

**UPPER TOWNSHIP PLANNING BOARD
REGULAR MEETING MINUTES
MAY 9, 2024**

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	Present
Brooke Handley Alt	Absent
Joseph Harney, Class IV	Present
Kimberly Hayes, Class III	Absent
Ted Kingston, Class IV	Present

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

Also, in attendance were Jeffrey Barnes, Board Solicitor, Robert Smith, Board Engineer, Stefanie Thonsen, Assistant Engineer and Liz Oaks, Board Secretary and Zoning Officer.

Robert Smith was sworn.

APPROVAL OF THE APRIL 18, 2024 MEETING MINUTES

A motion to approve the minutes was made by Mayor Newman and seconded by Mr. Meloy.

In favor: Davidson, DeMarzo, Harney, Kingston, Newman, Riordan

Abstain: Meloy

TABLED APPLICATIONS

CAMPBELL, JOHN WILLIAM, JR.– BLOCK 14 LOTS 3 & 4 – SD 02-2024

Applicant is seeking minor subdivision to create new lot lines between lots 3 & 4 at 326 Marshallville Road, Tuckahoe, New Jersey.

This application has been tabled to the June 13, 2024 meeting, there will be no further notice.

NEW BUSINESS

MOJAVE MATERIALS, LLC – BLOCK 414 LOTS 45 & 52 – SD 01-2024

Applicant is seeking minor subdivision to create new lot lines between lots 45 & 52 to conform with appropriate zoning at 850 Dennisville-Petersburg Road, Petersburg, New Jersey.

Bob Baranowski attorney for the applicant, Mojave Materials LLC., explained the application of a lot realignment between lots 45 & 52, to conform with the zone lines. There is about 14.5 acres of property that would be added to lot 45. This is just a creation of lots. Any other change of use would require coming back before the board. What we anticipate at this time would be some type of use that would be accessory to the mining operation such as a solar array, equipment storage or septic area. All of which would require pinelands approval. There is a certificate of filing in the application for the subdivision to create the lots. In that, there is a

condition that says, as of right now, there is no use of the area being added to lot 45 for mining is permitted. They are looking for clarification on that issue from the pinelands seeking approval to initiate an accessory use to mining, not actual excavation.

David Scheidegg, Licensed Engineer and Planner, 1425 Cantillon Boulevard, Mays Landing, was sworn.

Mr. Scheidegg referred to the plans prepared by their offices and submitted with the application. He explained the application is a simple buy rite minor subdivision. Block 414 lot 52 is 20 acres and bisected between the PV Zone and the M Zone. They propose to subdivide right along the zone line. One proposed lot will fall within the PV Zone and will be about 5.8 acres. It contains a single-family dwelling and fully conforms with the zoning requirements of the PV Zone. The remainder of the lot is 14.4 acres and will be in the Mining Zone which will then be consolidated with the other Mojave holdings which is all in the Mining Zone. They meet all zoning requirements, and no variances are needed. There is no planned development. They will come back to the board for any proposed accessory to the mining. They have no intention of mining at this time and could not do so unless coming back to the board.

Mr. Smith had prepared a report dated March 28, 2024. There were a few outstanding items. The plans should not be scaled any smaller than 1" equal 100'. The applicant has requested a waiver and he has no objection. We questioned the applicant whether the plan would be filed by plat or by deed. The applicant has indicated they intend to file the subdivision by deed; therefore, the plan does not need to comply with the map filing law. He had requested some ownership information and that was provided. The applicant indicated that there were no existing or proposed deed restrictions. They provided a copy of all the easements that are affecting the subject property. They indicated they would be applying to the Cape May County Planning Board for their approval. They requested no design waivers or exceptions. They asked for proof of taxes being paid. When filing by deed they will need to provide legal descriptions of both lots. They agree to include easements. There were some minor items with some of the setbacks and how they were calculated.

Mr. Scheidegg – There had been a 20' setback that should have been 25'. They have corrected, but the house is not close to the setback.

Mr. Smith – One of the things brought up, while not relevant to the subdivision, was the buffer on the mining operation. On adjacent lot 44 they had shown a 0' buffer where the ordinance requires a 200' buffer. He spoke with Mr. Scheidegg where he indicated they were previously approved site plans. They reviewed a previous resolution Mr. Scheidegg provided and they found no specific reference in the resolution to the buffer reduction. He requested a copy of the approved site plan signed by the township engineer but that does not appear to exist. He spoke with Mr. Scheidegg before the meeting, and it was decided that they should include the proposed buffers to have on the record. He does not want to memorialize a plan with buffers that never received approval from this board.

Mr. Scheidegg – The buffers shown on this plan are the same buffers that were approved as part of the site plan for the mining. They are historic buffers that were in place many years ago. As part of the site plan there was a waiver given for the buffer. There was no sense in buffering a resource extraction facility from another resource extraction facility. These are both sand mines next to each other. They do not show a buffer on the subdivision plan because one does not exist. There is a buffer that is shown on the plan of 200' between the residential lots on Dennisville-Petersburg Road.

Mr. Smith – There is a driveway to lot 52 that goes over lot 51. This is an existing condition that is not being addressed. He is not suggesting or approving the driveway encroachment.

Mr. Barnes – The board is not approving the access to lot 52 as part of this application.

