

December 5, 2019 Planning Board/Board of Adjustment Minutes

Mr. Ford called the meeting of the Union Township/Board of Adjustment to order at 7:00 PM, followed by the Salute to the Flag

Members Present: Mr. Mazza, Mr. Stothoff, Mr. Nace, Mr. Eschbach, Mr. Kastrud, Ms. Wardell, Mr. Kirkpatrick and Mr. Ford

Board Professionals Present: Atty. Mark Anderson and Engineer Ian Hill

Members Absent: Mr. Neary, Mr. Dix and Mr. Petitt

Others Present: Mr. Wardell

Grand Colonial: Atty. Jay Bohn, Architect Jeffrey Fleischer and Engineer/Planner Wayne Ingram

Perryville Center: Atty. Joseph Novak and Brian Plushanski

Mr. Ford introduced Engineer Ian Hill, who was present for Mr. Clerico. He also said the order of the agenda was being changed because Messrs. Mazza and Stothoff have to recuse themselves from the Grand Farmhouse Hearing.

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated January 17, 2019, as published in the Hunterdon County Democrat and January 16, 2019, as published in the Courier News. A copy of the notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Municipal Clerk.

Approval of Minutes:

1. **May 9, 2019:** Mr. Stothoff made a motion to approve the minutes of the May 9, 2019 meeting. Mr. Eschbach seconded the motion.

Vote: Ayes: Mr. Stothoff, Mr. Eschbach, Mr. Mazza, Mr. Nace and Mr. Ford
Abstain: Mr. Kastrud, Ms. Wardell and Mr. Kirkpatrick

2. **May 23, 2019:** Mr. Stothoff made a motion to approve the minutes of the May 23, 2019 meeting. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Stothoff, Mr. Nace, Mr. Mazza, Mr. Eschbach and Mr. Ford
Abstain: Mr. Kastrud, Ms. Wardell and Mr. Kirkpatrick

3. **June 27, 2019:** Mr. Eschbach made a motion to approve the minutes of the June 27, 2019 Meeting. Mr. Mazza seconded the motion.

Vote: Ayes: Mr. Eschbach, Mr. Mazza, Mr. Nace and Mr. Ford
Abstain: Mr. Stothoff, Mr. Kastrud, Ms. Wardell and Mr. Kirkpatrick

4. **October 16, 2019:** Mr. Stothoff made a motion to approve the minutes of the October 16, 2019 Joint Township Committee and Planning Board meeting. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Stothoff, Mr. Nace, Mr. Mazza, Mr. Eschbach and Mr. Ford
Abstain: Mr. Kastrud, Ms. Wardell and Mr. Kirkpatrick

5. **November 7, 2019:** Mr. Kastrud made a motion to approve the minutes of the November 7, 2019 Meeting. Mr. Kirkpatrick seconded the motion.

Vote: Ayes: Mr. Kastrud, Mr. Kirkpatrick, Mr. Mazza, Mr. Stothoff, Mr. Nace, Mr. Eschbach, Ms. Wardell and Mr. Ford

6. October 16, 2019 Executive Session Meeting: Mr. Mazza made a motion to approve the minutes of the October 16, 2019 Executive Session. M. Nace seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Nace, Mr. Stothoff, Mr. Eschbach, Mr. Kastrud, Ms. Wardell, Mr. Kirkpatrick and Mr. Ford

Public Hearing: Perryville Center: Block 12, Lot 9, 78 Route 173 West: Re-Opened/Revision: Atty. Joseph Novak, representing applicant Brian Plushanski, gave an overview of Mr. Plushanski's previous 2019 Minor Amendment to the Preliminary and Final approval to permit construction of an independent structure, separate and apart from the existing flex building that received approval in 2012. Applicant now proposes attaching the structure to the existing business office/commercial building.

Mr. Ford asked for questions from the Board and Professionals. Mr. Hill had spoken with Mr. Clerico. Mr. Clerico said he had no objection to the proposal; however, previous conditions from 2012 and 2019 should be included with approval of this change.

Motion: Mr. Kastrud made a motion to approve the request, including all previous conditions. Mr. Kirkpatrick seconded the motion.

Mr. Ford asked for questions from the Public. There were none.

Vote: Ayes: Mr. Kastrud, Mr. Kirkpatrick, Mr. Mazza, Mr. Stothoff, Mr. Nace, Mr. Eschbach, Ms. Wardell and Mr. Ford

Green Rock Recycling LLC: Block 22, Lot 15, 3 Frontage Road: 2020 Quarry License Renewal: Atty. Novak gave an overview of the Quarry License Renewal application. He asked that the Board consider recommending that the Township Committee consider granting a waiver regarding quarrying in the fifty-foot buffer with the adjacent quarry, accepting the LOI as it stands, providing an As-Built Plan with the 2021 Quarry Application and acknowledging that the Certificate of Insurance be submitted and approved by the Municipal Attorney.

Mr. Ford asked for a motion.

Motion: Mr. Kirkpatrick made a motion that the Quarry Plan is not consistent with the Ordinance, but that the Board recommend to the Township Committee to approve the Quarry License subject to the items discussed. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Nace, Mr. Mazza, Mr. Stothoff, Mr. Eschbach, Mr. Kastrud, Ms. Wardell and Mr. Ford

Mr. Ford asked the record reflect that he had recommended to the Township Committee to amend the Quarry Ordinance to allow quarrying in the fifty-foot buffer between two quarries.

