) use to be owned and operated by Delmarva Power; (c) a variance to allow a lot for the substation to be platted

without road frontage along a public street, with the lot to be accessed via a 50-foot private easement or right-of-way; and (4) a variance to reduce to zero the side-yard setback and rear-yard setback for structures and equipment necessary to connect the substation to the solar array.

The foregoing approvals are subject to the following conditions:

1. If the type or design, or both, of the solar panels change from the solar panels described and depicted in the conditional use application, the Applicant must submit to the Department of Planning and Zoning updated information describing and depicting the new solar panels.

2. The Applicant must submit a minor subdivision application for the substation lot. The subdivision plat must include and state (a) the setbacks the Board has approved and (b) other setbacks as requested or directed by the Department of Planning and Zoning. If the Applicant has applied for subdivision approval, the County may issue permits for the solar array; however, after applying for permits, the Applicant must diligently pursue subdivision approval.

3. The Applicant must provide the Department of Planning and Zoning with documentation confirming that a 50-foot wide easement or right-of-way for an access road connecting the substation lot to Blanco Road has been established and recorded in the Queen Anne's County land records.

4. The Applicant and the Applicant's successors, if any, must provide the Department of Planning and Zoning with information establishing the ownership of the solar array, and must keep this information up-to-date when there are any ownership changes.

5. The Applicant must provide clarifying information to the Department of Planning and Zoning to answer the Department's questions about the second pivot south of the existing home.

6. The Applicant must provide the Department of Planning and Zoning with copies of all authorizations issued by the Maryland Department of the Environment for disturbances to any regulated environmental features the Applicant proposes to impact.

7. The Applicant must provide the Department of Planning and Zoning with documents ensuring forest conservation and protection, including a boundary description of a protected forest at least 123 acres in size.

8. Prior to the County issuing permits for the solar array, the Applicant must submit to the Department of Planning and Zoning (or other appropriate County agency) fully engineered plans, including construction drawings, for approval by County agencies and the Soil Conservation Service.

9. The Applicant must provide to the Department of Planning and Zoning all Phase II Maryland Historical Trust ("MHT") information requested by the Department, including the location of archeological sites, historic buildings and landscapes, and other cultural resources, as well as any easements that MHT or the County may request for preservation of such sites and resources.

10. The Applicant must submit to the Department of Planning and Zoning (or other appropriate County agency) an automatically renewable decommissioning bond.

11. The Applicant must submit to the Department of Planning and Zoning (or other appropriate County agency) an automatically renewable landscape surety and a landscape maintenance agreement acceptable to the Department.

12. The Applicant must post the Property with emergency contact information at each access gate to the Property, must maintain each such posting in good condition, and must keep the contact information up-to-date.

13. The Applicant must submit documentation to the Department of Planning and Zoning that Delmarva Power has approved a connection between the solar array and the utility's electrical grid.

14. The Applicant must comply with the requirements and standards set forth in County Ordinance No. 17-17 (as amended) for a Utility Scale Solar Array, specifically including (for the purposes of emphasis) the following items identified by the Department of Planning and Zoning:

- a. The chain-link fence must have vinyl coating colored either black or green.
- b. The Applicant must submit to the Department of Planning and Zoning an end-use and decommissioning plan for approval by the Department.
- c. The Applicant must submit a site plan to the Department of Planning and Zoning for review and approval by the Planning Commission, the Department, and other County reviewing agencies.
- d. The Applicant must submit a landscaping plan to the Department of Planning and Zoning for review and approval by the Department and other involved County reviewing agencies.

15. The Applicant must submit lighting details to the Department of Planning and Zoning for approval.

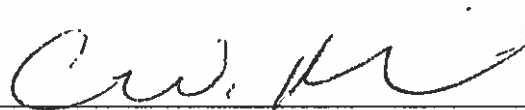
16. The Applicant must submit a phasing plan to the Department of Planning and Zoning, including information detailing the staging of construction and information addressing trip generation and distribution, for approval by the Department.

**ORDER**

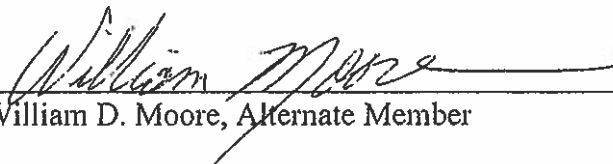
For the reasons set forth in the foregoing Opinion, it is this 23rd day of March, 2018, ordered that the conditional use approval requested for Jones Farm Lane Solar, LLC, Lessee, on property owned by John M. Stoltzfus and Ruth P. Stoltzfus, in Case No. CU-17040011 be granted, subject to the conditions set forth in the Opinion.



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Kenneth R. Scott, Chairman



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Craig W. McGinnes, Member

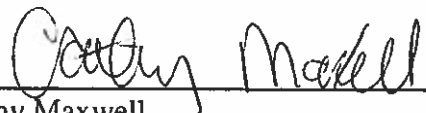


\_\_\_\_\_  
William D. Moore, Alternate Member

State of Maryland, County of Queen Anne's:

I HEREBY CERTIFY that the foregoing is a true and correct copy of the Opinion and Order of the Board of Appeals of Queen Anne's County in Case Number CU-17040011, for Jones Farm Lane Solar, LLC, Lessee, on property owned by John M. Stoltzfus and Ruth P. Stoltzfus, which Opinion and Order resulted from a public hearing conducted by the Board of Appeals on February 7, 2018 and that the minutes and a recording of the February 7, 2018 meeting are filed in the office of Board of Appeals.

Certified this 23rd day of March, 2018 by:

  
\_\_\_\_\_  
Cathy Maxwell  
Clerk to the Board of Appeals