

INDEPENDENCE TOWNSHIP LAND USE BOARD

MINUTES

March 20, 2023 7:30 p.m.

The Independence Township Land Use Board met for a regular meeting on Monday, March 20, 2023 at the Municipal Building. Chairman Fernandez called the meeting to order at 7:30 pm and he stated that the meeting is being held in accordance to the Open Public Meetings Act by posting said notice of this meeting on the bulletin board in the Municipal Building and notifying the Municipal Clerk.. Advertisement of notice was placed in the NJ Herald and the Express-Times NJ Zone Edition.

ROLL CALL:

Present:	Robert Neumann	Lucy Carvino
	Donald Engles	Mark Rafalko
	Glenn Cougle	Carmen Feula
	Jonathan Stuber	Ricardo Fernandez
	Geoffrey Cullen	

Absent:	Melissa Milano, Bonnie Kelsey, Jim Kelsey
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Also Present:	Eric Bernstein, Esq.	Michael Finelli, P.E.
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OPEN TO THE PUBLIC:

Chairman Fernandez opened the meeting to the public, for non agenda items. With there being no public comment, the meeting was closed to the public.

Mr. Neumann made a motion to close the meeting to the public. Motion seconded by Mr. Cougle. Voice vote:

Ayes:	Mr. Neumann, Mrs. Carvino, Mr. Engels, Mr. Rafalko, Mr. Cougle, Mr. Cullen, Mr. Stuber, Mr. Feula, Chairman Fernandez
Nays:	None recorded
Abstain:	None recorded

MINUTES - Reorganization Meeting: January 9, 2023

Chairman Fernandez asked if there were any corrections to the minutes from January 9, 2023.

Mr. Cullen stated that he is the one who made the motion for Mr. Fernandez to be Chair.

Mr. Feula made a motion to approve the minutes from the January 9, 2023 meeting with the requested corrections from Mr. Cullen, which was seconded by

Ayes:	Mr. Neumann, Mrs. Carvino, Mr. Engels, Mr. Rafalko, Mr. Cougle, Mr. Cullen, Mr. Stuber, Mr. Feula, Chairman Fernandez
Nays:	None recorded
Abstain:	None recorded

OPEN TO THE PUBLIC: For matters not on the agenda.

Chairman Fernandez opened the meeting to the public, for non-agenda items. With there being no public comment, the meeting was closed to the public.

Mr. Cogle made a motion to close the public portion of the meeting, which was seconded by Mr. Feula.

Ayes: Mr. Neumann, Mrs. Carvino, Mr. Engels, Mr. Rafalko, Mr. Cogle, Mr. Cullen,
Mr. Stuber, Mr. Feula, Chairman Fernandez
Nays: None recorded
Abstain: None recorded

OTHER BUSINESS:

Land Use Committee- Woodmont Landscaping- Deferred

Land Use Committee-Highlands/Affordable Housing- Deferred

Checklist Discussion- Deferred

Chairman Fernandez stated that these items will be deferred until Mr. Banish is in attendance at the meeting.

RESOLUTIONS:

2022-04

HMUA Water Storage Tank

Mr. Zaiter presented the following exhibits to the Board during the hearing on this matter:

A-1, Preliminary and Final Site Plan Application, consisting of Sheets G001 through G003; C101 through C107; C501 through C505; M101 through M102; and, S101, S201 and S301, prepared by Michael L. Altland, P.E., Mott McDonald, last revised on January 13, 2022;

A-2, Existing Conditions Survey, consisting of five (5) sheets, prepared by William A. DiBartolo, Jr., P.L.S., dated November 11, 2022;

A-3, Custom Soil Resource Report, Warren County, New Jersey, prepared by United States Department of Agriculture Natural Resources Conservation Service, dated December 14, 2020 (also an attachment to A-14);

A-4, Plan of Easement, consisting of one (1) sheet, prepared by William A. DiBartolo, Jr., P.L.S., dated January 5, 2023, plus a three (3) page description;

A-5, Custom Soil Resource Report, Warren County, New Jersey, prepared by United States Department of Agriculture Natural Resources Conservation Service, dated December 14, 2020 (also an attachment to A-14);

A-6, Initial Completeness Memorandum prepared by Michael S. Finelli, P.E., P.P., C.M.E., of Finelli Consulting Engineers, Inc., the Board's Professional Engineer, dated December 16, 2022, consisting of three (3) pages;