Completeness/Public Hearing: Grand Farmhouse: Block 12, Lot 12, 86 Route 173 West: Height Variance and Request to Revise Permit Phasing so that Approval on Wall does not delay start of Construction on Building Elements: Messrs. Mazza and Stothoff recused themselves from the Hearing.

Atty. Jay Bohn said applicant is seeking completeness determination, asking for certain waivers from the Checklist and approval of the Variance and amendment of the Board's recent approval. Mr. Bohn said applicant seeks approval of a forty-three foot silo and construction of the building addition and related elements of the approval while pursuing other approvals needed with respect to walls along Route 173.

The Board voted to deem the application complete and to proceed to the public hearing by voice.

Atty. Bohn said he has a planner and architect available if needed. Atty. Anderson swore architect Jeffrey Fleischer. Mr. Fleischer's credentials were acceptable to the Board. Mr. Fleischer referenced Sheet 4 of the submitted Plan and gave an overview of the proposed 840 square foot (sf) addition and the silo. Mr. Kastrud asked about the conical shape of the silo. Mr. Fleischer said it matches the silo at another of applicant's sites. Atty. Bohn indicated that Mr. Fleischer had presented pertinent information.

Mr. Ford asked for questions from the Board, Mr. Hill and the Public. There were none.

Atty. Bohn asked Engineer Wayne Ingram to come forward. Mr. Ingram said he is a licensed Engineer and Planner. Mr. Ingram presented his credentials. Mr. Ford said they were acceptable to the Board. Mr. Ingram said applicant is seeking a "D-6" Variance for the silo as an aesthetic feature to enhance the rural nature of the property. He sees no negative impact by approving the application. Mr. Ingram said the Site Plan would be modified to show the changes, and that conditions of the previous approval would remain. Wetlands approval is being sought with respect to the construction of the wall.

Mr. Ford asked for questions from the Public. There were none.

Atty. Bohn said the Project Manager was available for questions/concerns. There were none.

Atty. Anderson said a request was being made for Phasing of the Wall. Mr. Anderson thought it would be appropriate as a condition of approval to state that applicant is entitled to proceed even if the wall was not approved. Mr. Ford said he did not care if the wall was ever built. Mr. Kastrud opined that he would like the wall completed, and said it would be lopsided if only one wall was built. Mr. Ingram said that none of the wall would be built at all if NJDEP did not approve both walls. Landscaping would remain as is if the wall was not built.

Mr. Ford asked for a motion.

Motion: Mr. Kirkpatrick made a motion to approve the application including the height variance for the silo, and for all conditions in the previous approval, subject to NJDEP approving the construction of the wall. The wall shall be constructed in its entirety or not at all. Mr. Kastrud seconded the motion.

Mr. Ford asked for comments from the Public. There were none.

Vote: Ayes: Mr. Kirkpatrick, Mr. Kastrud, Mr. Nace, Mr. Eschbach, Ms. Wardell and Mr. Ford

Correspondence: None

Comments from the Public/Other Discussion: None

Mr. Ford said Atty. Anderson had provided a Draft copy of the Quick Chek Resolution. Comments from Board Members should be submitted to Atty. Anderson individually. Mr. Ford said it is anticipated the Resolution will be on the December 19, 2019 agenda; therefore, comments should be e-mailed to Mr. Anderson by the middle of next week.

Mr. Kirkpatrick said the Board intended that Quick Chek make all required traffic improvements. He said the draft Resolution indicates that no traffic improvements are required. Atty. Anderson explained that Atty. Mennen objected because he said it might be impossible. Mr. Kirkpatrick said Quick Chek would have to comply with the Levels of Service they had testified to.

Mr. Kirkpatrick said Quick Chek's Professionals had testified that the proposed trees would completely obscure the view between the residential lot and Quick Chek. He said it should be clear that is a requirement that must be accomplished within five years of the approval.

Atty. Anderson said Atty. Mennen suggested that the condition imposed on the new residential lot for impervious coverage is below that which is required by Ordinance and was not lawful. Mr. Anderson said he believes it is lawful. Mr. Kirkpatrick said it is a standard practice whenever there is a variance for impervious surface to include such a restriction for the subdivided lots. Messrs. Kastrud and Kirkpatrick said they would change their vote if that were not a condition. Mr. Kirkpatrick said it was a critical part of their decision. Atty. Anderson said it was clear to him regarding the Board's decision. He also said the owner of that residential lot could apply for relief. Mr. Kastrud asked if the Board could relieve that deed restriction upon future application. Atty. Anderson said he thought the Board could approve that relief. The deed restriction is to make sure it is on the public record. Mr. Kastrud asked if a deed could be filed without the restriction. Atty. Anderson said there is nothing to prevent a seller from doing so, and that a title search should turn up the restriction.

Mr. Ford said it is anticipated the Fallone (Whispering Woods) matter will be on the December 19, 2019 agenda. Also, the Clinton Quarry application will be heard.

Motion to Adjourn: Mr. Kastrud made a motion to adjourn at 7:40 p.m. Mr. Nace seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary