

**TOWN OF HACKETTSTOWN
REGULARLY SCHEDULED MEETING**

June 23, 2020

Meeting Held VIA Zoom Meetings

MINUTES

CALL TO ORDER

The June 23, 2020 Town of Hackettstown Land Use Board Meeting was called to order by Chairman Camporini at 7:00 p.m.

ANNOUNCEMENT OF PROPER NOTICE

FLAG SALUTE

ATTENDANCE

Board Members Present

Sherman; Moore; Lambo; Walling; Becker; Wolfrum; Stead; Camporini

Board Members Absent

Bristow; Kunz; Stout

Also Present

Mennen; Sterbenz; Bloch

MINUTES

May 26, 2020 Meeting

The Motion to approve the May 26, 2020 Town of Hackettstown Land Use Board Meeting Minutes was made by Lambo, with the second being Moore.

In Favor: Walling; Becker; Wolfrum; Camporini; Stead; Sherman; Tierney; Moore; Lambo

Oppose: None

Abstain: None

May 27, 2020 Meeting

The motion to approve the May 27, 2020 Town of Hackettstown Land Use Board Meeting Minutes was made by Moore; with the second being Wolfrum.

In Favor: Lambo; Walling; Becker; Camporini; Stead; Sherman; Wolfrum; Moore

Oppose: None

Abstain: Tierney

RESOLUTIONS

DeTombeur, App #20-01, Block 32, Lot 5 – Section 68 Certification

The motion to memorialize the Section 68 Certification resolution made by Stead, with the second being Lambo.

In Favor: Sherman; Lambo; Walling; Becker; Wolfrum; Camporini; Moore; Stead

Oppose: None

Abstain: Tierney

Cannon, App #20-02, Block 89, Lot 9 – Section 68 Certification

The motion to memorialize the Section 68 Certification made by Lambo, seconded by Becker.

In Favor: Walling; Stead; Camporini; Sherman; Moore; Lambo; Wolfrum; Becker

Oppose: None

Abstain: Tierney

102 Landing Road LLC, App #20-03, Block 30 Lot 8 – Section 68 Certification

The motion to memorialize the Section 68 Certification made by Lambo, seconded by Walling.

In Favor: Sherman; Moore; Becker; Wolfrum; Camporini; Stead; Lambo; Walling

Oppose: None

Abstain: Tierney

102 Landing Road LLC, App #20-04, Block 30, Lot 9 – Section 68 Certification

The motion to memorialize the Section 68 Certification made by Wolfrum, seconded by Becker.

In Favor: Lambo; Walling; Sherman; Camporini; Stead; Moore; Becker; Wolfrum

Oppose: None

Abstain: Tierney

204 Vail Street, LLC, App #19-07, Block 40, Lot 2 – Minor Subdivision/Variance

Mr. Louis Sotomayor requested to speak to the Board regarding pictures which were sent to the Board Clerk with additional questions on the applications. These pictures were sent to both the Board Engineer and the Board Attorney.

John Vitale, Esq., attorney for applicant stated at the May 26, 2020 Land Use Board Meeting, Mr. Sotomayor and his wife, the adjacent property owners of Lot 6, had ample time to ask questions. Some of the questions resulted in the applicant entering into a declaration of non-disturbance for part of the property which abuts their lot line. Mr. Vitale added he objects to the reopening of discussions as neither the applicant's engineer, nor the planner, were present for any questions, in addition to the ample time given to the neighboring property owners to present evidence to the Board. Mr. Vitale state the public hearing has been closed and presenting photos to the Board would be inappropriate.

Mr. Camporini stated the Board would not be revisiting the application as the public hearing is closed and the Board is voting on the memorializing of the resolution, which consists of the Board's findings, and that is on the Agenda for this meeting.

