

## ***APRIL 20, 2021 - Minutes***

A regularly scheduled hybrid public meeting, in person and by way of Zoom, of the Wantage Township Land Use Board was held on Tuesday, April 20, 2021. The meeting was held at the Wantage Township Municipal Building. The meeting was held in compliance with the provisions of the Open Public meetings act, P.L. 1975, Chapter 231. It was properly noticed and posted to the public.

### **SALUTE TO THE FLAG**

Board Chairman Victoria Gill invited all persons present to participate in the Pledge of Allegiance.

### **ROLL CALL**

PRESENT: Larry Bono (virtual), Bill DeBoer, Joanne Kanapinski (virtual), Joseph Konopinski, (virtual), Jon Morris (virtual), Michael Walther, Victoria Gill. Alternates: Justin Dudzinski, George Unverzagt (virtual), Joseph Greenaway  
Absent: Ron Bassani, Chuck Meissner, Also present, Attorney, Ursula Leo. Engineer, Harold Pellow, Professional Planner, Jessica Caldwell, Secretary, Jeanne McBride

### **MINUTES**

Mr. Konopinski made the motion seconded by Mr. DeBoer to approve the February 22, 2021 Special Joint meeting with Sussex Borough minutes. Yes, Carried.

Mr. Greenaway made the motion seconded by Mr. Konopinski to approve the March 16, 2021 minutes. Yes, Carried

Mr. Konopinski made the motion seconded by Mr. Greenaway to approve the March 16, 2021 Executive session minutes. Yes, Carried

March 16, 2021 Executive

### **RESOLUTION**

#### **L-2021-02**

B&C Weshnak 2004 Irrevocable Trust  
Block 120 Lot 13.03  
109 Haggerty Road

Mr. Konopinski made the motion, seconded by Mr. Greenaway to approve B&C Weshnak 2004 Irrevocable Trust resolution. Ayes: Bono, Kanapinski, Konopinski, Walther, Unverzagt, Greenaway, Gill. Nays: None. Abstain: DeBoer.

## **APPLICATION**

At this time Mr. Morris stepped down and left the meeting.

**L-2020-07**

**Tractor Supply Company**

775 Route 23

Block 44, Lot 17

Located in the HC - Highway Commercial Zone

Minor Site Plan & "d" Variance

Attorney Laura D'Allesandro swore in Professional Engineer John Sewald of Dynamic Engineering, Toms River, NJ and Professional Planner John McDonough of Morris Plains, NJ.

The applicant proposes to sell propane for refilling tanks, from a 1,000-gallon bulk propane tank located within their enclosed fenced outdoor display area on the north side of the existing building. The proposed tank will be surrounded on all sides by four-foot bollards.

Mr. Sewald discussed exhibit A1 an aerial map of the store and surrounding area. Exhibit A2 is a minor site plan, Mr. Sewald explained there are no setback issues, no impervious coverage issues, it is ancillary to the store and will be sold during the store's regular hours.

Discussion regarding Mr. Harold Pellow's report followed, covering points such as fire safety, signage depicting how to proceed to the refill area, the trailer storage in the fenced display area and the side walk display area. Mr. Pellow stated the parking lot needs to be restriped to help designate the parking area.

Mr. DeBoer asked if Recreational Vehicles would be able to pull right up to the filling station. It was explained tanks up to 100 pounds could be brought to the area on trucks. Tractor Supply will assist anyone that needs help filling and carrying their tanks. RV's will not be allowed to pull up directly and fill their tanks. All tanks must be removed from the vehicles.

Ms. Gill and Mr. Bono discussed fire safety and inspections; Mr. Sewald reassured the Board they are required to perform regular inspections; it is very heavily regulated. The DCA does regular inspections and yearly inspections are performed by the Wantage Township building department.

Ms. Gill opened the application to the public for any questions of the Engineer, there being none, she closed it to the public.

Mr. John McDonough the planner discussed the positive and negative aspects of the application.

