

INDEPENDENCE TOWNSHIP LAND USE BOARD

Minutes – September 19, 2022

The Independence Township Land Use Board met for a regular meeting on Monday, September 19, 2022 at the Municipal Building. Chairman Fernandez called the meeting to order at 7:34 p.m. 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:	Carmen Feula	Donald Engels
	Mark Rafalko	George Ulmer
	Robert Neumann	Melissa Milano
	Ricardo Fernandez	Lucy Carvino
	Geoffrey Cullen	James Kelsey
Absent:	Glenn Cogle	Bonnie Kelsey
Also Present:	Eric Bernstein, Esq.	Michael Finelli, P.E.
	David Banisch, P.P.	

MINUTES:

The minutes from the August 15, 2022 meeting were distributed prior to the meeting. Mr. Ulmer made the motion to adopt the minutes. Motion seconded by Mr. Neumann. Roll call vote:

Ayes: Mr. Engels, Mr. Neumann, Mr. Feula, Mr. Ulmer, Ms. Milano,
 Ms. Carvino, and Mr. Fernandez

Nays: None recorded

Abstain: Mr. Rafalko, Mr. Cullen, and Mr. Kelsey.

OPEN TO THE PUBLIC:

Mr. 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. Cullen made the motion to close the meeting to the public. Motion seconded by Ms. Carvino. Voice vote:

Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Ms. Milano, Ms. Carvino,
 Mr. Rafalko, Mr. Cullen, Mr. Kelsey, and Mr. Fernandez

Nays: None recorded

Abstain: Alternate: Mr. Neumann

OTHER BUSINESS:

Land Use Committee-Highlands/Affordable Housing-Deferred

Checklists Discussion-Deferred

NEW BUSINESS:

#22-003 Jean M. Sargeant Heir to the Estate of Roy Sargeant, Block 22, Lot 26

David Brady, Esq. was present on behalf of the Applicant and he reviewed the history of the uses of the property and the hearings before the Board over the past few years. He stated that notice was provided. Mr. Bernstein stated for the record that notice was provided ; however, it states that the hearing is before the Zoning Board of Adjustment, instead of the Land Use Board. He stated that the notice was sufficient. Mr. Fernandez noted the incomplete items. Mr. Brady

stated that they will be providing testimony and they agree to submit an asbuilt. The Board reviewed the letter from the Zoning Officer, the submitted application, and the present use and the prior certificate of non-conformity. The reports from Mr. Finelli (7/15/22) and Mr. Banisch (7/18/22) were noted and the Board discussed the lack of a submitted plan and the prior findings of the Board. Mr. Brady stated that they do not have a plan from the 2012 application and he can make his presentation and then they can submit a plan if necessary. The Board discussed at great length, whether they wished to proceed or whether additional information would be needed to proceed.

Mr. Kelsey made the motion to proceed this evening. Motion seconded by Mr. Ulmer Roll call vote: Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey, and Mr. Fernandez

Nays: None recorded

Abstain: Alternates: Ms. Milano, Ms. Carvino, and Mr. Neumann

Debra Sayer was sworn in and she described the properties owned by her parents and the historical use of the subject property. The following was marked as an Exhibit:

A-1 Aerial Photograph - 2 pages

Ms. Sayer described the aerial photograph, which she believes came out of her father's files and she described Mr. Pryslak's use of the property. The Board discussed sourcing/verifying the aerial photograph. The following were submitted and marked as Exhibits.

A-2 Global Waste Resolution 12-17-12

A-3 MLS 2 pages 2015 sale of property

A-4 Hackettstown Oil Zoning Application 2018

A-5 Two Letters 11-3-21 and Memo 12-8-21 from David Diehl

Ms. Sayer continued to describe the exhibits and the interactions with the Zoning Officer, which was discussed by the Board.

The hearing was open to the public. With there being no public questions, the hearing was closed to the public.

The Board took a brief recess at 9:07 p.m. The meeting resumed at 9:18 p.m. with all Board Members present: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey, Mr. Fernandez, Ms. Milano, Ms. Carvino, and Mr. Neumann.

Mark Pryslak was sworn in and he testified that he is the owner of Northeast Transportation, he is a tenant of the subject property, and he described his operation and his use of the property, which was discussed with the Board. The Board reviewed the pre-existing non-conforming use and the present use.

Debra Sayer stated that once the garage on the property is empty, Mr. Pryslak will utilize it and the use will be similar to her father's use of the property.

Mr. Banisch stated that there should only be one tenant. The Board continued to discuss the prior/pre-existing use and the present use/activities taking place on the property and whether there are any outside agency approvals required. The Board continued to discuss whether additional buffering should be provided and the lack of a site plan. The Board and the Applicant continued to discuss the proposal.

The hearing was opened up to the public for questions of Mr. Pryslak. With there being none, the hearing was closed to the public.

Ms. Sayer then commented on the cleaning of trucks and containers, the parking of the present day trucks, the residents in the area, and the existing buffer.

Mr. Brady thanked the Board and he provided his closing argument and he stated that this proposal fits the prior use and they can provide a site plan drawing.

The hearing was then opened to the public for comments. With there being no public comments, Mr. Feula made the motion to close the hearing to the public. Motion seconded by Mr. Rafalko. Voice vote:

- Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey, and Mr. Fernandez
- Nays: None recorded
- Abstain: Alternates: Ms. Milano, Ms. Carvino, and Mr. Neumann

The Board then reviewed what was outlined in the 2012 resolution and the possible conditions: the submission of a site plan, wheel stops to delineate parking, and no c/o issued until the conditions have been complied with.

