

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
JULY 18, 2013**

The regular meeting of the Upper Township Planning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Daniel Bready (7:42), William Brown, James Kelly, Gary Riordan, Anthony Inserra, Joseph Harney, Georgette Costello, Janet McCrosson and Chair Renee Scrocca.

Absent: James Schroder and Mayor Richard Palombo.

Also in attendance were Dean Marcolongo, Board Solicitor; Paul Dietrich, Board Engineer and Shelley Lea, Board Secretary and Zoning Officer.

APPROVAL OF THE MAY 16, 2013 MEETING MINUTES

A motion to approve the minutes was made by Ms. McCrosson and seconded by Mr. Riordan. In favor: Brown, Kelly, Riordan, Inserra, Costello, McCrosson, Scrocca. Abstain: Harney.

APPLICATIONS

1. **GEORGE HARMS CONSTRUCTION CO. INC. – BLOCK 414, LOT 45 AND BLOCK 451, LOT 4 – PB02-13**

Applicant is requesting amended site plan approval and a design standard exception to allow mining to a total depth of 125 ft. below original grade (65 ft. permitted) at Caldwell Pit, Dennisville-Petersburg Road.

Julius Korschak, Esquire, represented the applicant. The site has been utilized for mining since the early 1900's. He stated that mining pits are required to appear before the Board every 5 years for site plan approval. The applicant was before the Board in December 2012 for their site plan approval for relicensing. Resolution PB10-12 which was adopted by the Board on January 17, 2013 and entered and marked as Exhibit A-1. He stated that the plan before the Board currently is the same as approved except for the proposed depth. They have been working with the Pinelands to obtain their approval since 2008. A Certificate of Filing issued by the New Jersey Pinelands Commission dated January 10, 2013 was entered and marked as A-2. He read from Section 19-7.15,

b, 3g in the Revised General Ordinance of the Township of Upper, Mining and Excavation Standards.

Mr. Korschak stated that the property is over 96 acres and that the buffers were established in the 1980's.

Sam Hahn, John Lizak and Matthew Hender were sworn. Mr. Dietrich was also sworn.

John Lizak, geologist and geotechnical engineer with Mineral Valuation & Capital, Inc., gave his credentials and was qualified as an expert. He prepared the Hydrogeologic Investigation of the Caldwell Site, dated January 31, 2012. He testified that they started the project in 2008. They drilled four - 138 feet deep holes that they continually sample. In 2009 the initial report was prepared and sent to the Pinelands Commission. The Pinelands forwarded the report to the NJ Geologic Survey who looked at the report and requested the applicant get some base line information. In 2010 and 2011 they drilled another 4 wells in order to implement a ground water monitoring program. Three of the wells were approximately 40 ft. deep and the fourth was 150 ft. deep. They measured the ground water elevation and ground water quality for the report that they prepared. They did not find any major thick layers of clay.

Mr. Lizak testified that the applicant will not be pumping water they will only be withdrawing the sand. He sees no negative impact in regards to water quantity since the aquifer would be enhanced due to increasing the ground water storage and increasing the recharge for the aquifer. The water from the wells has been sampled and is good quality. The applicant would not be adding anything to the water such as contaminates. His report indicates the ground water quality is consistent to what is seen in this area. He stated that the report also indicates that mining more than 65 ft. would not have an adverse impact on the quality or quantity of water both in the pit or the adjoining properties.

Mr. Lizak explained there is a monitoring system that continually gathers background data on the quality and quantity of the groundwater. Mr. Dietrich stated that it could be made a condition if approved that any monitoring reports sent to Pinelands also be sent to the Township.

Mr. Hahn testified the applicants have not dug any deeper than 15 ft. since the purchased the property in 2007.

Mr. Lizak testified in regards to the clay on site. They are confident that they will not hit a major confining layer. The major confining areas at this site are much deeper than 125 ft. They did hit one unit in the southeast corner that was about 17 ft. thick. Typically in this part of New Jersey the major confining units are 50 plus feet thick. Anything 5 or 10 ft. thick becomes physically challenging. Mr. Dietrich explained that across the street at the Hanson Mining Pit they have only gone to minus 20 since it was not economical to dig through the clay area.

Matthew Hender, Professional Engineer with EDA, referred to sheet 3 of the plan by EDA, dated 10-31-07 and last revised 1-31-13 showing the 200 ft. buffer to the adjacent houses along Dennisville-Petersburg Road and Amanda's Field. The buffer is reduced to 100 in another section and 0 ft. adjacent to another mining pit. The buffers have been in place since the mining ordinance was created. The applicant is not proposing any changes to the buffers.

Mr. Hender also discussed the sloping standard also shown on sheet 3 of the EDA plan. The sloping would not affect the existing road shown on the plan.