The four parts of the Medeci test are met, it is an ancillary use to the store, fits into a space that already exists, has a history of prior use on the property. It is a spacious site.

The second part, the promotion of general welfare, the benefits of propane include less carbon monoxide, and there is a public demand and need.

Purpose G. location is appropriate, it is already supplied at Tractor Supply stores.

Purpose I. visually it fits well in the existing space

Wantage Township Planner Jessica Caldwell after reviewing the plan asked Mr. McDonough if there will be a need for increased parking. Mr. McDonough stated the filling station will cater to the needs of the existing customers and no additional parking is needed. Ms. Caldwell discussed the filling hours in comparison to the store hours (same), and the visual impact (offset by the roadway).

Ms. Gill asked if the Board had any questions for the Planner.

Mr. DeBoer requested clarification regarding RV fill-ups, Mr. Sewald stated Tractor Supply does not allow RVs to pull up to the filling area, only removable tanks are permitted. Mr. Sewald clarified RVs are allowed in the parking lot.

Ms. Gill opened the application to the public and to Zoom, there being none, she closed it to the public. She asked if the Board had any further discussion or if they wished to make a motion.

Ms. Leo noted three conditions:

- The approval is granted in accordance with the Minor Site Plan submitted.
- The applicant shall re-stripe the parking lot.
- RVs shall not be filled.

Mr. Walther made the motion seconded by Mr. Konopinski to approve the propane filling station with the conditions listed. Ayes: Bono, DeBoer, Kanapinski, Konopinski, Walther, Dudzinski, Gill. Nays: None. Abstain. None.

### **L-2021-03**

**Charles Meissner**

Route 565

Block 117, Lot 34

Preliminary & Final Major Site Plan & “d” Variance

Located in the HC - Highway Commercial Zone

The Applicant wishes to operate a Topsoil processing operation. The Application was originally approved on April 16, 2019 and has been remanded back to the Land Use Board by Judge Stuart Minkowitz.

Mr. Greenaway recused himself after having performed a survey for Mr. Meissner.

Mr. Pellow deemed the application complete.

Ms. Leo stated there are eight eligible Board members to hear the application.

Mr. Todd Hooker of Askin & Hooker stated he has two witnesses Mr. Ken Dykstra Professional Engineer and Mr. John McDonough, Professional Planner

Ms. Gill reminded the applicant and members of the public that the meeting will end at 10:00 PM.

Ms. Leo reminded the Board this is an entirely new application, as stated by Judge Minkowitz. Mr. Kelly the objector's attorney, requested the meeting be carried, due to the fact he has covid. His request was denied.

Mr. Dykstra appeared by Zoom. Mr. Dykstra stated his credentials, and the Board accepted him as a witness, and he was sworn in.

Mr. Dykstra discussed the application and the operation. An 'as-built' site plan was submitted, as well as approval from the county for the driveway

The business sells topsoil, and mulch and stone. A permanent building, the septic and well, included in the plan, have not yet been constructed. The sign and the flagpole have been installed according to the 'as-built' plans.

The stormwater management system been approved by Sussex County.

Mr. Pellow reviewed his report, discussion regarding the mulch, landscaping stone, topsoil, the height of the piles, soil conservation, dust control, flowers in the sign box, a water truck, the well, and wetlands transition area, the driveway including Sussex County approvals and overhead wires. There is a temporary office trailer, since there is not an approval for the septic, they using portable toilets.

Exhibit A1 is five pages of pictures of the site; depicting the sign, driveway, silt fence and different views of the driveway.

Exhibit A2 is twelve pages of inspection reports from the DEP. The DEP has been on site four times. Mr. Meissner is waiting for the LOI, the LOI is needed for the septic. Mr. Hooker requested the LOI as a condition of final site plan approval.

Ms. Gill opened the application to the Board for any question for Mr. Dykstra, There being none, the application was opened to the public for questions of Mr. Dykstra.