Mr. Lambo asked is there is anything being placed in the Deeds for parking spaces. Mr. Sterbenz answered the three stalls closest to Vail are the existing spaces, and the flag lot would have their own parking spaces. Mr. Sterbenz added there is a short piece of common driveway to the existing three stalls, and they the driveway goes to the back where the new home would be built.

The motion to memorialize the Minor Subdivision/Variance was made by Moore, seconded by Tierney.

In Favor: Walling; Becker; Wolfrum; Camporini; Stead; Sherman; Moore; Tierney

Oppose: None

Abstain: Lambo

PUBLIC HEARING

Mars Inc., App #19-08, Block 4, Lot(s) 1 & 4 – Preliminary & Final Site Plan

Chairman Camporini stepped down as he had a conflict with the application. Mr. Moore took over as interim Chair of the meeting.

Mr. Stead stepped down as he had a conflict.

Ms. Walling stepped down as she had a conflict.

Jason Rittie, Attorney, Einhorn, Barbarito, Frost & Botwinich, PC present for application.

Mr. Mennen advised the Board the applicant had re-noticed, numerous times, and has indicated additional information in the advertisement relative to the sound barrier, as well as to the process by which the application is being heard.

Mr. Rittie stated the application was heard in February, and at the time there was a presentation regarding the sound barrier. The applicant was advised by the Board to come back to show more details on the plan for the sound barrier, which was submitted in March.

Erin Abline, Planner, Suburban Consulting Engineers, Inc., was asked to describe the changes to the plan.

Ms. Abline referred to the parking plan, sheet 5 of 14, dated November 12, 2019, which was previously presented, and stated the following:

- There are two access points to the parking plan – one internally and one near the gate to the driveway entrance;
- Proposed revision due to Mr. Sterbenz comments increasing the parking spaces from 63 to 66.

Ms. Abline referred to the Site Line Plan, sheet 1 of 1, Revision A, and testified to the following:

- Proposed sound attenuation wall – to be surrounded with chain line fence with privacy slats to add as a visual buffer from the residences on High Street;
- There is proposed additional plantings at Seventh Street, and Oak Street, to aid as visual buffers;
- Additional proposed plantings at 801 and 805 High Street which have the largest impact, especially with the addition of the privacy fencing. When the plantings mature, the site line will be completely blocked;
- Most surrounding properties will benefit from the visual buffering on the Mars property where more plantings are proposed;

Mr. Lambo stated if the planting maturity is approximately ten years this would cause a site line issue now for the adjoining property owners. Ms. Abline added the growth is approximately one foot per year, or eighteen inches in a good year, which makes the maturity between five and ten years. Ms. Abline stated the privacy slats are added for this purpose. Mr. Lambo asked if there proposed plantings along the wall. Ms. Abline answered there is no benefit to plantings along the wall.

Mr. Moore stated there are trucks parked on the site now, and if the applicant is now proposing to have sixty-six trucks. Matthew Baker, Project Manager, Mars, answered yes.

Mr. Tierney asked if the truck circulation would continue where the trucks would enter and exit through the northern access. Ms. Abline answered the access will not change and will continue out of the north access.

Mr. Moore asked if there were any other questions by the Board for Ms. Abline. There being none, Mr. Moore opened the meeting to the public. There being no questions from the public, the meeting was closed to the public.

Mr. Rittie introduced Jack Zybura, Project Manager, Lewis S. Goodfriend & Associates. Mr. Zybura was reminded he was previously sworn in by Mr. Mennen.

Mr. Zybura referred to his report dated May 14, 2020 and stated the following acoustical evaluation was conducted:

- Trailer jockey movement (Note: Only one jockey will operate at a time)
- Trailer jockey hitching to trailer
- Trailer jockey raising trailer
- 33 trailer refrigeration units running simultaneously

Mr. Zybura stated the following recommendations are made:

- Silencing of the jockey backup alarm during nighttime hours (10:00 p.m. – 7:00 a.m.)
- Limit trailer refrigeration units to the eastern-most parking spaces
- Installation of the proposed 18-foot sound barrier composed of prefabricated modular panels

Mr. Lambo asked if the number of parking spots increased, does number of refrigerated trailers stay the same? Mr. Zybura answered yes. Mr. Lambo asked how many refrigeration units are running now? Mr. Baker answered there are 10 to 15 refrigerated units running now. Mr. Zybura stated the refrigerated units cycle on and off, almost like an air conditioning unit.

