

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
APRIL 16, 2015**

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: Mayor Richard Palombo, Hobart Young, Georgette Costello, Daniel Bready, Joseph Harney, Gary Riordan, Ted Kingston, Michael Endicott and James Kelly.

Absent: Scott Morgan.

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

APPROVAL OF THE MARCH 12, 2015 MEETING MINUTES

A motion to approve the minutes was made by Mr. Kingston, seconded by Mr. Harney, and approved. Abstain: Riordan and Endicott.

SWEAR IN PAUL DIETRICH

APPLICATIONS

1. UPPER TOWNSHIP FARMERS MARKET – BLOCK 560, LOTS 7.01 AND 7.02 – PB04-15

Application is for site plan waiver to operate a temporary farm market at Pastime Place in Seaville.

Jules Korschak, Esquire, represented the applicants. The property is owned by Thomas Ulmer and is located off of Route 9 near Hope Corson Road. This is a large property in a commercial zone. Currently there are no buildings on this road. The applicants are requesting a site plan waiver since this is a seasonal operation and there are no structures proposed.

Rebecca Holden, 1327 Stagecoach Road, Seaville, was sworn. She is co-chair on the Farmers Market Board. She testified the proposed farm market would be a benefit to the community since local farmers, crafters and food vendors would be there. The market would run for 9, weeks on Fridays from 8 am until 12 noon. The market would be open

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June 26 until August 21, however they hope to extend the dates. She believes this street with a cul-de-sac would provide sufficient parking and would not affect the drainage. She stated that signage would be attached to the existing fence along Route 9 and lawn signs would be used for advertising.

Ms. Holden testified that some vendors would be selling food at the market along with plants and flowers. Items for sale would be limited to either homemade or handmade. There would not be any clothing or used items for sale. They may sell t-shirts to raise money for advertising. There would be portable toilets on site. She discussed how the trash would be disposed of.

Mr. Dietrich agreed there is sufficient parking. They anticipate 20 to 30 vendor spaces. This is where the circus has been held the past few years. He thinks the board should allow them to utilize the property from June through the end of September. Tables and other items would be taken down at the end of the day on Friday so nothing would be left on site.

The meeting was open to the public.

Nathalie Neiss, 759 Route 50, Petersburg, was sworn. She asked if they would be selling Jersey Fresh produce. Ms. Holden testified this is a requirement.

Hearing no further comments the meeting returned to the Board for finding of facts.

Mayor Palombo – A request has been made to utilize property at Pastime Place for a farmers market. The market would be open on Fridays from 8 am until noon. Their request was to open the farm market from June until August but they have amended their application to extend the date through September. Rebecca Holden has explained the products being sold would have to be grown or homemade. Testimony was given that there would be sufficient trashcans. Portable toilets would be used. The site has been used in the past for the circus and fundraisers. The board engineer has testified the property can handle the traffic and parking needs.

MR. YOUNG – He concurs. He finds the property is suitable for the proposed use. He also finds the proposed use would be good for the township.

MRS. COSTELLO – The food vendors would have to follow the Cape May County Board of Health requirements. She finds the proposed use would not impact the parking, lighting, and drainage or traffic flow.

MR. RIORDAN – The applicants are represented by Jules Konschak. Jersey Fresh produce would be sold.

MR. KINGSTON – There would be sufficient off street parking.

A motion to approve the application was made by Mr. Young and seconded by Mrs. Costello. In favor: Mayor Palombo, Young, Costello, Bready, Harney, Riordan, Kingston, Endicott and Kelly.

2. KEVIN & ANN MARIE MCMAHON – BLOCK 415 LOT 7 – PB03-15

Applicants are requesting a site plan waiver to convert a residential use in the commercial zone into a takeout restaurant at 1250 Route 50 in Petersburg.

Mr. Harney stepped down during this application.

Ann Marie McMahon and Kevin McMahon, 521 Mill Road, Tuckahoe, were sworn.

