**TOWN OF HACKETTSTOWN**

**LAND USE BOARD REGULARLY SCHEDULED MEETING**

**February 25, 2020**

**MINUTES**

**CALL TO ORDER**

The February 25, 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**

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

**Board Members Absent**

Tierney; Bristow (7:35 p.m.)

**Also Present**

Sterbenz; Mennen

**MINUTES**

January 28, 2020 Reorganization Meeting

The motion to approve the Minutes of the January 28, 2020 Reorganization Meeting of the Town of Hackettstown Land Use Board was made by Lambo, with the second being Stout.

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

**Opposed:** None

**Abstain:** None

**RESOLUTIONS**

**Burke, App. #19-14, Block 88, Lot 8 – Section 68 Certification**

Motion to approve the Resolution memorializing the Boards findings that the multi-family use predated the zoning change, made by Moore, with the second being Stout.

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

**Opposed:** None

**Abstain:** None

**Beck, App#19-17, Block 61, Lot 8 – Section 68 Certification**

Resolution tabled until clarification made.

**PUBLIC HEARING**

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

**Jason Rittie, Attorney, Einhorn Barbarito Attorneys at Law, present for applicant and sworn in by Mr. Mennen.**

Mr. Rittie gave a synopsis of the application, stating the original approval for the new wastewater treatment facility at Mars was originally approved November 18, 2014. On June 19, 2018, the Board adopted a resolution to extend the deadline for completing the demolition of the former plant.

Mr. Rittie introduced John Mercurio, Outbound Coordinator, Mars Incorporated and Matt Baker, Project Engineer for capital projects.

Mr. Mercurio testified goods are received at the site on 53’ long trailers. Mr. Mercurio referred to Exhibit A-1 Truck Circulation Exhibit dated February 25, 2020. Mr. Mercurio stated the following: Currently, the trailers are being stored at Rogers Rentals; approximately 50% of the trailers are climate controlled 24 hours per day, seven days per week; the northwest entrance is utilized for truck ingress/egress. The south gate is the contractor entrance only; yard jockeys are used to pull the trailers to the loading dock and receiving areas.

Mr. Lambo asked if there are excess trucks on Route 46 currently? Mr. Rittie answered yes, at Rogers Rentals. The trucks come down Route 46 and turn onto Route 517 currently. Mr. Lambo asked if there was going to be a change in the rotation of the trucks? Mr. Mercurio answered no.

Mr. Sterbenz asked if to the left side of the peanut roaster there are a lot of trailers parking outside, with refrigeration units, if the plan would eliminate this parking area? Mr. Rittie answered yes.

Mr. Moore asked if the back-up alarms could be turned off, if this is allowed. Mr. Rittie answered yes. Mr. Rittie added the trailers will be stored in the new area, and these containers could contain finished product or raw materials, and could be there up to a week. Mr. Rittie also stated if the containers are empty or contain materials for packaging, etc., they could be there for a month.

Mr. Moore opened the meeting to the public for questions on the testimony provided.

Mr. Johnathon Mendez, 100 Oak Street, Hackettstown, asked if the refrigerated units are loud. Mr. Rittie answered they turn on like a residential a/c and produce noise, there is an acoustical study that will be addressed later.

Mr. Mennen asked for clarification on the following for purposes of preparing a resolution if needed. Mr. Mennen stated it was indicated that there will be trailers stored in the new parking area as proposed which some could contain finished product, and some raw materials, and based on this, the trailers could be there for a week or so, is that correct? Mr. Mercurio answered yes, or up to a few weeks. Mr. Mennen asked if non sensitive materials could be there for a few months. Mr. Mercurio said the trailers without the refrigeration units could be there for a few months, or empty trailers.

Mr. Mennen asked if the units click on and off, and if they are as loud, or louder, than a residential unit. Mr. Baker answered the unit is powered by a diesel engine, and therefore it is louder than a residential unit.

Mr. Moore closed the meeting to the public as there was no further questions.