Mr. Moore asked if the project has received State DEP approval. Mr. Rittie answered that could be made a condition of approval by the Board.

Mr. Lambo asked if there are sound checks conducted now. Mr. Baker stated enforcement is complaint driven, however, Mars can do that on their own.

Mr. Sterbenz asked Mr. Zybura if with the proposed site improvements, coupled with operational controls, will that result in sound levels applicable to the New Jersey DEP sound restrictions? Mr. Zybura answered yes.

Mr. Moore asked the Board if there were any further questions, there being none, the meeting was opened to the public for questions or comments on the application at 8:01 p.m. There being none, the meeting was closed to the public.

Mr. Moore asked Mr. Rittie if that concluded the testimony from the applicant. Mr. Rittie answered yes.

Mr. Tierney asked if the refrigerated trailers will be parked closer to the wall. Mr. Baker answered yes.

Mr. Lambo asked how many phases will there be to the project, and when will it begin. Mr. Baker stated this plan may shift day to day, however, they are hoping to begin within six weeks of approval by taking down the buildings; grading; taking out the stormwater tanks; building up the grading for the parking lot; and the sound barrier wall to be built near the end.

Mr. Sterbenz asked if the DEP permits have been applied for? Ms. Abline answered they have been applied for, however, they need to be resubmitted after approval from the Board as a condition of DEP approval.

Mr. Sterbenz stated with regard to the sound barrier wall, since it is an integral part of the site plan, the sound barrier wall should be the first thing built. Ms. Abline answered the demolition could take place, and then the sound barrier wall could be built next. Mr. Baker agreed.

Mr. Lambo asked if the landscaping along High Street could be planted now. Mr. Baker answered depending on the plantings, they can be planted in the Summer or Fall. Mr. Baker stated what can be planted now will be done as soon as possible.

Mr. Sterbenz stated a report was issued on May 22, 2020 with regard to the sound barrier wall, and stated the following conditions should be addressed:

- Issuance of notice since the sound barrier wall exceeds the accessory height allowance in the Land Development Ordinance has been addressed;
- Submission of a photo simulation to the Board was suggested and subsequent to the February 25, 2020 meeting the applicant's engineer submitted a sight line plan and sight line profiles from various vantage points on the west side of High Street;
- The Board when reviewing the wall should discuss the color that is proposed for the walls;
- If the Board finds the proposed site improvements are satisfactory, there will be a need for changes by Suburban Consulting to the site plan to depict the following:
 - The 18-foot-high sound attenuation wall;
 - The eight (8) foot high chain link fence with privacy slats;
 - The elimination of the driveway between the truck and trailer parking area and the contractor's access driveway;
 - Any cap on the number of trailers with refrigeration units;
 - The specific truck and trailer stalls in the easterly portion of the parking lot where trailers with refrigeration units will be permitted to be parked including any associated signage.
 - The two evergreen buffer areas are now showing singular plantings and multiple plantings should be used;

The Board must condition any approval on the site plan being revised to indicate the above changes, including all details, to the satisfaction of the Board Engineer.

In addition to the above, Mr. Sterbenz stated the following must be conditioned any approvals by the Board:

- With regard to operational controls the applicant has testified the jockey back-up alarms will be off during the hours of 10:00 p.m. and 7:00 a.m.; refrigeration trailers will be restricted to the eastern most parking spaces;
- The Board must condition any approvals on compliance with the conditionals recommended in Section 6.0 of the February 18, 2020 Technical Report prepared by Maser Consulting PA;
- The Board must condition any approval on compliance with Recommendation 5 on Page 5 in the February 21, 2020 Planning Review report prepared by Daniel Bloch.