Linda L. Campbell Rehmann, Ph.D., professional engineer with Adams, Rehmann & Heggan Associates, Inc. was retained to serve as the Board's professional. Based upon her academic and work experience the Board qualified her as an expert. She prepared the report for the Board dated July 2013. She testified the mining operation on this site has existed several years. The applicant report indicates they were required to perform additional studies and drill extra wells since there are so many domestic wells in the area. At approximately 115 ft. deep a significant 17 ft. clay layer was found. There has not been a lot of study done in this particular area so there is not a lot of data. In her report she recommends the applicant not go to a depth of 125 ft. but to a depth of 110 feet below the ground surface. In this area everyone gets their water from the Holly Beach Aquifer which is quality water. She stated that mining deeper would not suck the aquifer dry since the ground water is very shallow and there is a ton of it down there. She does not believe that digging any deeper would adversely affect any nearby streams or wetlands. The closest contamination sites are $\frac{3}{4}$ to a mile away. The applicants will not be using any chemicals on site. This is an ideal scenario since the water would be flowing into the excavation and nothing would be flowing out from the excavation. The wells in the area are deep enough so they should not be affected by the operation. She spoke with Cape Atlantic Soil Conservation District and they had no problem with the proposal. She stated that the plans show there is some disturbance within the buffers. She stated there is a recreation facility to the north and she is not sure if the Township wants to take any additional safety precautions there because of the new water body.

Mr. Dietrich testified that he was satisfied with both the reports.

The meeting was open to the public.

Donna Allen, 900 Route 610, Petersburg, was sworn. She testified there has been not been any mining on site for at least 10 years. Her well is 125 ft. deep. She is concerned about more geese on the site, pollution and noise. She stated that it is not protected and there are quads riding back there. She swims in the pit and used to fish there but there are no longer any fish in the lake.

Mr. Dietrich stated that the operation has all its approvals to mine and that the lake she is referring to is at Julie's Pit.

Charles Allen, 900 Route 610, Petersburg, was sworn. Mr. Allen asked about their hours of operation.

Keith Johnson, 20 S. Sunset Drive, Petersburg, was sworn. He doesn't think the buffer is as large as indicated by the professionals. He stated that the operation goes on all night long. He believes his property value has decreased. He purchased his home 11 years ago. The tower was constructed one year ago and the lights from it go into his house. He has made complaints about the noise. He thinks the buffers should be made larger.

Mr. Dietrich testified he stops at the site at night at least four times a month to see if the operation is running. The Board cannot change the buffers at this time since this is an established mining operation.

Kevin Greaves, 310 Perry Road, Petersburg, was sworn. He asked what would be done with the mountain of sand in the pit and the dirt bikes. He is against the application.

Anthony Zedonek, 1 Lindsay Lane, Petersburg, was sworn. He asked who would be responsible if something did happen to the wells. Mr. Konschak explained there is a monitoring system and they have to test the levels of the water and the quality. In the geological survey report they recommend they do this testing to protect the neighbors and the applicant. He stated that the pit runs all night long in the winter.

Darlene Schweibinz, 1010 Route 610, Petersburg, was sworn. She believes the pit has already negatively affected her well. She concurs with the neighbors about the noise and lights.

Kathleen Geib, 7 Lindsay Lane, Petersburg, was sworn. She agrees they run the mining operation 24/7. She is concerned that there is no data to determine if this is ecologically safe. She is concerned about noise and the wildlife. She believes that digging deeper would destroy the land. She was not told about the pit when she purchased her property.

Mr. Dietrich explained the lack of off site data was the reason the applicants professionals dug so many wells on the site. The professionals have obtained enough data to make an expert opinion.

Annette Sherby, 260 Perry Road, Petersburg, was sworn. She feels it would be impossible to determine if there would be an adverse effect since there are no other lakes this deep in Cape May County. She is opposed to the application.

Keith Johnson, previously sworn, asked if the surrounding properties would require flood insurance.

Charles Allen, previously sworn, asked if a bond would be appropriate. Solicitor Marcolongo stated that bonds are for off site improvements and they are not proposing any.

Hearing no further comment the meeting was closed to the public.

Mr. Riordan asked if Mr. Dietrich thought that more safety precautions should be taken because of the close proximity to Amanda's Field. Mr. Dietrich stated that the additional depth would not create any additional risk.

Ms. McCrosson asked if the noise would increase with the additional depth. Mr. Dietrich stated that the noise would not increase but the duration would be longer.

Mr. Korschak stated that there are two qualified experts who agree that this will not cause any adverse effect on the neighboring properties. The Pinelands and Geological Survey have agreed. He feels they have the best data since it was done on site. Testing has confirmed this site is particularly well suited for mining deeper than 65 ft. This is the quality of sand suitable for DOT type projects. He asked that the Board approve the exception and site plan and make a recommendation to Township Committee that they amend the license to allow the increased depth.