Mr. Fernandez made the motion to establish the pre existing non conforming use as stated in A-2 and conditioned upon the conditions in the 2012 resolution, including the 20 foot setback for parking and the wheel stops. Motion seconded by Mr. Feula. Roll call vote:

- Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey, and Mr. Fernandez
- Nays: None recorded
- Abstain: Alternates: Ms. Milano, Ms. Carvino, and Mr. Neumann

#22-002 Veolia Water NJ, Inc., Block 1.01, Lot 57.01 1:13

Craig Bossong, Esq. was present on behalf of the Applicant and he described the proposal, the variance and site plan approval, and the improvements. Mr. Fernandez stated that he lives on Springdale Road; however, he is beyond 200 feet.

Eugene C. DeStefano, P.E. was sworn in and he provided his qualifications as a Professional Engineer and he distributed copies of the slide show powerpoint, which was then presented and marked as Exhibits:

- A-1 Tax Map
- A-2 Proposed Site Plan and Sight Distance
- A-3 Existing Independence 1 & 2 Site
- A-4 Proposed Treatment Building
- A-5 Proposed Landscaping Plan
- A-6 Proposed Floor Plan
- A-7 Proposed Architectural Elevations
- A-8 Architectural Renderings

Mr. DeStefano described the Exhibits, which were discussed. Mr. Finelli stated that the Applicant should provide, to the Board, a copy of the additional back-up information that was emailed to him today. The Board continued to question the proposal.

The hearing was opened to the public for questions.

Neil Stern questioned the functionality of the operation.

Carol Lee Charpentier had questions regarding the proposal, the easement on her lot, drainage, the conservation easement and the existing cut grass. The Board asked if they can receive a copy of the Charpentier agreement. The Applicants agreed to a meadow-mix.

With there being no further questions, the hearing was closed to the public.

Mr. Bossong stated that the only witness he has left this evening is the Planner.

Mr. Ulmer made the motion to extend the meeting this evening. Motion seconded by Mr. Cullen. Roll call vote:

- Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey, and Mr. Fernandez
- Nays: None recorded
- Not eligible: Alternates: Ms. Milano, Ms. Carvino, Mr. Neumann

Dan Bloch was sworn in and he provided his qualifications as a Professional Planner. Mr. Bloch then went on to state that the use was permitted at one time and then the zoning changed and the use is no longer a permitted use. He stated that the use is a preexisting non-conforming use and it is considered an inherently beneficial use. He continued to present testimony to support the application, which was discussed, with the Board.

The Board continued to have questions regarding generators, noise generated from the pumps, and the proposal. The Engineer was recalled and he addressed the Board's questions.

The hearing was reopened to the public for questions of the Applicant.

Neil Stern asked if the fan can be relocated.

With there being no other questions, the hearing was closed to the public.

The hearing was then opened to the public for general comments.

Carol Lee Charpentier stated that the building is too big and too close to her property line and she stated that she objects to it. The applicant agreed to more landscaping.

Pam Stern asked if the building could be camouflaged more and she asked if the site could look better with additional landscaping .

With there being no further comments, the hearing was closed to the public.

Mr. Feula made the motion to grant the Applicant's request conditioned upon tonight's discussion. Motion seconded by Mr. Ulmer. Discussion on the motion: Mr. Bernstein reviewed the possible conditions of an approval, which was reviewed and discussed with the Board and the Applicants.

Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey,
and Mr. Fernandez
 Nays: None recorded
 Abstaining: Alternates: Ms. Milano, Ms. Carvino, Mr. Neumann

DISCUSSION:

Site Plan Subcommittee (Feula, Neumann, Engels)

None

Ordinance Subcommittee (Feula, Cullen, Rafalko)

None

Redevelopment Subcommittee (Feula, Neumann, Engels)

None

Master Plan Subcommittee Update (Ulmer, Feula, Rafalko)

None

BILLS:

Finelli Consulting

Re: General	33.75
Re: NJDRP	67.50
Re: Veolia Water NJ	438.75

Eric Bernstein

Re: NJDRP	1320.00
Re: General	150.00

Banisch

Re: NJDRP	1216.60
Re: Sargeant	585.20
Re: Veolia Water NJ	400.00
Re: General	763.90

Mr. Ulmer made the motion to approve the bills. Motion seconded by Mr. Feula. Voice vote:

Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey,
Ms. Milano, Ms. Carvino, and Mr. Fernandez
 Nays: None recorded
 Abstaining: Alternates: Mr. Neumann

OTHER:

The Board then reviewed the County's letter that was distributed and they discussed whether they would like the County to appear at a meeting to present their proposal. The Board was polled and they requested that the County appear at the October meeting.

ADJOURNMENT

In a motion made and seconded the Board adjourned the meeting at 11:13 p.m. Voice vote:

Ayes: Mr. Engels, Mr. Feula, Mr. Ulmer, Mr. Rafalko, Mr. Cullen, Mr. Kelsey,
Ms. Milano, Ms. Carvino, and Mr. Fernandez
 Nays: None recorded
 Abstaining: Alternate: Mr. Neumann

Respectfully submitted,

Alfia Schemm
Board Secretary
10/13/22