Mr. Lambo asked if the back-up alarms are used all day by the jockeys. Mr. Baker answered the Town Ordinance is between 10:00 p.m. and 7:00 a.m. and that is what they are proposing to use.

Mr. Bloch asked if there are different types of back up alarms that can be used. Mr. Zybura answered the modeling was done on a standard trailer jockey beeper-alarm. Mr. Baker added if quieter alarms can be found, they will be used.

Mr. Tierney asked what color the proposed sound barrier wall will be. Mr. Baker answered adobe is the choice.

Mr. Mennen stated the following relief is being sought:

- 18-foot structure – seeking variance;
- Storage – seeking variance;
- Seeking modification of timing of the previous approvals for demolition of existing wastewater management tanks. Mr. Rittie stated the proposal is to keep some tanks, however, they are looking that within five years the old tanks will be demolished;

Mr. Mennen stated the following design waivers are being sought:

- Parking lots – waiver for 508c6 – no striping necessary; 508c5 – regarding radius within parking lot to not lose parking spaces;
- Landscaping and planting within parking areas;

Mr. Mennen stated the following are being sought as a condition of approval:

- The number of refrigerated trailers running at the same time, or the limiting of the number of refrigerated trucks being capped at 33 trailers as per Mr. Zybura's model;
- Staging of site grading, sound barrier wall construction and landscaping;
- Back up alarms to be turned off during 10:00 p.m. and 7:00 a.m. Mr. Baker agreed at this time to 7:00 p.m. to 7:00 a.m. as that coincides with the shifts;
- Submission of an operational plan from Mars, Inc., showing the parking spots closest to the wall will be utilized first
- Any Conditions in Mr. Sterbenz report dated February 18, 2020

The motion to approve the Site Plan Application with Use Variances and Bulk Variances, including design waivers, was made by Tierney, seconded by Lambo.

In Favor: Sherman; Moore; Lambo; Wolfrum; Becker; Tierney

Oppose: None

Abstain: None

Mr. Camporini returned to the meeting to Chair.

Mr. Stead returned to the meeting.

Ms. Walling returned to the meeting.

INFORMAL DISCUSSION

Paftinos, Preliminary/Major Site Plan, Bilby Road

Peter Paftinos stated the site which was approved has two recreation/community buildings proposed on the plan, and he is now looking to consolidate the two community buildings to one two-story building. The area proposed for the other building will be vacated and become a lawn area.

Mr. Sterbenz asked the Board if they would like Mr. Paftinos to come back to the Board, or if they wanted Mr. Sterbenz to handle the changed administratively. Mr. Mennen stated the Board could delegate to the Board Engineer, or they could have Mr. Paftinos come back before the Board with an informal presentation.

The Board requested Mr. Paftinos come before the Board with an informal presentation in July 2020. It was also requested Mr. Paftinos supply 11" x 17" copies of the presentation for the members, as well as a pdf file for the Board Clerk to place on the website.

COMPLETENESS

DeTombeur, App #20-06, Block 71, Lot 12 – Variance

Mr. Sterbenz stated there are three areas of deficiency of completeness review for the application, which should be addressed:

- Certificate of Paid Taxes through May 1, 2020 was not submitted.
- A sixty (60) year title search was not submitted.
- A copy of the Jaman Engineering Associates boundary survey was not furnished

The motion to deem the application incomplete was made by Lambo, seconded by Moore.