Mrs. McMahon testified they have purchased the former Pete's Pizza. The building previously received a use variance to be used as a residence in the commercial zone. They are requesting to convert the property back to a commercial use. There is an existing 400 sq. ft. structure on site. The only changes proposed to the existing 400 sq. ft. structure on site is the addition of a handicap space and an access aisle to the existing outdoor seating area. They had a septic and well inspection done prior to purchasing the property. There is a 650 gallon grease tank and a 1,500 gallon septic tank. The NJDOT has forwarded a Letter Of No Interest since they do not have any concerns with the access to the site or anything pertaining to the site.

Mrs. McMahon testified there would be an inside waiting area. They propose approximately 25 seats outside.

Mr. Dietrich testified the application meets the ordinance conditions for a site plan waiver. The applicant is changing an existing parking space into a handicap space to bring the parking into compliance.

The meeting was open to the public.

Nathalie Neiss, 759 Route 50, was sworn. She asked how many parking spaces would be provided. Mrs. McMahon testified there would be 8 spaces plus one handicap space. She plans to have one or two employees.

Hearing no further comment the board was asked for finding of fact.

MR. RIORDAN – Kevin and Ann Marie McMahon are requesting a site plan waiver to convert a residential use into a take-out restaurant at 1250 Route 50. Mr. Dietrich has confirmed the application meets the standards for a site plan waiver. One member of the public had a concern about the number of parking spaces.

MR. YOUNG – The applicant has met the burden for granting a site plan waiver. The property has been utilized through the years for many commercial uses.

MAYOR PALOMBO – The DOT is in acceptance of the proposed use on this site. This would be a take-out only restaurant with approximately 25 seats outside. They are adding a handicap parking space. They will utilize the existing sign pole to mount the new sign. He finds there would not be any negative impacts on the area.

MR. KELLY – The applicant has testified the grease tank and septic are sufficient for the proposed use. The property is in the CMP zone. The submitted plans are dated 2-18-15 and revised 3-21-15.

A motion to grant the application with the standard conditions was made by Mayor Palombo and seconded by Mr. Young. In favor: Palombo, Young, Costello, Bready, Harney, Riordan, Kingston, Endicott and Kelly.

3. COMMENTS REGARDING THE UT PRIMARY SCHOOL WASTEWATER TREATMENT SYSTEM REPLACEMENT

Mr. Dietrich explained the school board is in the process of replacing the sewage disposal wastewater treatment facility that serves the primary and elementary school in Marmora. The system is currently showing signs of non-compliance. The new system would utilize the same footprint.

The meeting was open to the public. Hearing no response the meeting returned to the board.

A motion was made by Mayor Palombo and seconded by Mr. Harney, that the proposed wastewater treatment center is consistent with the goals and objectives contained in the Master Plan. In favor: Palombo, Young, Costello, Bready, Harney, Riordan, Kingston, Endicott and Kelly.

RESOLUTIONS

1. TEAM FARM LTD – BLOCK 561 LOT 13 – PB 02-15

A motion to adopt the Resolution was made by Mr. Harney, seconded by Mr. Young, and approved. Abstain: Riordan and Endicott.

BILLS

A motion to approve the bills was made by Mr. Riordan, seconded by Mr. Bready, and approved.

4. THOMAS TOWER/ACTION SUPPLY – BLOCK 549 LOTS 111, 127, 128, 129
BLOCK 565.03 LOTS 55.02, 56, 57 AND BLOCK 549 LOTS 110, 132, 133,
134, 135, 136 – PB10-14

Applicant is requesting site plan approval and a variance to permit mining to a total depth of 125 ft. where 65 ft. is currently permitted at their existing mining pits located on Stagecoach Road in Seaville.

Jules Korschak, Esquire, represented the applicants. He stated these are two licensed mining operations that have been in operation since the 1930's. Each of the lots has an approval site plan. There is only one proposed change to the site plan and that is the depth of the excavation under the water. There are no proposed changes to the buffers. The ordinance states that you cannot exceed 65 ft. in depth. A copy of the relicense application plan for Atlantic Masonry Supply, Inc., consisting of three sheets, last revised 12-5-12 was marked as Exhibit A-1. A copy of a plan for Action Supply consisting of seven sheets dated 1-9-2007 and last revised 12-5-12 was marked A-2. He asked to revise the phasing on the approved plans which would change the time each phase would be executed.