Mr. Rittie introduced Erin Abline, 96 Route 206, Flanders, New Jersey, of Suburban Consulting Engineers. Ms. Abline was sworn in by Mr. Mennen and accepted as an expert witness by the Board.

Ms. Abline referred to the Site Plans submitted to the Board. Referencing Sheet 5, Site Layout, Ms. Abline stated the following: the proposal is for a asphalt parking lot with 63 parking spaces, with 50 spaces for the initial phase, and 13 for the future; the existing western most driveway stays as an ingress; one-way circulation remains; there is a proposed 7 foot retaining wall on the east side.

Ms. Abline referred to Sheet 6, Grading Plan, and stated the following: there is 6,700 square feet reduction in impervious coverage. However, there is a net increase of impervious cover for the entire treatment plant project of 61,000 square feet.

Ms. Abline referred to Sheet 8, Site Lighting, and stated the lighting on the site will be improved, however there will be no impact on adjacent properties.

Ms. Abline added there will be vegetative buffering added to the site, as well as an 18-foot sound wall.

Ms. Abline referred to Mr. Sterbenz report dated February 18, 2020. Ms. Abline stated the applicant agrees with most of Mr. Sterbenz’s comments. Ms. Abline stated with regard to Section 3.02 the applicant will work with the engineer to come up with something to his satisfaction.

Ms. Abline referred to Section 4.04 of Mr. Sterbenz’s report stating they are seeking a design waiver regarding the landscaping within the trailer parking area.

Ms. Abline referred to new Exhibit A-2, Landscape Buffering, stating in the summer nothing will be seen, however in the winter the 18-foot sound wall would be visual. Ms. Abline stated they will work with the engineer.

Mr. Sterbenz asked if since the location of the sound wall is in the flood plain, does the applicant have the DEP permits? Ms. Abline stated they are waiting for the Board’s decision before applying to the DEP.

Mr. Moore opened the meeting to the public for questions on Ms. Abline’s testimony.

Bob Stead, High Street, Hackettstown. Mr. Stead asked if the yard jockeys are currently stored in the back of the facility. Mr. Rittie answered yes. Mr. Stead asked for the elevations of the site. Ms. Abline answered the elevation at High Street and Oak Street is 576; High Street and Seventh Street is 577.5 and the elevation at the sound wall is 567.

Mr. Mennen asked if the applicant is proposing the tanks remain for up to 5 years due to environmental issues. Mr. Rittie stated the plant is now producing seven days per week, and the new wastewater treatment facility has a deficiency in its operations due partly because it is new.

Mr. Moore opened the meeting to the public for questions on Ms. Abline’s testimony. There being none, the meeting was closed to the public.

Mr. Rittie introduced Jack Zybura, Acoustical Engineer, Lewis S. Goodfriend & Associates, 415 Route 24, Chester, New Jersey. Mr. Zybura was accepted as an expert witness in Acoustical Engineering by the Board. Mr. Mennen swore in Mr. Zybura.

Mr. Zybura referred to his report dated 21 February 2020. Mr. Mennen had Mr. Zybura mark his report and have it entered into the record as Exhibit A-3. Mr. Zybura stated he conducted an acoustical evaluation of the proposed trailer parking lot at the Mars facility by setting up a 24-hour monitor to measure the baseline sound. Mr. Zybura testified the NJDEP noise regulation limits sound levels produced by a commercial or industrial facility, when measured at a residential property line, to 65 decibels during the daytime, and 50 decibels during the nighttime. Mr. Zybura testified the measurements had an average hourly sound level of 49 to 65 on the west side of the site.

Mr. Zybura also performed close proximity sound level measurements of the trailer jockey operations. Mr. Zybura testified the daytime operations complied with daytime limits of the noise regulations; however, additional noise control measures would be necessary in order to comply with the nighttime limits of the noise regulation. The following recommendations were made:

* Silence the jockey backup alarm during nighttime hours.
* Limit refrigeration unit use to the 20 eastern most spots.
* Install an 18-foot-tall sound barrier along the western edge of the proposed lot. The barrier should start from the southern most edge of the proposed lot and extend north for approximately 200 feet.