In Favor: Sherman; Tierney; Walling; Becker; Wolfrum; Camporini; Stead; Lambo; Moore

Oppose: None

Abstain: None

INFORMAL PRESENTATION

Victoria Mews, Block 21, Lot 18.02

Erin Abline, Suburban Consulting, Present for Application

Ms. Abline stated the property owner would like to start with the remediation phase and the earth moving phase of the project on the area west of the existing Bergen Street. The earth moving phase would consist of creating the temporary sediment basin, mass excavation, and tree removal, and they would like to start this project in July. Ms. Abline stated phase II would be the realignment of Bergen Street, and phase III would be the realignment to the south of Bergen Street, construction of the town homes, recreation improvements, and the townhomes north of Bergen Street.

Mr. Sterbenz stated this the second phase of the redevelopment approved by the Board in July 2016 and memorialized in February 2017. Mr. Sterbenz stated the applicant has been working on the conditions of approval in the resolution, which were extensive, and the resolution specifically states, 'all conditions must

be met prior to construction'. Mr. Sterbenz added the Board has allowed small developments to start at their own risk, such as the CVS and the teardown of the mall without DOT approval. Mr. Sterbenz further stated the applicant must come back to the Board to amend the conditions.

Mr. Mennen agreed, and with CVS specifically there were safeguards put in place by the Board where construction was limited, and if needed the applicant could come back with an informal plan of exactly what they wanted to do. Mr. Mennen added this is not new to the Board, and precedent was set where protection was put in place for the Board.

Mr. Lambo stated in the resolution, one of the conditions was parking and the developer would supply an agreement with CVS that the parking would be shared. Mr. Lambo added without that agreement, there is not enough parking for phase III, and then the applicant disappeared for four years.

Ms. Abline answered they know there are conditions that are to be met, however, this would be for the mass excavation, no sanitary components, no construction of structures. Ms. Abline added this phase is specifically for the environmental remediation, tree removal, and mass excavation.

Mr. Tierney asked if vegetative buffers would be added at this time. Ms. Abline answered that is not the plan at this time.

Mr. Sterbenz added earth removal will need a plan for ingress and egress. Ms. Abline answered the soils will stay on site as elevations need to be raised.

Mr. Jeff Weinflash, Developer, stated the CVS parking has been resolved and the status will be confirmed; that the environmental issues on the site have been 100% remediated and the historic fill needs to be capped, which is regulated by DEP. Mr. Weinflash added the big issue is the clearing of the trees on the rear of the site.

Mr. Sterbenz stated he would work with the applicant if the Board chooses and will be available to guide them accordingly.

The Board asked for the Applicant to come back with an informal presentation.

PUBLIC HEARING

NORWESCAP Head Start, App#20-05, Block 77, Lot 2 – Minor Site Plan

James Swick, Attorney, McNally, et al., Present for Application

Becky Brooking, NORWESCAP, Director of Head Start & Early Head Start, present for application.

Nevitt Duvenick, Engineer, present for application.

Ms. Brooking was sworn in by Mr. Mennen.

Ms. Brooking was asked by Mr. Swick to give a background of the business. Ms. Brooking stated 226 Main Street has been leased by NORWESCAP for ten years, and they are in their second year. The property is used as a childcare center consisting of two Early Head Start Classes ages 0 -3 with a total of eight children, and a Head Start class ages 3 -5 with a total of seventeen children. The childcare center is open Monday thru Friday, with the children in attendance from 8:00 thru 3:00 p.m., and the staff are there until

approximately 3:30 p.m. Ms. Brooking the proposal is to pave the back area of the lot to be used as a playground, which would be completely fenced in.

Mr. Camporini asked if there were any questions from the Board Members. Mr. Sherman asked what area is being proposed to be converted?

Mr. Duvenick was sworn in by Mr. Mennen and was accepted as an expert witness in the field of engineering by the Board.

Mr. Duvenick answered it is a 5186 square foot area, which is currently grass and dirt which is connected to existing pavement.

Mr. Camporini asked if there were any concerns related to impervious coverage. Mr. Duvenick answered he met with Mr. Sterbenz on the site, and the infiltration system is to the standards of the municipality, there will be a drywell on site for this purpose.

