

MAY 25, 2021 - Minutes

A special meeting, of the Wantage Township Land Use Board was held on Tuesday, May 25, 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 Vice Chairperson Bill DeBoer invited all persons present to participate in the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill DeBoer, Joanne Kanapinski , Joseph Konopinski, Michael Walther,
Alternates: Justin Dudzinski, George Unverzagt, Joseph Greenaway (left 7:30 pm)
Absent: Ron Bassani, Larry Bono, Victoria Gill, Chuck Meissner, Jon Morris, Also present, Covering Attorney, David Brady, Engineer, Harold Pellow, Professional Planner, Jessica Caldwell, Secretary, Jeanne McBride

Ms. Ursula Leo has taken a leave of absence, David Brady will be the covering attorney for the Land Use Board.

MINUTES:

Mr. Walther made the motion seconded by Mr. Dudzinski to approve the May 18, 2021 minutes. YES: carried.

L-2017-13

Bicsak Brothers Realty

80 Route 23

Block 11, Lot 5

The applicant seeks to extend the 2017 Resolution for one year for temporary storage of motor vehicles. The application is being carried until the June 15, 2021 Land Use Board meeting without further notice.

L-2021-04

Michael Cecchini

Sherman Ridge Road

Block 135, Lot 6.01

RE-5 Residential Zone

Minor subdivision and "C" variance

The applicant is proposing to subdivide two (2) lots from Block 135, Lot 6.01

The application is being carried until the June 15, 2021 Land Use Board meeting without further notice.

L-2021-05

L&M Properties

25-27 Route 628

Block 117, Lots 2 & 38.02

HC – Highway Commercial Zone

Amended Preliminary Major Site Plan & Final Site Plan and a “D” variance

The application is being carried until the June 15, 2021 Land Use Board meeting without further notice.

APPLICATION

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. The application was carried from the April 20, 2021 meeting until the May 18, 2021 and again carried until May 25, 2021.

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

Mr. Kevin Kelly is the Opposing Attorney for David Franek. Mr. Kelly asked the Board members if they had attended the hearing of the first application, Mr. Brady agreed to take a pole of the Board members, Mr. Unverzagt and Mr. Dudzinski did not hear the first application. Mr. Walter, Ms. Kanapinski, Mr. Konopinski heard the first application. Discussion regarding listening to the original tapes, which Mr. Brady reminded the Board it is a new application and they should not listen to the tapes. Mr. Kelly referred to the NJ Zoning & Land Use Administration and votes on remand. Mr. Brady read the State Statue Mr. Kelly referred to, since it was not in the statue Mr. Brady did not believe it is a requirement that the members that heard the first application recuse themselves from the new application.

Mr. Kelly asked that the application be carried because Mr. Wander the wetlands expert, as well as Mr. Kelly’s planner, were unable to attend tonight’s meeting. Mr. Brady stated we will continue with the application, after hearing from the public, we will revisit the professional absentee issue.

Mr. Greenaway left the room at 7:30 PM

Mr. Brady swore in David Franek of 238 Route 575, Wantage NJ. Mr. Franek’s car sale business and his home are located next to Mr. Meissner’s property. Mr. Franek explained

after Mr. Meissner purchased the property, Mr. Meissner took down trees and brought in millings. Mr. Kelly & Mr. Franek discussed Mr. Meissner's property and the original approval of Tri-State Topsoil. Mr. Franek described what he hears and sees, and what Mr. Meissner explained to him regarding the business operation, are not the same. Mr. Kelly & Mr. Franek described pictures Mr. Franek took on different days depicting dust and different viewpoints of Mr. Meissner's property.

02-18 picture taken 04/21 of dust storm taken by Mr. Franek

02-19 picture taken 10/20 of dust storm blocking out sun

02-20 picture taken 03/21 of Mr. Meissner's property of a swamp hole

02-21 picture taken 02/21 on neighbor's property, of rear of Mr. Meissner's property

Mr. Hooker considered the possibility of dust coming from the sitework, not the soil operations. Mr. Hooker discussed the noise complaints, the pictures and the time of day of the pictures, the landscape berm and the topsoil in O2-19 with Mr. Franek.

The pictures were entered as evidence.

Discussions continued with Mr. Franek regarding; telephone calls to the Town Hall, noise from the highway and Tri-state Topsoil, and soil movement of surrounding neighbors.

Mr. DeBoer asked the Board if they had any questions of Mr. Franek, there being none, he opened it to the public for questions of Mr. Franek.

Mr. Juchniewicz of Rt 565 asked Mr. Franek if he ever experienced dust problems before Mr. Meissner's began operation, has he seen the water truck in operation or any dust control operations in effect. Mr. Franek replied he has not seen the water truck nor did he have dust problems.

