

**TOWN OF HACKETTSTOWN
REGULARLY SCHEDULED MEETING**

August 25, 2020

Held Via Zoom Meetings

MINUTES

CALL TO ORDER

The August 25, 2020 Town of Hackettstown Land Use Board Meeting, held via Zoom Meetings, was called to order by Chairman Camporini at 7:00 p.m.

ANNOUNCEMENT OF PROPER NOTICE

FLAG SALUTE

ATTENDANCE

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

Absent: Bristow

Also Present: Mennen; Sterbenz

The Chairman advised the Board, Professionals and Public that the Livestock Auction Market was not being heard at this meeting. However, if submissions are made in a timely manner, the application would be on the Agenda for the September 22, 2020 Meeting. The Chairman directed the public to watch the Town website for further information, or to contact the Board Clerk.

MINUTES

July 28, 2020 Land Use Board Meeting

The motion to approve the July 28, 2020 Land Use Board Meeting Minutes made by Stead, seconded by Lambo.

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

Oppose: None

Abstain: None

RESOLUTIONS

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

The motion to approve the resolution granting the variance relief was made by Wolfrum, seconded by Moore.

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

Oppose: None

Abstain: None

PUBLIC HEARING

Living Trust of Todd Simonse and M. Kelly Lemon, App #20-07, Block 73, Lot 6 -Section 68 Certification

Kelly Lemon and Todd Simonse, Applicants, were sworn in by Mr. Mennen.

Ms. Lemon stated the property was purchased in September 1991, and at the time the property was listed as a two-family structure. Richard Harrison, Zoning Official/Construction Official for the Town submitted a letter stating the structure was registered as a two-family at that time. Ms. Lemon added the following has been submitted with the application:

- Letter from Mr. Harrison, Zoning Official/Construction Official from 1991 stating the property is registered as a two-family structure;
- Tax Assessor documentation stating the property is a two-family structure;
- Certification from the Landlord Registration Department regarding the two-family structure

Mr. Lambo asked if there was any information submitted that dates back to the 1970s. Mr. Stead stated the Board requires the applicant to establish the use of the residences since the ordinance change in 1965. Mr. Mennen advised that there are various ways of demonstrating the use of the residence, such as the applicant providing correspondence from the Zoning Official at the time, who opined that the residence was grandfathered as a two family home.

Chairman Camporini opened the meeting to the public at 7:21 p.m.

Scott Guidera, 122 Valentine Street, Hackettstown, asked if the future tenants were going to be subsidized. Ms. Lemon answered no.

There being no further comment, the meeting was closed to the public.

The motion to grant the Section 68 Application, certifying the pre-existing non-conforming two-family residence made by Tierney, seconded by Stead.

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

Oppose: None

Abstain: None

Victoria Mews/Jade, Block 21, Lot 18.01 – Amendment to Resolution of Approval Site Plan/Subdivision

Chairman Camporini and Mr. Tierney stepped down for this application.

Vice Chairman Stead presided over the meeting.

Michael Selvaggi, Attorney, Lavery, Selvaggi, Abromitis & Cohen, present for application.

Mr. Mennen stated the application is to amend the preliminary and final major site plan approvals granted in 2016, and memorialized in the February 28, 2017 resolution, specifically Condition kk which requires all outside approvals be received and other conditions of approval be satisfied prior to commencement of construction. Mr. Selvaggi stated the application is for earthwork only, and no formal construction shall commence until all approvals are secured and conditions are satisfied.

Mr. Sterbenz stated there are a number of conditions not addressed:

- Site plan must be revised to show ingress/egress.

- Drainage
- Outside Agency approvals.
- Developers Agreement

Mr. Selvaggi asked for Jeff Weinflash, to be sworn in by Mr. Mennen. Mr. Weinflash was sworn in and stated he has worked for the entity that owns the property for the past seven years. Mr. Weinflash testified to the following:

- The applicant is seeking relief at this time to get started on the site work, specifically the earthwork. The point of the application is to start the dirt moving operation before the site improvements.
- An LSRP is overseeing the environmental site remediation.
- The time frame for the earthwork is unknown, as it will depend on the weather

Mr. Selvaggi asked for Pete Chandler, Professional Engineer, Suburban Consultants, to be sworn in and accepted as an expert witness. Mr. Mennen swore in Mr. Chandler, and the Board accepted him as an expert in the field of engineering.