Mark Stein, Esquire, represented Mr. & Mrs. Palermo of 16 Evergreen Drive in Seaville. He stated that his clients do not oppose the application, however they would like the phasing schedule left the same.

Vincent Orlando, Professional Engineer, Professional Planner and Landscape Architect, was sworn. During the testimony of Mr. Orlando a copy of Resolution PB08-12 was marked as Exhibit A-3 and Resolution PB 09-12 was marked A-4. He testified that he is familiar with both resolutions. A copy of Upper Township Resolution No. 45-2015 Resolution Renewing Mining License was marked A-5.

Mr. Dietrich testified the mining operations are reviewed during the site plan applications every five years. An as built survey is sent to him on the third year showing the buffers and the depth of the mining excavations.

Mr. Orlando testified that mining deeper would not affect the stability of the buffer. He stated that nothing above the surface except in the approved mining area would change. The applicant would still have to maintain the required slopes. His opinion after reviewing the report by Adams, Rehmann & Heggan Associates is that there would not be an adverse impact on the property. He feels this is not a variance but an exception to the standard. He reviewed an application for another mining operation in the township that allowed an exception to mine to a depth of 110 ft.

John Lizak, Principal in Mineral Evaluation Capital, was sworn. Mr. Lizak is a Licensed Geologist in four states. He testified he has done approximately 6 projects just like this in New Jersey. He stated that they must first confirm there are no other aquifers on site and the quality of the materials. They found no clay while performing their investigation. If you do not find any clay that means there is only one aquifer. They drilled four holes at a depth of 140 ft. while conducting their studies. He stated there are no chemicals being used on site. He does not see an issue with water quantity or quality. He does not see an adverse impact on the surrounding wells. He feels the project would enhance the groundwater storage recharge. There is a history of mining within these depths in the State and there have not been any reported problems. He stated that as an added safety

precaution the water should be tested every two years. He concludes that the final use of the site is a lake.

Mr. Lizak testified that background information is gathered since there are pre-existing issues with salinity, PH and high iron contents in this area. All test results from the monitoring wells are sent to the Township Engineer. It was determined it made sense to install all the monitoring wells at the same time. There was discussion concerning when the monitoring wells should be installed.

Mr. Dietrich requested the plans be revised to evidence the areas of disturbance.

Linda Campbell Rehman, Pd.D., of Adams, Rehmann & Heggan Associates, Inc., was sworn. She was retained by the Board to review the submitted plans and the report submitted on behalf of the applicant. She reviewed her background. She testified that she has a lot of experience looking at the geological formations in aquifer behavior and ground water in southern New Jersey. She reviewed the information contained in the report she prepared dated April 2015. She stated that since 1995 the site has been consistently expanding. The applicant proposes to mine to a depth of 125 ft. below ground surface only on the Atlantic Masonry site. They propose to mine to a depth of 100 ft. on the other side of the road. She feels that mining deeper would not have an impact on the existing domestic wells surrounding the site. She feels that in addition to testing the wells they should test the ponds too. She does not anticipate any type of an effect on the nearby wetlands or streams. She stated that the groundwater contamination at the WaWa is limited to a depth of 50 ft. so any affect would have been seen already. She further testified that only the sand is being taken from the site and the water will be staying on site. Based on the lack of clay and what she foresees as a highly limited impact on the nearby wells she recommends that the application should be approved. She recommends that there should be an extraction schedule, monitoring water quality and water levels in the ponds and the four monitoring wells bi-yearly. She feels the monitoring should begin as soon as possible. She addressed sink holes and fracking. She feels the data that was collected on site is extensive and comprehensive to make her conclusion.

A copy of the plan by EDA last revised 12/5/12 showing the drill holes was marked Exhibit A-6.

The meeting was open to the public.

Harry Brown, 21 Brewhaus Lane, Seaville, was sworn. He bought his home over 30 years ago. He discussed the starting time at the plant. He is opposed to the application.