Mr. Robert Mattia of Newton is the attorney representing Mr. Franchino. Mr. Franchino's wife is the owner of Tri-state topsoil. Mr. Mattia asked Mr. Franek if the picture O2-20, depicted snow or ice, Mr. Franek referred to the area in the picture as the swamp. Mr. Mattia made reference to the location of Mr. Franek's building and Mr. Franchino's temporary building in relation to the swamp.

Mr. Brady swore in Ms. Caldwell for questions from Mr. Kelly.

Mr. Kelly asked Ms. Caldwell if the business is a permitted use, she replied soil removal is, but soil processing is not. Dialogue between Mr. Kelly and Ms. Caldwell regarding the report continued concerning the suitability of the site.

Mr. Pellow was sworn in. Mr. Kelly asked Mr. Pellow questions regarding his report and prior conditions of approval that have not yet been met.

Discussion regarding the DEP and the professionals that were unable to attend the meeting continued with Mr. Hooker, Mr. Kelly and Mr. Brady. Mr. Hooker claimed Mr. Kelly was using a delay tactic with the preparation of the application and his lack of professionals. Mr. Kelly requested his professionals attend the next meeting to present

their side regarding the wetlands. Mr. Mattia suggested it isn't fair to Mr. Franchino to carry the application, stating Mr. Kelly could have sent a substitute attorney.

Mr. Franchino of 114 Scott Road, Franklin NJ. Mr. Brady suggested Mr. Franchino have his attorney lead him through testimony, Mr. Franchino stated he only wanted to make one statement. Mr. Franchino was sworn in. Mr. Franchino explained he has been in business in Wantage for the last 25 years, previous to this address he was on Route 628. He never has had an issue with the town, the county and the state. He has 12 employees and he serves many businesses and homeowners locally and would like to continue to do so.

Mr. John Nuss of Beemer Road, was sworn in and stated as a former Land Use member all the ducks should be in a row to make a decision. Mr. Nuss stated he believes an LOI is necessary to make a decision.

Kathleen Gorman, Fernwood Road was sworn in. She stated that she is flabbergasted at the sudden resistance to a business that has been in town for 25 years. With the negative story lines in the paper, no one will want to come to Wantage to live or start a business. She expressed her concerns with the negative attitude towards business in the Highway Commercial zone and does not want to see businesses being forced out of Wantage

Emil Conforth of Route 565 was sworn in. He believes the origin of the materials is from urban areas. Mr. Brady explained there is no foundation where any of the compost comes from and advised the photos not be accepted. Mr. Conforth believes the dust and trucks have a negative impact on the real estate in the area.

Janet Price of 262 Route 565 was sworn in. Ms. Price stated the property was always referred to as wetlands. When she moved in the property was zoned as Neighborhood Commercial, the zone was changed to Highway Commercial, she feels now it has taken on an industrial zone feel. She also stated her property is bordered on two sides by the septic business, and has never had an issue with dust or dirt. She does not want to push out a business. The resolution states it is a wholesale only business, but their website states it serves retail homeowners also.

Dave Franek Jr. of 236 Route 565 was sworn in. He works at the car dealership with his father. His home is next door to his father's, his bedroom is located on the dealership side. When the trucks start at 6:00 in the morning his house shakes, the tale gates slam and there is dust all over his cars.

Mr. DeBoer closed the application to the public and opened it to the Board.

Mr. DeBoer asked for a motion to carry the application Yes or No, if the application is not carried, the Board will make a motion on the application.

Mrs. Kanapinski made the motion, seconded by Mr. Unverzagt, to carry the application to the June 15th meeting. Ayes: Kanapinski, Konopinski, Unverzagt. Nays: Walther, Dudzinski, DeBoer.

Mr. Brady stated a tie means the motion doesn't carry.

Mr. DeBoer asked for a motion to approve or disapprove the application.

Mr. Dudzinski made the motion, seconded by Mr. Walther, to approve the application. Before the roll was taken Mr. Brady asked for conditions of approval should the application be approved.

Mr. Brady suggested the LOI have a time frame, Mr. Pellow agreed with Mr. Brady and suggested two months for the submittal of the LOI application. The Board discussed conditions; submit the LOI within two months to the DEP, dust control, operating hours and additional conditions included in the first resolution.

Mr. Brady stated if approved, the conditions will be set forth in the memorializing resolution.

Ayes: Kanapinski, Konopinski, Walther, Dudzinski, Unverzagt, DeBoer. Nays: None.

Mr. DeBoer opened them meeting to the public, seeing no one wishing to speak, he closed it to the public and asked for a motion to adjourn.

ADJOURNMENT

Ms. Kanapinski made a motion, seconded by Mr. Konopinski to adjourn at 9:30 PM. The Board unanimously agreed.

Respectfully submitted,
Jeanne M McBride, Secretary