Mr. Chandler referred to Exhibit A-1, *Overall Landscaping Plan*, Sheet 17 of 43 and stated the following:

- Material is being removed from the infiltration basin and moved towards Main Street.
- There will be no material brought in to the site.
- A sediment basin is to be constructed, and landscaping planted around the basin.
- The soils will be mounded in a gradual rise along the existing Bergen Street.
- All disturbed areas will be stabilized

Mr. Selvaggi referred to Mr. Sterbenz Technical Report 2, dated August 21, 2020 and stated the following:

- Item #1 - Applicant is only seeking approval of Tasks 1 thru 5 of the Construction Sequencing Schedule on Sheet 3 of 11 of the plans, which include Installation of soil sediment control measures; clearing the site; stripping stockpiled soil; relocation on site of material from the rear north side, to the south side; installation of pipe in the sediment control basin, which is currently under soil, to be raised and extended
- Item #2 – No objection.
- Item #3 – No objection.
- Item #4 a thru 4d – no objection
- Item #5a - The applicant has been unable to confer with their landscape professional. They are requesting to be able to do that, and then work with the Board Engineer.
- Item #5b – The approved plans show a land strip between the landscaping and the homes. This strip is comprised of a drainage swale which is a portion of the stormwater management design, which has not been addressed. In the interim, the applicant is requesting to move the landscaping to the north to get the most efficient buffering between the site and the homes.
- Item #6 – No objection.
- Item #7 – No objection.
- Item #8 – An application had been submitted to Warren County Soil Conservation, and the preliminary comments from WCSC are being addressed now. The plan will be resubmitted within the next few weeks.

- Item #9 – No objection
- Item #10 - The applicant is requesting two one-year extensions. The approval protections expired on February 28, 2019; therefore the two one-year extensions will bring the date for the approval protection to February 28, 2021, leaving one more one-year extension.
- Item #11 a thru k – The applicant has no objections

Vice Chairman Stead asked if there were any questions from the Board.

Mr. Lambo asked about the DOT Approval. Mr. Weinflash indicated that the latest information from the Traffic Engineer is there will likely not be a need for an approval, as they would be able to use the existing CVS permit, due to the changes in the proposed retail uses.

Mr. Sherman asked who maintains the soils. Mr. Chandler responded the Warren County Soil Conservation District will inspect and will report. Mr. Sterbenz added the site is private property, therefore the owner will have to maintain the property.

Mr. Lambo asked why approval is being sought now for the amendment when the plan of what is being built may be changed. Mr. Weinflash answered the amendment is for the earthwork, which would need to be done either way. The owners have no interest in spending thousands of dollars on earthwork and then stopping.

Vice Chairman Stead asked if there were any further questions from the Board Members. There being none, Vice Chairman Stead opened the meeting to the public.

Chris Morpeth, 148 East Prospect Street, Hackettstown asked if the residents would be contacted with regard to the hours of operation. Mr. Selvaggi answered those details would be in the Developers Agreement. Mr. Morpeth asked about dust control from the site. Mr. Chandler answered the soil erosion plan would be overseen by Soil Conservation. Mr. Sterbenz added the LSRP would be involved as well and would address this issue during the site work.

Mr. Morpeth asked about construction vehicles entering and exiting the site. Mr. Sterbenz stated the applicant agreed that construction traffic shall only enter the site by the Stiger Street entrance, via Route 46. Mr. Morpeth asked about the temporary fencing, and the maintenance of the fencing. Mr. Sterbenz stated this will be addressed at a preconstruction meeting, and the public will be invited.

Michelle Morpeth, 148 East Prospect Street, Hackettstown, asked about the fifty to sixty-year-old trees on the site, and if they will be removed. Mr. Chandler responded a detailed layout has been provided, and the vegetation will be stripped from the site, and the soil removed from the area, and covered to protect the soil from erosion as it is being relocated on the site. Ms. Morpeth asked about the replacement landscaping. Mr. Chandler referred to the landscaping plan that was submitted, and that the trees being planted will mature over time. Ms. Morpeth asked about the detention basin and if it would bring in mosquitoes. Mr. Chandler answered no, as the detention basin will completely drain. Ms. Morpeth asked about the timing of the project. Mr. Chandler answered the intention is to get the approval, and begin construction before the winter sets in. Ms. Morpeth asked what happens if it does not get finished by the winter. Mr. Chandler responded the site has been designed with a soil erosion plan.