The Board members gave their findings of fact.

MR. KELLY – The applicant is George Harms and the property is at Block 414, Lot 45 and Block 451, Lot 4. The property is 96 acres. They are requesting an amended site plan and exception to mine to a depth of 125 ft. where 65 ft. is permitted. Mining operations come before the Board every 5 years. Exhibit A-1 is the Resolution adopted in December 2012. The original plans were dated November 2012. Other municipalities in New Jersey have approved mining below 65 ft. without adverse impact to the area. Exhibit A-2 is the NJ Pinelands Commissions Certificate of Occupancy dated January 10, 2013. Mr. Lizak testified in regards to Exhibits A-3 and A-4 regarding the wells that were dug. He also testified that the applicant would not be removing rather increasing the aquifer. Mr. Hahn discussed the current mining which is at a depth of 15 ft. The Pinelands is requesting water testing and a copy of the tests would be sent to the Township. Mr. Hender reviewed the existing buffers and sloping standard. There is no anticipated negative impact on the road between the mining operations. The Township obtained Linda Campbell Rehmann of ARH as an expert to review the data that was submitted by the applicant. Ms. Rehmann had no concerns regarding the draining of the aquifer or adverse effect on the wells. In reviewing the data she found there is a large clay unit at 110 ft. below the ground. Many residents in the area expressed concerns about noise, ATV's and their wells. He finds that 110 ft. is an appropriate depth.

MR. RIORDAN – The project has been reviewed by the Pinelands Commission. Ms. Campbell's report concludes that deepening the mining operations to a depth of 110 ft. would not adversely affect ground water or nearby wells. The applicant should be required to continue ground water elevation and quality monitoring. The applicant has satisfied all Pineland and Soil Conservation District requirements. The buffer should be revised to show there is no disturbed area within the buffer. The Township Engineer indicated that no extra safety precautions are needed for the recreational property. He finds that 110 ft. is an appropriate depth.

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MR. BROWN – The Pinelands Commission approved a Certificate of Filing for a 125 ft. depth. He finds that 110 ft. is an appropriate depth.

MR. HARNEY - The Boards expert suggested a depth of 110 ft. due to the clay barrier that was found at 115 ft. He finds that 110 ft. is an appropriate depth.

Mr. Korschak requested to amend the application to reduce the depth to 110 ft. rather than 125 ft. as proposed.

MS. McCROSSON –The Pinelands approved the Certificate of Filing at 125 ft. The Geological Surveys had no problem with the application either. The only difference in the finding of the Boards expert was a suggested depth of 110 ft. The applicants have stated that mining through a thick clay unit would be economically and physically prohibitive. Ms. Rehmann said this is almost a perfect situation since water is coming in and not going out of the area being mined. Digging deeper would not be any louder. Most of the complaints were about the other mining site and not this site. She finds that 110 ft. is a reasonable depth.

MRS. COSTELLO – She agrees with her colleagues with exception of some of the public complaints. The noise factor and the bright lights will not change no matter what the depth. She feels that 110 ft. is the best choice.

MR. INSERRA – He agrees that 110 ft. is sufficient. In regards to the noise there is nothing the Board can do. He recommends the residents voice their concerns to Township Committee.

MRS. SCROCCA – Knowing that the public would be concerned about their wells the Board hired their own expert so they did not have to rely totally on the applicant's expert. The Boards independent expert has informed us that she does not see any negative impact. Both experts are qualified and their opinions identical. The applicants request is reasonable and there is no increase in the hours of operation or noise based on the increase in depth. There would be no encroachment into the boundaries. It serves the general purpose and intent of the ordinance and protects the public welfare by continued monitoring. Based upon the findings of both experts she does not see any detriment on the off-site areas. She suggested the residents go to the property owner with any documentation of a violation. She feels the depth should be limited to 110 ft.

A motion was made by Ms. McCrosson and seconded by Mr. Kelly to grant preliminary and final site plan approval and design standard exception to permit the applicant to mine to 110 ft. with a recommendation to Township Committee to relicense based upon the amended site plan and a condition that the applicant continue mining pursuant to the Pinelands Commission and submit all reports to Township Engineer. In favor: Bready, Brown, Kelly, Inserra, Riordan, Harney, Costello, McCrosson, Scrocca.

BILLS

A motion to pay the bills was made by Mr. Kelly, seconded by Ms. McCrosson, and approved.

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ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Kelly and seconded by Ms. McCrosson. The meeting was adjourned at 9:36 p.m.

Submitted by,

Shelley Lea