

October 18, 2022

The meeting of the Wantage Township Land Use Board was held on Tuesday, October 18, 2022. 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

Mr. Dudzinski invited all persons present to participate in the Pledge of Allegiance.

ROLL CALL

Present: Chris Darmstatter, Patricia Green, George Unverzagt, Dan VanDerBerg, Warren Wisse, Justin Dudzinski. Absent: None. Also present; David Brady, Attorney, Harold Pellow, Engineer, Jessica Caldwell, Planner and Secretary, Jeanne McBride.

MINUTES

Mr. Darmstatter made the motion, seconded by Mr. VanDerBerg to approve the minutes from the September 20, 2022 meeting. Ayes: Carried. Nays: None. Absent: None.

APPLICATION

L-2022-06

Charles Meissner / Tri-State Topsoil

Block 117, Lots 34

260 Route 565

The property is located in the Highway commercial (HC) Zone. The applicant is seeking preliminary major site plan approval and a "D" variance. The applicant proposes to operate a commercial topsoil processing operation or similar use. Mr. Todd Hooker represented the applicant.

Mr. David Krueger of Grove St., Chester NJ was sworn in by Mr. Brady and accepted as a wetland's expert.

Mr. Krueger testified that the wetlands paperwork/application was submitted to the DEP on August 25th for the wetlands report.

Exhibit A201 is the application submitted to DEP on behalf of Tri-State Topsoil.

Mr. Krueger described the exhibit which was a verification of the wetlands and also to legalize the driveway and the stormwater basin that was constructed.

Mr. Krueger also testified soil samples were taken and submitted in August of 2021. The DEP has been to the site and has not made a final determination.

The application was submitted at the end of August 2021. Mr. Krueger contacted the DEP in early 2022 and they came to site in April. The fifty (50) foot buffer was approved as well as the driveway, basin and detention area.

Mr. Brady asked for information regarding the LOI. Mr. Krueger explained the LOI is a separate application from the permit application.

The LOI delineates the wetlands and buffers. The permit is needed due to construction in the buffer areas. Initially Mr. Meissner applied for permit 6A, it was determined they should apply for permit 10A which is a general permit for a driveway. The driveway and the basin were approved by the DEP and will stay where it is in the buffer area. The DEP has the final determination on the wetlands.

Mr. Brady asked Mr. Kelly if he had any questions related to Mr. Krueger's testimony. After looking at the application submitted August 2021, he questioned the 'after the fact' permission for the driveway and the stormwater detention basin. Mr. Kelly asked how it was constructed before the receiving permission from the DEP. Mr. Krueger explained to Mr. Kelly, his part of the application was to seek permission, not the construction of the driveway and basin.

Mr. Kelly is seeking the emails to Mr. Krueger, stating permission for the driveway and basin from the DEP. Mr. Krueger did have a copy of the email with him and produced it to as evidence.

Exhibit A202 the email from the DEP regarding permitting and wetlands buffer. Dated October 4, 2022, Mr. Brady dated the exhibit 10/18/2022. Mr. Krueger read the email which required extensive restoration of the disturbed transition area, discussion between Mr. Kelly and Mr. Krueger regarding the restoration plans continued. Mr. Krueger described, on the map, the wetland buffer area that will be restored with shrubs and trees. Exhibit A202 confirms the wetlands buffer is 50', and the driveway is approved as it stands. Discussion regarding wetlands size and location continued.

Mr. Darmstatter asked if any of the neighboring properties are in the buffer area. Mr. Krueger agreed some of the driveway and a neighboring garage were in the buffer area. The DEP will not inspect the neighboring property.

There is no notice of violation on the Mr. Meissner's property.

Mr. VanDerBerg asked for clarification on the layout of the property.

Ms. Caldwell asked for clarification on the restoration area.

Mr. Dudzinski opened the application to the public.

Emil Conforth of Route 565, Wantage presented a photo, received from the town, to Mr. Krueger. The photo is a picture of cattails. Mr. Krueger stated he does not recognize the photo, and yes, it could be of the property.

Exhibit P201 photo of cattails.

Mr. Conforth asked Mr. Krueger if he was aware of a tax deduction, Mr. Krueger was not. Mr. Conforth discussed the rear of the property to which Mr. Krueger replied, he was there to look at the front of the property. Mr. Conforth asked about the brook in the rear of the property, and any alterations done to the property. Mr. Krueger was not aware of any alterations.

Mr. Hooker redirected asking questions regarding trees and the wooded area.

Kevin Juchniewicz of 216 Route 565, asked Mr. Krueger if it is customary to not visit the whole site, he also discussed a large berm of dirt in the rear of the property, the difference between a GP6 permit and a GP10. Mr. Krueger said a GP6 is for an isolated wetland and a GP10 is for a driveway.

Chris Barklow 87 Brink Road, questioned the tax assessment on property with a LOI, Mr. Krueger is not aware of any tax assessments on the property.

Dave Franek Jr. of 266 Route 565, is the son of Mr. Franek Sr., who Mr. Kelly is representing. Mr. Kelly is not representing Mr. Franek Jr. Discussion regarding the basin and driveway in the transition area, Mr. Krueger explained wetlands, buffer areas from the wetlands, berms and detention basins.

Mr. Dudzinski called for a ten-minute break.

Mr. Hooker stated Mr. Flynn, is at the meeting on behalf of Mr. McDonough, will testify. That testimony is what will be entered into evidence, not the report Mr. McDonough wrote. Mr. Kelly objected on the basis he is entitled to cross examine the person that wrote the report. Mr. Brady agreed to wait for Mr. McDonough, and adjourned to November 15th.

Mr. Brady addressed the soil ordinance. Discussion regarding the applicability of the soil ordinance to the application. Mr. Brady stated the Board will decide the applicability. Mr. Brady feels the decision is a Committee level decision and the ordinance falls under licensing. The Land Use Board may want to include conditions of the ordinance in their decision on the application. Both Mr. Hooker and Mr. Mattia concurred with Mr. Brady. Mr. Mattia stated the soil on Tri-State Topsoil is stored on a temporary basis. Mr. Kelly would like to digest the report Mr. Brady wrote and save his determination to the end of the case.

Mr. Brady carried the application to the November 15th meeting at 7:00 pm the Wantage Municipal Building.

Mr. Dudzinski opened the meeting to the public for any non-related to the application discussions. There being non, he asked for an adjournment.

ADJOURNMENT

Mr. VanDerBerg made the motion seconded by Mr. Wisse to adjourn. Ayes Carried.

Respectfully submitted,
Jeanne M McBride, Secretary