Mr. Mennen asked Mr. Zybura if there was an OSHA requirement that would hold precedent over these proceedings. Mr. Zybura answered not that he was aware of.

Mr. Sterbenz referred to Mr. Zybura’s report and asked where the location of the parking is for the refrigerated units. Mr. Zybura answered the eastern most spots of the proposed parking lot.

Mr. Sterbenz stated his recommendation for the sound barrier wall would be to run paralleled to the stream corridor, and then turn ninety degrees. Mr. Zybura answered they would look into the recommendation.

Mr. Moore asked if the public had any questions of Mr. Zybura, there being none, the meeting was closed to the public.

Mr. Rittie introduced Joseph Vuich, P.P., P.E., Suburban Consultants, 96 Route 206, Flanders. Mr. Rittie stated Mr. Vuich will be testifying as a professional planner. Mr. Vuich was accepted as an expert witness by the Board and was sworn in by Mr. Mennen.

Mr. Vuich testified the applicant has applied for a D-Use Variance, with regard to the wastewater treatment facility use, which was a prior approval. The applicant is seeking to extend the timeframe of the demolition of the old treatment tanks.

Mr. Vuich testified the detrimental impacts are mostly visual. Mr. Vuich testified the impacts to the public would be noise, odor, etc. The noise is negligible as per the testimony given by the Acoustical Engineer; odors are negligible, as they are going to be present at times, and these are the facility odors, not sewage; the lighting for the old tanks will be decommissioned with the tanks.

Mr. Vuich testified the operations managers are confident the demolition of the existing tanks can be done in a five-year time frame.

Mr. Lambo stated the original approval was not for a parking lot, it was for the wastewater treatment facility. Mr. Vuich answered the wastewater treatment facility was a prohibited use. The applicant is now seeking relief for the parking area.

Mr. Vuich testified the following sections in favor of the application as according to the M.L.U.L.:

* Section A – encourage the location limits of footprints of development.
* Section H – encourage location for free flow traffic, on site circular motion.
* Section I – promote desirable visually impacted environment – location is already screened by vegetation and are now including added buffering.
* Section K – encourage planned unit development – the comingling of principal permitted use and ancillary use of the parking areas, which allows for the design of efficiency for the parking areas.
* Section M – encourage coordination of comingling uses – maintaining stormwater and wastewater treatment facilities.

Mr. Vuich testified with regard to the wall, which is an accessory structure over 15 feet, the wall being proposed is an 18 foot sound barrier wall, with a gap at the bottom for drainage purposes, which is specifically being built to address the noise issues and reduce the noise volume to meet the 50 decibel night time limit.

Mr. Lambo asked if a C-Variance is needed for the loading area. Mr. Vuich answered the intent of a loading area and unloading area is a gray area in the Town Code.

Mr. Sterbenz stated his recommendation is for the applicant to come back to the Board with photos of the site with the proposed wall and vegetation coverage from the High Street perspective. Mr. Rittie stated there are factors as to what the DEP, Highlands, etc., will allow. Mr. Rittie asked if the Board would allow the approval to be subject to what the DEP would allow and then come back with their approval.

Mr. Sterbenz and Mr. Mennen both recommended the applicant come back to the Board with pictures of the proposed wall, materials, etc., as well as supplemental notice to the Public regarding the wall and the loading area for the March 24, 2020 Meeting. All members in favor of recommendation.

**CORRESPONDENCE**

There was not correspondence for review.

**NEW BUSINESS**

**ADJOURNMENT**

There being no further business, the February 25, 2020 was adjourned by a motion from Mr. Moore, seconded by Mr. Stout at 9:27 p.m.

Respectfully submitted,

Shannon Drylie

Land Use Board Clerk

Motion to approve: **Bristow**

Second: **Stead**

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

Abstain: **Tierney**

Oppose: **None**