Mr. Smith – We had requested that all the easements on the plans be labelled so they can properly review the legal descriptions when they are submitted for the deed. There were some questions about the limits of vacation being shown on the plan. As indicated by Mr. Scheidegg and Mr. Baranowski, there will be no development on lot 45 without coming to the board. The applicant still must conform with all the approvals that were granted for lot 45 along with the mining application.

Mr. Harney questioned if there would be any affect on the taxes.

Mr. Scheidegg – You are taking from one and giving to another.

Mr. Demarzo – If it is deemed commercial, it would be a commercial valuation. He will research that information and send it over to Mr. Barnes.

Mr. Kingston – He has never been involved where they changed the zone.

Mayor Newman- There is no change of the zone or zone line. The lot is being split to match the zone line.

Mr. Davidson – There will be no change.

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

Mr. Harney – The applicant, Mojave Materials, LLC have come before the board regarding the property at 850 Dennisville Petersburg Road in Petersburg, also know on the tax map as block 414 lots 45 and 52. The applicant is seeking a minor subdivision to realign the existing lot line between lots 45 and 52. They propose lot 45 to have 14.458 acres in the mining zone and lot 52 to have 5.8 acres in the PV Zone with an existing single-family dwelling. The proposed lot line will conform to the existing zones. There is no development proposed on the new portion of lot 45. If anything is to be proposed, such as an accessory use, they must come back before the board. The applicant was represented by Robert Baranowski of Hyland Shapiro, and David Scheidegg of Schaeffer, Nassar and Scheidegg. The plans were dated March 9, 2024. The board engineer has no problem with the applicant filing by deed. There was no further buffer issue. There will be memorialization in the resolution about driveway access.

Mr. Davidson – Nothing to add.

Mr. Demarzo – Nothing to add.

Mr. Kingston – It breaks down to a portion of one lot going to another.

Mayor Newman – Nothing to add.

Mr. Meloy – Nothing to add.

Mr. Riordan – The applicants engineer, Mr. Scheidegg, reported the application conforms to the township land use ordinance. No variances are required. There was no comment from the public.

Mr. Barnes – The motion is to approve a minor subdivision to create a new lot line between lots 45 and 52. With the condition that no development will occur on the new lot that is being converged, from lot 52 to lot 45, without coming back to the planning board. The applicant will comply with the board engineer report. The filing of any deed will be provided to both of their respective offices to review, ensuring the accuracy of the legal description and the easements as outlined by the board engineer. There is a pre-existing driveway that encroaches on lot 51 to lot 52. The board is not approving this encroachment, but the board is not commenting on the longevity, or lack thereof, but approving the project as status quo. Any other prior approvals are enforceable.

A motion to approve the application with the conditions was made by Mayor Newman, seconded by Mr. Davidson.

In favor: Davidson, DeMarzo, Harney, Kingston, Meloy, Newman, Riordan

REVIEW AND POSSIBLE REVISIONS TO THE REVISED GENERAL ORDINANCE CHAPTER 20

Consistency Review of Township Ordinance No. 009-2024

Mayor Newman – This is the standard annual Pinelands update. They send the language; it is reviewed, and we update our ordinance. This occurs on a regular basis and is standard practice.

Mr. Harney – This is straightforward. They redesign the future stormwater control issues. They are looking for increases for the 2-year, 10-year and 100-year design.

Mr. Riordan – The ordinance reflects any changes required by Pinelands.

CONTINUED DISCUSSION, AND REVIEW OF REPORTS, IF AVAILABLE, REGARDING:

Affordable Housing Procedure.

Mr. DeMarzo – He has been in communication with the township planner and are working on a final draft to present to the board. They are currently working on the TC Zone. It is a work in process with the planner, Mr. Barnes and Surenian.

Mr. Barnes – The planning board has recognized a problem. We are collectively working on something that will be more beneficial to the zone and the applicants. He anticipates that once the language is worked out, it will go right to the township solicitor review and then back to the planning board.

Mayor Newman – The fair share is always changing.

Mr. Barnes – We try to run everything before the affordable housing attorney to be sure we are in compliance with the order.

Mr. DeMarzo - The township is being cautious to avoid lawsuits.

Street Vacation

Mr. DeMarzo – The street vacation process has been finalized. A copy of Ord. 008-2024 has been included. We just wanted to make sure the planning board members have been kept up to date with future street vacations.

PUBLIC PORTION

The meeting was open to the public. Hearing no one and seeing no one this portion was closed.

RESOLUTIONS

Pinelands Comprehensive Management Plan Ord. # 009-2024 - PB SP 05-2024

A motion was made to approve the resolution by Mr. Harney, seconded by Mayor Newman.

In favor: Davidson, DeMarzo, Harney, Kingston, Meloy, Newman, Riordan

Consistency Review Ord. # 006-2024 - PB SP 04-2024

A motion was made to approve the resolution by Mr. Harney, seconded by Mayor Newman.

In favor: Davidson, DeMarzo, Harney, Kingston, Meloy, Newman, Riordan

BILLS

A motion was made by Mr. Harney, seconded by Mayor Newman to pay the bills as presented.

In favor: Davidson, DeMarzo, Harney, Kingston, Meloy, Newman, Riordan

ADJOURNMENT

A motion was made by Mayor Newman, and seconded by Mr. Harney to adjourn the meeting, with all Board members present voting in the affirmative. The meeting was adjourned at 7:45 p.m.

Submitted by,

Liz Oaks