

**UPPER TOWNSHIP PLANNING BOARD  
REGULAR MEETING MINUTES  
FEBRUARY 16, 2023**

The meeting of the Upper Township Planning Board was held at Township Hall at 2100 Tuckahoe Road, Petersburg. The meeting was called to order at 7:00 p.m.

**SUNSHINE ANNOUNCEMENT**

**SALUTE TO THE FLAG**

**ROLL CALL**

Member	Attendance
Matthew Davidson, Class IV	Present
Gary DeMarzo, Class II	Absent
Brooke Handley Alt	Present
Joseph Harney, Class IV	Present
Kimberly Hayes, Class III	Present
Ted Kingston, Class IV	Absent

Member	Attendance
Chris McGuire, Chairman	Present
Colby Meloy Alt	Present
Jay Newman, Class I	Present
Gary Riordan, Vice Chair	Present
Sean Whelan, Class IV	Present

Also, in attendance were Jeffrey Barnes, Board Solicitor, Paul Dietrich Township Engineer and Liz Oaks, Board Secretary and Zoning Officer.

**OATH OF OFFICE**

Mayor Jay Newman and Ms. Brooke Handley take the Oath of Office.

**APPROVAL OF THE JANUARY 19, 2023 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Whelan and seconded by Mr. Riordan. In favor: Davidson, Hayes, Meloy, Riordan, Whelan, McGuire  
Abstain: Handley, Harney, Newman

**NEW BUSINESS**

**MATTNICOLE PROPERTIES, LLC BLOCK 558 LOT 18 – PB 04-2022**

Application is for a site plan waiver to construct a pavilion over a concrete pad at LaCasetta, 3054 Rt US 9 South in Seaville.

Kristopher Facenda, Attorney located in Northfield New Jersey appeared on the behalf of for the applicant, Mattnicole Properties, LLC.

Joseph Maffei, Professional Planner and Engineer with EDA, 5 Cambridge Drive was sworn as an expert.

Mr. Facenda – We are here tonight to discuss 3054 Route 9 which is block 558 lot 18. The property is 1.1 acre in size, currently improved with a restaurant, La Casetta, as well

as a 2-story single family dwelling together with accessory parking. It is in the TC Zone District. They are seeking a site plan waiver to add a 42' X 20' overhead structure to cover the takeout food service and waiting area. They will do some general improvements to the property to clean up the parking.

Mr. Maffei prepared the plans submitted and is familiar with the property. He testified that this is an existing restaurant and have provided a color rendering with the application. The site is relatively the same. The idea is to build the overhead canopy so that people that order out have a place to go that would be out of the elements. There is no seating. In addition, they plan to clean up the existing parking that is there and make it more usable and accessible. There is no increase in use or seating. No other variances or waivers are being requested. This is minimal construction with no effect on drainage. There is no effect on circulation. There is no change in landscape or buffers. He does not believe there is any negative impact with this project. Parking will be improved with the addition of a couple ADA parking spots. Parking will be increase from 16 spaces to 33 spaces. The septic system was redone about a year or two ago.

Let the record reflect that Mr. Gary DeMarzo has joined the meeting. He stated that he will abstain from this application.

Mr. Dietrich added to clarify the previous approval allowed for a bench but no table service.

The meeting was open to the public, hearing no one and seeing no one this portion of the meeting was closed and returned to the board for findings of fact.

Mr. Riordan – The applicant, Mattnicole Properties, LLC has submitted an application for site plan waiver to construct a pavilion over a concrete pad at 3054 Route US 9 South in Seaville also known as block 558 lot 18. The applicant was represented by Kristopher Facenda, Esquire. There was expert testimony provided by Joe Maffei, P.E. Mr. Maffei stated that this was an existing restaurant. There will be no increase in seats from construction of the overhead canopy. There will be no effect on drainage or landscaping. The applicant is increasing the number of parking spaces from 16 to 33. There was no public comment. The site plan was prepared by EDA dated January 23, 2023.

Mr. Harney – The engineer testified the coverage was existing and not changing. Parking will be improved.

Mr. Davidson – No comment.

Mr. DeMarzo – Abstained from this application and has no comment.

Ms. Hayes - The improved parking will include additional ADA parking.

Mr. Meloy – No comment.

Mayor Newman – Nothing to add.

Mr. Whelan – Nothing to add.

Ms. Handley – No comment.

Mr. McGuire – Nothing to add.

Mr. Barnes framed the resolution – The motion is to approve the site plan waiver to construct a pavilion over an existing concrete pad. With the condition that no table service will occur under the pavilion area.

A motion to approve the application with the condition that no table service will occur under the pavilion area was made by Mr. Harney, seconded by Mr. Davidson.  
In favor: Davidson, Handley, Harney, Hayes, Meloy, Newman, Riordan, Whelan, McGuire. Abstain: DeMarzo

## **DISCUSSION**

### Amendment to the redevelopment plan for Beesley's Point Redevelopment Area.

Mr. Dietrich explained we have special council, Mr. James Maley, to explain what stage of the process we are in and what we are looking for tonight.