Mr. Sterbenz stated the property is located in the TCC District, and this is a permitted use in the District, therefore no variance is required. During the previous application, which was a lot line adjustment, the Board made it clear this area was not to be paved unless the property owner came back to the Board for site plan approval.

Mr. Sterbenz added coverage is liberal in this Zone, and referred to his Technical Review memo dated April 22, 2020, and stated clarification should be given as to what part of the paved area is going to be fenced, and it should be shown on the site plan.

Mr. Lambo asked if safety barriers will be added for protection of the children. Ms. Brooking answered they are licensed by the State and the site will be approved by the State as well, and safety measures are being put in place based on their guidelines.

Mr. Sterbenz asked if the area being fenced in is 30' x 30', or will it be the whole area. Ms. Brooking answered larger than 30' x 30', however they are not sure exactly how much larger, and they will be working with Mr. Duvenick on this item.

Chairman Camporini opened the meeting to the public.

Monty Smith, 432 Washington Street, Hackettstown stated his property backs up to the area, and they are concerned about the impact to their property such as toys being thrown over the fence, people coming on their property to retrieve said toys, and the liability that puts on them as adjoining property owners.

Ms. Brooking answered the area will be fenced in, and there will be three groups of children out at for thirty-minute increments, which makes for 1 – ½ hours per day. During the off time, the playground will be locked, and the toys put in storage.

Mr. Smith asked how high the proposed fence is, and how close it would be to his property as his concern is the toys being thrown over the fence and people going on his property. Mr. Lambo asked if there is the proposed play area fence, and then the adjoining property owners' fence. Ms. Brooking stated the proposed fence is approximately 48" however, they are not opposed to a higher fence. Mr. Smith answered that

would be better. Mr. Camporini asked Ms. Brooking if they were open to a 6' fence, and Ms. Brooking answered she was comfortable with that height.

Mr. Bloch stated the aerial photographs show a gravel driveway with a gate, and if this was access to the site. Mr. Sterbenz stated this driveway would be eliminated, which would not allow for access through to the Hometown Hardware property.

Mr. Bloch asked if there were any easements on the property. Mr. Duvenick answered when the research was done on the property, no easements were found.

Mr. Camporini asked if there were any further questions from the public. There being none, the meeting was closed to the public.

Mr. Camporini asked if there were any further questions or comments from the Board, and there were none.

Mr. Mennen addressed the Board and stated the application is a Site Plan Application to build a paved area for playground facilities for a childcare center, with a portion to be fenced in, however, the whole area would not be fenced in. The Applicant has agreed, in response to concern conveyed by a neighboring property owner, to increase the height of the proposed fence from 4' to 6', and if the Board so chooses, delegation to be given to Mr. Sterbenz to approve the final placement of the fence.

The motion to approve the site plan application was made by Mr. Tierney, seconded by Mr. Lambo.

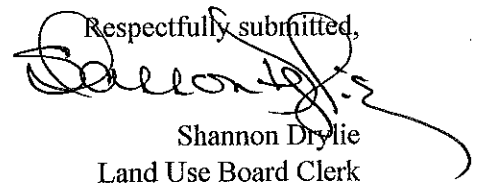
In Favor: Sherman; Moore; Lambo; Walling; Becker; Wolfrum; Camporini; Stead; Tierney

Oppose: None

Abstain: None

ADJOURNMENT

There being no further business, the June 23, 2020 Town of Hackettstown Land Use Board Meeting was adjourned at 9:43 p.m. by a motion from Moore, seconded by Walling. All members present in favor of adjournment.

Respectfully submitted,

Shannon Drylie
Land Use Board Clerk

Motion to approve: Lambo

Second: Moore

In Favor: Sherman; Walling; Becker; Wolfrum; Moore; Tierney; Lambo; Camporini; Stead; Stout

Abstain: None

Oppose: None