Tammy Buschgans, 132 East Prospect Street, Hackettstown asked how close to the property lines will the trees be placed. Mr. Chandler responded the proposed vegetation will be within ten feet of the property line to maximize the buffering effect. Ms. Buschgans asked if there would be a fence, or if the landscaping will it be put up against her fence. Mr. Chandler responded there is a proposed fence. Ms. Buschgans asked to be notified when the work is to be completed.

Darrin Matusiewicz, owner, 93 Stiger Street, asked how the Board is allowing the developer to use Stiger Street as an access? Mr. Matusiewicz stated he would hope the Board would require the applicants to use Bergen Street. Mr. Chandler stated the applicant has proposed getting the machinery on the site and keeping it on the site. The heavy machinery will enter and exit the site one time only. Mr. Matusiewicz stated when the CVS was built, the same thing was requested, and the residents were at risk for a year, to a year in a half, for flooding. Mr. Selvaggi answered none of the outside agency approvals will change the detention basin. Mr. Selvaggi stated it will not exacerbate the issues on the site. Mr. Chandler stated the basin proposed is to filter the stormwater before it is discharged, and it is not going to perc into the ground. Mr. Chandler stated the basin will drain to the main conduit.

Mr. Lambo asked if the logs and trees will be removed from the site, or will they be chipped. Mr. Chandler did not have the answer to how they will be removed.

Mr. Selvaggi asked Mr. Weinflash if he had a preference to the ingress and egress. Mr. Weinflash answered it makes more sense to access through an intersection with traffic lights, however, they have no issue to what the Board requires.

Vice Chairman Stead closed the meeting to the public.

Mr. Sterbenz referred to the his August 21, 2020 letter that the Applicant had agreed to address. Mr. Sterbenz suggested he speak with the Police Department regarding the ingress and egress.

Mr. Mennen indicated the Board would need to make a motion to approve the application requesting to modify the condition of approval for the purpose that would only make that modification to the existing resolution, subject to the following, which was agreed upon by the applicant:

- Recommendations in Mr. Sterbenz's letter dated August 21, 2020.
- The addition of the name changes on Sheet 3 of 11, and other sheets, corrected to indicate Phases 2A, 2B, 2C and 2D of the plan;
- The addition of the ingress and egress of construction vehicles after consultation with the police.
- Landscaping and buffering

Motion to approve made by Moore, seconded by Walling.

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

Opposed: Lambo

Abstain: None

The meeting was turned by over to Chairman Camporini.

PUBLIC COMMENT

Mr. Camporini asked if anyone had any comments. Mr. Lambo stated he disagreed with the Board's decision based on the testimony provided and hopes that three years from now they will not be looking at a partially cleared site.

Mr. Moore asked if Czigmeister had all their approvals, as it seems all parking has been replaced by tables in the parking lot. Mr. Moore added he is not sure if the changes are due to the pandemic. Mr. Sterbenz stated all items in the Resolution have been addressed, and anything done over there would have been done through the Zoning Official. Mr. Sherman added all restaurants were to apply to Mr. Diehl as per Executive Order, and the Warren County Health Department, specially relating to outdoor dining.

Michelle Morpath indicated during the CVS construction, a lot of the resident's concerns were not addressed, and hope the Board and Town will address any issues they may have.

Darren Matuszewicz stated he agreed with Mr. Lambo and feels the Board was a disservice to the residents tonight.

ADJOURNMENT

Motion to adjourn made by Stead, seconded by Moore. All members present in favor of adjournment.

These minutes were approved as written by a motion from Lambo, seconded by Stout, at the September 22, 2020 Town of Hackettstown Land Use Board Meeting.

Respectfully submitted,

Shannon Drylie
Land Use Board Clerk

Motion to Approve: Lambo

Second: Stout

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

Opposed: None

Abstain: None