

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
DECEMBER 21, 2017**

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: Georgette Costello, Michael Endicott, Joseph Harney, Ted Kingston, Gary Riordan and Chairman James Kelly.

Absent: Scott Morgan, Mayor Richard Palombo, Committeeman Young, Roy Zehner.

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

APPROVAL OF THE NOVEMBER 16, 2017 MEETING MINUTES

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

APPROVAL OF THE 2018 MEETING DATES

Planning Board meetings are held on the third Thursday of each month at 7:30 p.m. January 18, February 15, March 15, April 19, May 17, June 21, July 19, August 16, September 20, October 18, November 15, December 20.

SWEAR IN PAUL DIETRICH

APPLICATIONS

1. GEORGE HARMS CONSTRUCTION COMPANY INC – BLOCK 414 LOT 45 AND BLOCK 451 LOT 4 – PB 13-17

Application is for preliminary and final site plan approval and recommendation to Township Committee for the continuation of their mining operation at 850 Dennisville Petersburg Road in Petersburg.

Robert F. Garrett, Esquire, represented the applicant.

Sam Hahn, Project Engineer, was sworn. He testified that not much activity has taken place since their last approval five years ago. Basically, only maintenance and upkeep has been done on site. In regard to safety they have been trying to secure all access points where they have had trespassers going into the pit. They have reduced the size of a large pile of material that ATV riders found to be attractive. This has calmed down some of the activity. There are barriers and fencing currently scattered around the site. They have security that comes twice a week,

normally on the weekend that goes out for about half an hour and patrols the area. He testified that the reclamation plan satisfies the ordinance requirements.

Mr. Hahn testified that they have been in contact with Cape Atlantic Soil Conservation District . They have some changes they want made and anticipate having an approval soon.

Mr. Dietrich testified the applicants have been fairly responsive in working with the township in securing the access points. The applicant's property is accessible from the township property to the north and another mining operation to the west. The township has secured some access points on their property where the ATV's are accessing the property. There are still a couple more places the township is working on securing. He stated that since about 1999 the applicant has dug only as deep as they can using a standard size excavator. They have not had a dredge on this site since 2000.

The meeting was open to the public.

Lynda Greaves, 310 Perry Road, was sworn. Her property backs up to the pit. She has been in contact with Mr. Dietrich, Mr. Hahn and the State Police regarding the ATV's and trespassers. She believes the 30 minute security check is not sufficient. Since they have complained about the ATV's at the pit they have been threatened on social media and have had their mailbox knocked over three times. They do not want the applicants permit renewed since the problem with the ATV's is not getting solved. She stated that the hill they took down is not flat. She wants security around the clock or at least during the day light hours. She stated that it is impossible to block the property off completely to a dirt bike.

Kevin Geaves, 310 Perry Road, was sworn. He commended the applicant for reducing the size of the hill which is the attraction for the dirt bikes, but it is not level. He stated it has been quite lately but once the weather breaks the dirt bikes will be back. He feels that until the applicant becomes responsible for their property they should not have their permit renewed. He suggests security on site every day from 9 a.m. until dusk or remove all the hills. He discussed federal and state regulations for surface mines. He is concerned about silica dust. He is in favor of installing a fence around the hills.

Mr. Hahn agrees the ATV's are an ongoing problem and that this past year was a little worse. The hill is only ten feet high over a 150' x 300' area. He doesn't feel that fencing the area would help. He thought that many of the issues had subsided since he has not talked to Mr. & Mrs. Greaves since summer. He said they can increase the hours of security once spring gets here. They want to leave the top soil piles since they are not a big attraction to the dirt bikes. They have given the State Police jurisdiction to act on their behalf to prosecute trespassers. They have no trespassing signs posted along the perimeter of the property.

Mr. Dietrich stated that chain-link fencing does not work since it can be cut. He has walked the entire perimeter and believes the only areas they are gaining access is on the township owned property. He also assumed the dirt bike issue on site had subsided. He will reach out to the new station commander to bring him up to speed on the issue. The trespassers have torn up the fencing that was on site. The applicants have installed concrete jersey barriers and on the township side they are using guiderail as fencing. Funding will available next year to block the 30 foot accesses where he believes 75% to 80% of the dirt bikes and ATV's are coming in.

Mr. Barnes stated the applicants do comply with the preliminary and final site plan approval with the exception as it relates to fencing.

Robert DeSena, 2010 Tuckahoe Road, Petersburg, was sworn. He feels that security cameras and drones would be more effective in this situation than fences.

The meeting was closed to the public and returned to the board for finding of fact.

MRS. COSTELLO – George Harms Construction Company Inc has submitted an application for site plan approval for a five-year renewal of their license for a mining operation at 850 Dennisville Petersburg Road. Robert Garrett is the attorney representing the applicant and Mr. Hahn is the Project Engineer. There have been no changes since the last approval and only maintenance and upkeep are currently being done on site. They have secured the access points for safety and graded out stockpiles to try to deter the ATV and dirt bikes. They have security patrols two times a week for 30 minutes on Friday, Saturday, Sunday. Mr. & Mrs. Greaves stated during public comment there are three remaining hills that are an attraction to the ATV's. They are requesting an improvement to the current security and that security is on site from 9 a.m. until dusk during the warmer weather. It was suggested that Mr. Hahn could work with Mr. Dietrich to secure the 30 foot area believed to be the main access point.

MR. ENDICOTT – Nothing to add.

MR. HARNEY – He finds it is a shame the State Police cannot stop the nuisance with the bikes. He finds the security on site should be increased. When the problem with the slope was being fixed some of the trees were removed allowing the noise to travel. He agrees with Mr. DeSena that cameras could be a benefit.

MR. KINGSTON – He finds there is a security problem with the property. He feels the applicant should come back to the board with a plan as to how they property would be secured.

MR. RIORDAN – A plan was prepared by EDA dated 10/24/17. Correspondence was provided by the Township Engineer dated 12/19/17. He agrees that the applicants need to improve the security.

MR. YOUNG – Nothing to add.

MR. KELLY – He concurs. He finds there are a number of ways to improve the property. This mine is inactive where other mines in the township are active but that should not make a difference.

Solicitor Barnes stated that short of making the applicant return with a plan that is mapped out on a document is that the board recommend to the committee that the applicant do the right thing and monitor their property since they have an obligation to the community to ensure that it is safe. He is not sure if this is a problem that could be completely remediated since he suspects it will continue but the applicants have an obligation to attempt to remediate the problem the best they can and be an owner that is compliant.

Mr. Dietrich suggested adding that if the concrete barriers do not work then an increased physical presence should be added. The dirt bikes would be less likely to drive here if there is someone on the site for a longer period of time. He doesn't feel the cameras would work to identify the access points. He stated that the trees that were there resulted in a 60 year period of inactivity and they could only plant small trees at this time which would not be effective.

Mr. Hahn stated that he is not ignoring the problem. When he gets a call from Mr. Dietrich he responds immediately. They are actively searching for a solution that works for everyone.

A motion was made by Mr. Harney and seconded by Mr. Riordan, to approve the request for preliminary and final site plan and a recommendation to township committee to include the engineers report submitted by Mr. Dietrich and that the applicant has an ongoing obligation to monitor their facility to ensure safety. In favor: Costello, Endicott, Harney, Riordan, Young, Kelly. Opposed: Kingston.

2. REVIEW OF CHAPTER 19 AND 20 OF THE REVISED GENERAL ORDINANCE OF THE TOWNSHIP OF UPPER

Mr. Dietrich has utilized the recommendations from the last meeting to prepare the proposed ordinance changes. The definition of a change of use was read into the record. An addition was made to the requirements for a zoning permit. Everything else contained in the ordinance is the same as previously discussed.

The board discussed if tractor trailer bodies should be grandfathered. It was stated that the ordinance regulates what and where things are going. From a land use prospective, if something is not specifically permitted it is prohibited and truck bodies were never a permitted use. A property has the right to make an application to the zoning board to ask to have a truck body in their yard.

The meeting was open to the public.

Robert DeSena, 2010 Tuckahoe Road, was sworn. He asked why tractor trailers are being prohibited. Mr. Dietrich answered that it is to make it clear that they are prohibited and to be more effective in enforcing the zoning ordinance.

Mr. DeSena asked if there was a size regulation involved in the proposed ordinance. Mr. Dietrich explained the ordinance does not give dimensions for the trailer bodies.

Nathalie Neiss, 759 Route 50, Petersburg, was sworn. She stated that she doesn't know what the board is talking about since she does not have the document they are referring to. Mr. Dietrich stated the proposed changes to the ordinance have been on the agenda several times. The document has been available since the time the agenda was published and anyone could have come into township hall and requested a copy.

Ms. Neiss testified she has not had a chance to read the document but finds it is discriminating. She believes filing an application with the zoning board is a large cost to anyone with a tractor trailer body in their yard for several years. She feels it is not right to tell people what they can and cannot do with their property. Mr. Dietrich stated this is the purpose of a zoning ordinance to indicate what is and is not permitted on a property. Ms. Neiss asked what is being proposed in regard to pole barns. Mr. Dietrich stated that pole barns are being removed from schedule A of the ordinance.

A motion was made by Mr. Young and seconded by Mr. Riordan to make a recommendation to township committee to adopt the amendments dated 12-14-17 amending the Revised General

Ordinance, Chapters 19 and 20. In favor: Costello, Endicott, Harney, Kingston, Riordan, Young, Kelly.

RESOLUTION

1. FIVE EIGHTEEN ASSOCIATES – BLOCK 600 LOT 50 – PB 12-17

A motion to adopt the resolution was made by Mr. Harney, seconded by Mr. Kingston, and approved.

BILLS

A motion to pay the bills was made by Mr. Harney, seconded by Mr. Kingston, and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Young and seconded by Mr. Harney. The meeting was adjourned at 9:29 p.m.

Submitted by,

Shelley Lea
Board Secretary