Mr. James Maley – This is a redevelopment plan that has been put together by working with the committee and governing body. This part of the redevelopment plan addresses solely on the electrical substation that has been in the plans since the beginning. It sets up the bulk standards and allows the use on what is referred to as the coal pile on the Beesley's plant site. This will be the receptacle for power that is coming off wind. The redevelopment plan is to ensure zoning is in place and sets up certain buffers and addresses issues with respect to what is expected and contemplated with the development of the remainder of the property. The Township planner, Tiffany Morrissey, was not able to attend this evening. She submitted a report that everyone has. He quoted from the report, "Over the years the Master Plan Reexamination Reports have highlighted the existence and role of the BL England Generating Station noting that the area is and will have some type of utility aspect for power generation." That supplies the basis. The purpose of the Planning Board review is to determine whether the redevelopment plan is consistent with the master plan.

Mr. Dietrich – In the Waterfront Town Center Zone, where this is located, electrical substations are a permitted conditional use. This plan further solidifies, as Mr. Maley stated, the setbacks. It has been contemplated when it was set up, they would extend the existing substation to meet the needs of any future substation at that location.

Mr. McGuire – Clarified that this has been contemplated for quite some time and there is an administrative need to make an adjustment to the master plan to accommodate.

Mr. Dietrich – There were three standards that have been met. One is the area should not exceed ten acres. What is being proposed is just over seven acres in size. There are some locational setbacks from the waterfront and from Shore Road. This meets the requirements. And any new connections to the substation shall be underground. The three standards are being met.

There are some other things the re-development plan has modified and acknowledged other aspects of the ordinance that have been worked out.

Mr. McGuire – Ultimately the decision goes to the governing body therefore there is no need for a public portion.

Mr. Maley – This is the consistency review portion. There will be a public hearing with the governing body to adopt the ordinance.

Mr. McGuire – Added to the record an excerpt from the planner, Ms. Morrissey’s letter that said she reviewed the referenced redevelopment plan amendment dated January 20, 2023 amending a January 20, 2021 redevelopment plan. She does, in fact, find it consistent with the Master Plan of Upper Township.

Mr. McGuire asked if any of the Board Members had any objections or comments. Hearing none he asked for a motion to approve the resolution for recommendation of adopting ordinance 01-2023 amending the Redevelopment Plan for the Beesley’s Point Development area.

A motion to approve Special Resolution SP 01-2023 was made by Mr. Harney seconded by Mr. Whelan. In favor: Davidson, DeMarzo, Handley, Harney, Hayes, Meloy, Newman, Riordan, Whelan, McGuire

Request to make farms a permitted use in the CM2 Zoning District.

Mr. Dietrich – We have been looking into making farms a permitted use in the CM2 Zoning District. One of the concerns the board had was how many properties in the zone would be impacted. An important aspect of the CM2 Zone is commercial ratables. Obviously if it becomes a farm, it won’t maintain that same ratable. The county has concerns; they don’t want to purchase and preserve a farm that is non-conforming. When he looked at the zoning district all the properties are less than five acres except for one. This property is split between the CM2 Zone and the R Zone. This change would have limited to no impact to that zoning district change.

Mr. McGuire – Is it likely that we may run into another situation like OC Winery.

Mr. Dietrich – Even if we did in the CM Zone would be more appropriate than in a residential zone. The board can either, 1. Make a recommendation to the Township Committee to make the change. Or, 2. Make a recommendation to not make the change or, 3. To wait until the next Master Plan Re-examination. If the committee decided to do the zone change absent of the Master Plan Re-examination; all property owners in the CM2 Zone would need to be notified by individual notice. He has spoken with the property owner, and he would probably be willing to pay. It would not be the burden of the Township. There are some wetlands obviously because of the properties along Roosevelt Boulevard, however, none of them meet the five-acre requirement.

Mr. McGuire – Would we be opening ourselves up to any spot zoning lawsuits.

Mr. Dietrich – This is not spot zoning. You are adding a permitted use to that zoning district. The need to change is the County does not want to purchase the developmental rights of a property considering it is an existing non-conforming use in the zone.

Mayor Newman – If it does go to farmland, no houses, no kids in the schools. They are probably already paying farmland assessment on taxes so that does not have a negative impact on our tax base. And it will provide a permanent open space.

A motion to recommend to Township Committee to add farms as a permitted use to the CM2 Zone was made by Mr. Riordan, seconded by Mr. Whelan.

In favor: Davidson, DeMarzo, Handley, Harney, Hayes, Meloy, Newman, Riordan, Whelan. Abstain: McGuire

### **RESOLUTIONS**

Mojave PB 07-2022a

A motion to approve the resolution was made by Mr. Whelan seconded by Ms. Hayes.

In favor: DeMarzo, Harney, Hayes, McGuire, Riordan, Whelan

Abstain: Davidson, Handley, Meloy, Newman

### **PUBLIC PORTION**

The meeting was open to the public.

Nathalie Neiss, 779 Route 50, was sworn. Ms. Neiss wanted to note that there were no professionals present in regards to adding farms as a permitted use.

Hearing no one else and seeing no one else, this portion was closed and the meeting returned to the board.

### **BILLS**

A motion to pay the bills as submitted was made by Mr. Davidson and seconded by Ms. Hayes, with all Board members present voting in the affirmative.

### **ADJOURNMENT**

A motion was made by Mayor Newman and seconded by Mr. Whelan to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 7:39 p.m.

Submitted by,

Liz Oaks