A-7, Correspondence from David Klemm, P.E., B.C.E.E., Mott McDonald, dated January 17, 2023, consisting of three (3) pages;

A-8, Second Completeness and Initial Technical Review by Michael S. Finelli, P.E., P.P., C.M.E., of Finelli Consulting Engineers, Inc., the Board's Professional Engineer, dated February 8, 2023, consisting of four (4) pages;

A-9, Correspondence from David Klemm, P.E., B.C.E.E., Mott McDonald, dated February 27, 2023, consisting of five (5) pages;

A-10, Correspondence from Michael S. Finelli, P.E., P.P., C.M.E., the Board's Professional Engineer, Second Technical Review, dated March 15, 2023, consisting of five (5) pages;

A-11, Correspondence from Lisa J. Plevin, Executive Director, Highlands Water Protection and Planning Council, re Determination of Consistency, dated January 21, 2022, consisting of three (3) pages;

A-12, Correspondence from Patrick Ryan, Environmental Supervisor, Bureau of Freshwater Wetlands and Highlands Permitting, Division of Land Resource Protection, New Jersey Department of Environmental Protection, to Kathleen Corcoran, Director, Hackettstown Municipal Utilities Authority, dated March 9, 2022, consisting of two (2) pages;

A-13, Agreement to Purchase Property between Board of County Commissioners of the County of Warren and Hackettstown Municipal Utilities Authority for the purchase of Block 4, Lot 30, June 9, 2021, consisting of thirteen (13) pages, plus eleven (11) pages of attachments;

A-14, Mott McDonald Geotechnical Recommendations Report, dated December 15, 2020, consisting of seventeen (17) pages plus appendices consisting of eighty four (84) pages;

A-15, Correspondence from Nasir Butt, Environmental Engineer, Division of Water Supply and Geoscience, Water System Operations Element, Bureau of Water System Engineering, New Jersey Department of Environmental Protection, to Hackettstown MUA, dated August 17, 2022, transmitting Potable Water Supply Permit, dated August 17, 2022, consisting of fifteen (15) pages, as well as the Upper Delaware SCD, consisting of one (1) page; and, Wetlands Permit consisting of seven (7) pages;

A-16, Correspondence from Jesse West-Rosenthal, Ph.D., Historic Preservation Office, New Jersey Department of Environmental Protection, regarding no encroachment on the Morris Canal Historic District, dated March 8, 2023, consisting of three (3) pages; and,

A-17, Correspondence from David Klemm, P.E., B.C.E.E., Mott McDonald, dated March 16, 2023, consisting of four (4) pages.

In addition to the above exhibits, the Board received and considered the following documents at the public hearing:

Any such other exhibits and documents that were introduced and discussed at the Compliance hearing conducted on September 19, 2022.

The Applicant first provided sworn expert testimony from Corey Tierney, the Director of Land Preservation for the County of Warren.

Mr. Tierney testified as to the County of Warren parkland which is adjacent to the current tank's location. Mr. Tierney told the Board that there are eighty (80) acres of County land and three hundred and twenty (320) acres of State land surrounding the Applicant's Property. The County would like to utilize the current gravel access lane and would be able to add an additional one and one half (1 ½) miles of trails if this Application is approved. Mr. Tierney identified the Agreement between the County and the Applicant to acquire the old tank site and exchange one (1) acre as an exception being given to the Applicant in exchange for six (6) acres being given to the County. The exchange would require the Applicant to remove the old water tower.

Mr. Zaiter then presented the testimony of Kathleen Corcoran, P.E., P.P., P.M.P., LEED, AP. Ms. Corcoran is the Executive Director of the Applicant and has been with the Applicant for seven and one half (7 ½) years. Ms. Corcoran testified that the current tower is too high to provide effective water storage at the typical system operating level. The existing tower is over fifty (50) years old. Ms. Corcoran testified that the new tower would resolve the water storage problem and drastically increase flow to fire hydrants and increase pressures in the area closest to the tank.

Ms. Corcoran testified that the old water tank will be removed and a number of trees will be planted on that property. The current tower does not hold more than three (3) to four (4) feet of water. Ms. Corcoran testified that there would be no downtime of the water system because there is another 2.4 MG tank serving the area.

Ms. Corcoran testified that all of the Applicant's water supply is well water. There are six (6) wells altogether, one (1) of which is in Mansfield, two (2) are in Washington Township (Morris County) and there are three (3) wells in Hackettstown. Ms. Corcoran testified that there would be little to no impact on water supply during the project.

Ms. Corcoran testified that the Applicant will solicit bids for the project if the application is granted. There will be a fence surrounding the new tank with a gate access.

Next to testify on behalf of the Application was Kevin O'Brien, P.E., Mott McDonald, the Applicant's Professional Engineer. Mr. O'Brien provided the Land Use Board with sworn expert testimony as to the new tank's purpose and the proofs required to obtain the requested preliminary and final site plan approval with bulk variance relief for the pre-existing non-conforming use, which is not a principal permitted use within the R-3 zone.

Mr. O'Brien testified that the current tank was useful at one time, but it is not now. Mr. O'Brien testified that relying on the old tank for backup for water supplies is not the best practice and it predates the Applicant's formation of the Hackettstown MUA (HMUA).

Mr. O'Brien testified that the specifications for the new tank are the same as far as size and capacity as the current old tank. The proposed height is thirty one (31) feet from ground level. The access to the new tank will be off the existing road and will have fencing with a fabric liner and gate access. The new tank will be more off the trail than the present tank. Mr. O'Brien testified that there will be a radio antenna on the tank for

communications purposes. Mr. O'Brien testified that the construction will be comprised of prestressed and preformed concrete, which will be trucked to the site in pieces and the tank will be constructed on site. The application for the road opening permit for the work is currently pending.

Mr. O'Brien testified that the sequence for the work to be done is to demolish the old tank tower, clear the area for the new tank, and then construct the new tank. Mr. O'Brien testified that it should take about nine (9) months to construct the water mains and about a year to build the tank project. HMUA is also upgrading the six inch (6") water main on Old Allamuchy Road to a ten inch (10") water main.

Mr. O'Brien testified that they will remove about sixty five (65) trees on the site, which is about twenty thousand (20,000) square feet. Mr. O'Brien testified that the Applicant will replant sixty eight (68) trees on the existing tank property as the final step in the overall project, primarily maple and oak trees as show on Sheet C103 of the application documents, dated October 10, 2022. There may be clearing of more trees than allowed under Independence Township Code § 255-72 and § 255-121, but with the new trees on the existing site this issue can be addressed as proposed in the letter from Mott McDonald on March 16, 2023 (Exhibit A-17).

Mr. O'Brien testified that there will be site disturbance along Old Allamuchy Road to replace the water mains. Mr. O'Brien testified that there will also be work to clear the existing site and the new site, but that the foundation design is the tank manufacturer's full responsibility. Mr. O'Brien testified that they are not anticipating any blasting on the site. The proposed new lot size was determined in compliance with the County's policy to minimize acreage which is taken out of open space, which is spelled out in the Agreement between the County and the Applicant, dated June 9, 2021 (Exhibit A-13).

Mr. O'Brien testified that the Applicant has submitted the report of Mott McDonald Geotechnical Recommendations Report, dated December 15, 2020, consisting of seventeen (17) pages plus appendices consisting of eighty four (84) pages (Exhibit A-14). Mr. O'Brien testified that the Applicant has received Highlands approval from the Highlands Water Protection and Planning Council, regarding Determination of Consistency, dated January 21, 2022 (Exhibit A-11).

Mr. O'Brien testified that Old Allamuchy Road would be restored as needed per Warren County, since it is a County Road. The new tank will have a more than fifty (50) year useful life and will be shrouded by the new fence line. Mr. O'Brien testified that access will be by the existing driveway (proposed) trail route.

Mr. O'Brien testified that Block 4, Lot 30, includes Bowers Brook which flows toward the former Morris Canal alignment. Sheet C105 prepared by Michael L. Altland, P.E., Mott McDonald, in case of a catastrophic failure (Exhibit A-1).

Mr. O'Brien testified that there will be a new sixteen inch (16") water main from Old Allamuchy Road to the new tank. Six inch (6") mains are currently serving homes from the system and will be upgraded to ten inch (10") line. Mr. O'Brien testified that there are no anticipated maintaining service during the project.

Mr. Zaiter introduced and moved Exhibits A-1 through A-16 as referenced in the second (2nd) completeness letter from Mr. Finelli (Exhibit A-10) and the Mott McDonald letter of March 16, 2023 (Exhibit A-16). Mr. Zaiter noted that a building on the current property will be used by the County for storage.