Mr. Emil Conforth of 197 Route 565, asked Mr. Dykstra if he was familiar with Wade Wander and his work on the property for a tax decrease for wetlands in 2006. Mr. Dykstra was not. Mr. Hooker asked Mr. Dykstra if any of the material he saw on site appeared to be associated with filling in wetlands. Mr. Dykstra replied he did not see anything associated with filling in wetlands.

Mr. John McDonough a Professional Planner stated his credentials. He was accepted as an expert.

Mr. McDonough gave an overview of the existing conditions, describing the lot and the surrounding area. He explained the applicant's topsoil mixing facility. The property is in the Highway Commercial (HC) zone, the ordinance does not list topsoil mixing as a permitted use.

Mr. McDonough discussed the positive criteria; the site is suitable for the use, there are a variety of businesses in the area including a topsoil business, the property contains open space and a topsoil business is an efficient use of the land.

Mr. McDonough did not feel there would be negative effects on the surrounding properties, no parking relief is requested, Route 565 is a noisy trucking thoroughway, it is compatible with the neighborhood businesses, no height variance is required, the relief is site specific, not zone specific.

Jessica Caldwell, the Professional Planner for Wantage Land Use Board, discussed with Mr. McDonough the possibility of a sign variance, the sign landscaping, the tree buffer and truck traffic at peak hours. Mr. McDonough felt the sound was mitigated by the trees as well as the distance from the road.

Ms. Gill asked the Board if they had any questions for the planner, there being none she opened it up to the public.

Dave Franek, 238 Rt 565, asked the Mr. McDonough if he was aware of wetlands and tax reductions, which he replied only the wetlands shown on the site plan.

Emil Conforth, believes the manufacture of topsoil is an industrial use, he expressed his concerns for groundwater safety and the unlikelihood the business is well suited for this site. Mr. McDonough stated the applicant will comply with the stormwater management plan.

Mr. Hooker, revisited the number of trucks, hours of operation and the access road in the back of the property with Mr. McDonough

Ms. Leo and Mr. Hooker discussed the conditions of approval for a further understanding for the Board of the application and site plans. Some of the conditions include:

- Temporary building,
- Lighting

- Number of trucks
- Types of trucks carrying the topsoil, sand and compost, water truck, front end loaders,
- Hours of operation (6:30 am – 6:00 pm)
- Description of the building, which will also operate as an office,
- The parking area will be paved, 300 feet of driveway will be paved

Ms. Gill opened the application to the Board for further questions.

Ms. Gill had Mr. Hooker clarify the approval of the stormwater with Sussex County, hours of operation, pavement, sign, tax reassessment, and the water truck's ability to get water.

Discussion regarding an hours of operation ordinance followed.

Ms. Gill opened the application to the public.

Mr. Juchniewicz of 216 Rt 565, Wantage was sworn in, felt the statements were vague on the materials being brought in, he wanted to know the material source, he also had questions on the residual waste. Mr. Hooker explained the screening process is a mixing not a separating system. There is no residual waste. Mr. Hooker clarified Mr. Meissner is the landlord and does not own Tri-State Topsoil, Mr. Franchino the owner of Tri-State Topsoil.

Emil Conforth was sworn in, and affirmed his opposition to the business, especially in Wantage Township.

Dave Franek was sworn in and indicated there has been no respect for the neighbors. He listed the lighting, beepers, and hours of operation. He presented Exhibit O1 and O2 pictures of the dust and Exhibit O3 a picture of the lighting shining into the neighbor's house. He also discussed Wade Wander's wetlands report from 2006 presenting Exhibit O4, a wetland hand drawn map by Mr. Wander.

Ms. Leo reiterated the Boards statement to end the meeting at 10:00 PM, all documents need to be available to all members, due to zoom, all members have not had access. The application needs to be carried.

Mr. DeBoer made the motion seconded by Mr. Konopinski to carry the application to the May 18<sup>th</sup> meeting without further notice. Yes, Carried

### **ADJOURNMENT**

Mr. DeBoer made a motion, seconded by Mr. Konopinski to adjourn at 10:00 PM. The Board unanimously agreed.

Respectfully submitted,  
Jeanne M McBride, Secretary