William Hallsworth, 10 Cambridge Drive, was sworn. He has concerns about who would be monitoring the depth of the ponds. He discussed berms that were previously approved. He asked there be a stipulation that the applicant can never mine past 125 ft.

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Chrissy Chisholm, 18 Evergreen Drive, was sworn. She stated that no one has addressed the impact on the environment. She is concerned about the impact on the wildlife and plants. She feels if there is an impact on any of the plant life used to filter the water there

could be a negative impact. She described an incident involving a tractor trailer on her street. She is concerned about the children on the road.

Bertha Field, 1148 Route 9, was sworn. She had questions about the aquifer. She is concerned about pollution.

Another resident has concerns about noise early in the morning. He asked about reclamation plans and if the applicant has one.

Nathalie Neiss, 759 Route 50, Petersburg, was sworn. She had questions about the site plan process.

The board gave their findings of fact.

MR. RIORDAN – The applicant is requesting revised site plan approval and relicensing and a variance to permit mining to a depth of 125 ft. where 65 ft. is currently permitted at their existing mining pits on Stagecoach Road in Seaville. The applicant was represented by Jules Konschak, Esquire. Plans were submitted that were prepared by EDA showing the mining operations that have existed since the 1930's. A township mining ordinance was adopted in 1986. The ordinance does not stipulate a maximum depth. A change will be made to the mining schedule on the plan. Vince Orlando gave expert testimony. The deeper lake would not affect the buffer. The proposed depth would not create an adverse impact. Another mining operation in the township was granted approval to mine to a depth of 110 ft. last year. John Lizak testified that no clay was found during testing. He is satisfied that there is a single aquifer. This is a non-consumptive use. He further testified there are no chemicals used and there would not be a negative effect on surrounding wells. He recommends measuring the water table. Monitoring wells will be installed when they reach 65 ft. or by the time of the next re-licensing. Testing will be performed once a year for five years. There was testimony by the board's professional, Dr. Linda Campbell Rehmann. She recommends any approval should be subject to the approved limit of disturbance lines on the plan. She listed several conditions of approval in her report dated April 2015. She recommends approving the request due to the lack of clay and low probability that deeper mining would have an impact on adjoining wells. There were concerns from the public about noise, water testing, higher berms, landscaping and environmental impact. He believes the applicant has demonstrated there would not be a negative impact by granting the application.

MRS. COSTELLO – Dr. Rehmann testified it is the same aquifer in 140 ft. as there is in 65 ft.

MAYOR PALOMBO – Monitoring of the wells will be done yearly for five years. The applicant is asking for revised site with an exception to mine to 125 ft. depth.

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MR. YOUNG – He feels the reports and testimony by the experts have satisfied the concerns that he had.

MR. BREADY – He has nothing to add.

MR. HARNEY – The wetlands nearby would not be effected. None of the contaminated sites nearby would have an impact.

MR. KINGSTON – Both the experts are in agreement. None of the neighbors have indicated that they have a bad well or problems with their water. Concerns with the stability of the buffers and sink holes were addressed.

MR. ENDICOTT – Nothing to add.

MR. KELLY – He finds the testimony of both experts to be favorable.

A motion was made by Mr. Bready and seconded by Mr. Kingston, to grant revised site plan approval, a recommendation for the mining license renewal and an exception to mine to 125 ft. below the natural surface of the ground with the conditions that the plans be revised to evidence the original line of disturbance and to evidence the flipping of phase III and IV, the applicant agrees to testing the water every year for the first five years and biannually thereafter, the monitoring wells will be installed prior to the first pond exceeding 65 ft. in depth or prior to the next relicensing whichever comes first, the applicant must obtain approval by the Cape Atlantic Soil Conservation District prior to mining to 65 ft. In favor: Mayor Palombo, Young, Costello, Bready, Harney, Riordan, Kingston, Endicott and Kelly.

A copy of a plan by EDA last revised 12/5/12 showing the drill holes was marked Exhibit A-6.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Kingston. The meeting was adjourned at approximately 10:59 p.m.

Submitted by,

Shelley Lea