Mr. Zaiter then recalled Ms. Corcoran as a witness regarding the relocation of the tank and the use variances sought, since she is a licensed planner. Ms. Corcoran testified that there is a significant benefit to having a functioning tank. Ms. Corcoran testified that it is only about one hundred feet (100') between the current tank and the proposed new tank at the proper elevation and that the new tank would benefit the entire system including parts of Mount Olive, Independence, all of Hackettstown, Washington in Morris County and Mansfield. Ms. Corcoran testified that the County is potentially interested in the current property for County use to expand the County's open space.

Ms. Corcoran testified that the smaller lot size for the proposed new tank site increases open space in the area. The new tank at the proper elevation increases water pressure and volume for fire protection. Ms. Corcoran testified that the system is being upgraded to correct and bolster the current system.

Ms. Corcoran testified that the installation is in the Highland area and qualifies under the Highland exemption for positive criteria. Ms. Corcoran testified that public health is served because the safety of the water system is increased quality, which is improved with the larger loop system and the site is surrounded by open space that will benefit the public. Ms. Corcoran testified that the current tank installation does not currently serve the purpose for which it was intended and built, but the new system will meet those needs.

The Board found that the Application for Preliminary and Final Site Plan Approval along with use variance relief to construct a new water tank on Block 4, Lot 1.05 to replace the existing water tank on the property located at Block 4, Lot 30 can be granted without substantial detriment to the public good and without substantially impairing the intent and the purpose of the master plan and ordinances of Independence Township.

The proposed development and continued use of the Property as a water storage facility will not cause a significant impact on the Township and will provide a positive benefit to the residents in the area and Independence Township as well as surrounding municipalities served by the new installation. The Board therefore finds that the proposed development promotes general welfare and safety, and that same is particularly suited for the use being proposed.

Mr. Fuella made a motion to grant all of the waivers and variances and comply with all of the items that are referenced in Mr. Finelli's reports, which was seconded by Mr. Engels.

Mr. Fernandez also included Mr. Stuber's request that minimal disturbance to the neighborhood and requested that HMUA engineer work with Mr. Finelli during the Pre-Construction meeting to ensure that this request is considered.

Ayes: Mr. Neumann, Mrs. Carvino, Mr. Engels, Mr. Rafalko, Mr. Cogle, Mr. Cullen, Mr. Feula, Chairman Fernandez

Nays: None recorded
Abstain: None recorded

NEW BUSINESS:

Mr. Feula stated that when he was reading the Planner he noticed that Mr. Bernstein is mentioned and asked that Mr. Bernstein explain what he does.

Mr. Bernstein stated that he currently teaches mandatory classes for NJPO for planning professionals.

Mr. Feula thanked Mr. Bernstein for all that he does for the Township and professionally.

Mr. Cullen requested that a request be made to the Township Committee for WiFi.

Mr. Fernandez agreed that this would be of assistance especially with the Google Drive being used.

Mr. Cullen also requested that the Township Committee look into a TV that is similar to what the County Commissioners have to show all of the exhibits during meetings.

DISCUSSION:

Site Plan Committee Report (Feula, Engels)- Deferred
Ordinance Subcommittee Update (Feula, Cullen, Rafalko)- Deferred
Redevelopment Subcommittee (Feula, Engels)-Deferred
Master Plan Subcommittee Update (Feula, Rafalko)-Deferred

EXECUTIVE SESSION: None

BILLS

Finelli Consulting	General	270
	HMUA Water Tank	1823.75
	NJDRP Truck Service Center	166.25
Bernstein	General	195
	General	330

Mr. Neumann made a motion to approve the bills as presented, which was seconded by Mrs. Carvino.

Ayes: Mr. Neumann, Mrs. Carvino, Mr. Engles, Mr. Rafalko, Mr. Cogle, Mr. Feula,
Mr. Stuber, Mr. Noble, Mr. Kelsey, Mrs. Kelsey, Chairman Fernandez
Nays: None recorded
Abstain: None recorded

ADJOURNMENT

Mr. Cogle made a motion to adjourn at 9:32 pm, which was seconded by Mr. Cullen.

Ayes: Mr. Neumann, Mrs. Carvino, Mr. Engles, Mr. Rafalko, Mr. Cogle, Mr. Feula,
Mr. Stuber, Mr. Noble, Mr. Kelsey, Mrs. Kelsey, Chairman Fernandez

Nays: None recorded
Abstain: None recorded