

**TOWNSHIP OF HOPEWELL
ZONING BOARD OF ADJUSTMENT**

WEDNESDAY, March 2, 2016

The March meeting of the Hopewell Township Zoning Board of Adjustment (ZBOA) was held in the Municipal Building on the above date.

The Agenda Meeting of the ZBOA was held at 7:00 p.m.

REGULAR MEETING

The Regular Meeting of the ZBOA was called to order by Chairman Connolly at 7:34 p.m. in accordance with the Open Public Meetings Act, noting that proper notice of said meeting was forwarded to the Hopewell Valley News, The Times, The Trentonian, and the Hopewell Express and posted on the Municipal Bulletin Board. This meeting was audio recorded.

ROLL CALL

PRESENT: Ferrara, Klapinski, Schoelwer, van Raalte, Chairman Connolly
ABSENT: Cane, Lockwood, Moser, Purandare
ALSO PRESENT: Attorney Kevin Van Hise, Zoning Officer Miller, Planner Banisch

APPROVAL OF MINUTES

MOTION by van Raalte, was seconded by Schoelwer to approve the Minutes of the Regular Meeting of May 6, 2015 - with Ferrara and Klapinski abstaining

MOTION CARRIED

MOTION by Ferrara, was seconded by Schoelwer to approve the Minutes of the Special Meeting of January 27, 2016 - with Klapinski abstaining

MOTION CARRIED

Chairman Connolly announced that the following application would be carried to the April 6, 2016 Regular Meeting, at the applicant's request.

CASE 2014-5 – SBA TOWERS V LLC – 263 Pennington-Rocky Hill Road, Pennington, New Jersey, Block 38, Lot 10 (on the Township Tax Map). Applicant is requesting Use Variance and Preliminary/Final Site Plan approval for a Telecommunications Facility; located in the VRC Zoning District.

Chairman Connolly announced that the following application would be carried to the April 6, 2016 Regular Meeting, due to the applicant exercising their right to have their case heard before a full board.

CASE 2014-14 – HUTCHINSON, RICHARD J. – 1569 Reed Road, Pennington, New Jersey, Block 91, Lot 18 (on the Township Tax Map). Applicant is requesting a Use Variance and Preliminary and Final Site Plan approval to operate a wood mulch production operation; located in the SI Zoning District.

Before hearing the following cases a member of the public, Ms. Lee Rosati of 70 Aunt Molly Road, spoke before the Board and voiced her concerns with regard to the Chad Goerner d/b/a Mount Rose Distillery application heard at the February 3, 2016 Zoning Board of Adjustment Meeting.

Please note that the order of the cases, as they appeared on the Tentative Agenda, was reorganized as follows:

CASE 2016-5 - DIPRATO, ROBERT - 7 Bramble Drive, Pennington, New Jersey, Block 78.02, Lot 7.01 (on the Township Tax Map). Applicant sought to add a rear yard patio that exceeds the 20% property limit for lot coverage; located in the R-100 Zoning District.

Attorney Van Hise stated that notice was in order and the Board could take jurisdiction of the application. Mr. Robert DiPrato was sworn in.

Mr. DiPrato gave information with regard to his home, plans for design of a rear yard patio, and present lot coverage.

Discussion with Board Members included:

- Possibility of building patio with porous pavement
- Rain Garden or cistern options
- Paver block Information
- Landscaper working with Township Engineer to design a system to solve the problem
- Environmental Commission issues having to do with setting a precedent and possible alternatives having to do with removing other impervious areas

There were no questions from the public

MOTION by Klapinski, seconded by Schoelwer, to close the public hearing.

MOTION UNANIMOUSLY CARRIED

MOTION by Klapinski, seconded by Ferrara, to approve the application, to the Township Engineer's satisfaction, pending an instrument being put into place to alleviate amount of runoff over 20%.

There was additional concern from one of the Board Members with regard to setting a precedent. The motion was clarified to read that the outdoor living space, being constructed, be designed in such a way that it incorporates recognized storm water management techniques such that any runoff generated by the surface area in excess of 20%, and in excess of what would runoff in that area were it just lawn, be ameliorated by the storm water measures - whatever that may be. This will be worked out between the landscape contractor and the Township Engineer, so that the negative aspect of what's being proposed does not happen. Positive aspects were also mentioned

ROLL CALL VOTE:

AYES: Ferrara, Klapinski, Schoelwer, van Raalte, Chairman Connolly

NOES: None

ABSENT: Cane, Lockwood, Moser

CASE 2016-7 - HALBERT, MATTHEW AND HUDSON, LAURIE - 53 Marshalls Corner Woodsville Road, Hopewell, New Jersey, Block 24, Lot 2 (on the Township Tax Map). Applicant was requesting a

Hardship/Bulk Variance to permit a small addition plus an added screen porch; located in the MRC Zoning District.

Attorney Van Hise stated that notice was in order and the Board could take jurisdiction of the application. Mr. Matthew Halbert and Ms. Laurie Hudson was sworn in.

Both Ms. Hudson and Mr. Halbert gave history on their home along with the reasons they are asking for this variance.

Discussion with Board Members included:

- Home built in 1850 with an addition shortly thereafter
- Applicant's discussion with Mr. David Blackwell (Historic Preservation Committee), which includes making a slightly steeper pitch to the roofline, which is more reflective of the front gable
- Discussion regarding left side of house and the kitchen, which were added during the 1860s or 1870s, and done with lesser quality and detail than the original house
- Home being built in 1850 in a 14 acre zone dated to 2002 - Explanation of why this house cannot conform to the requirements. The Board's duty is to decide whether what is being done here is reasonable within the context of the neighborhood.
- Right side setback is the only reason for the variance request; and discussion about the property shape and setbacks from different portions of the home
- E-mail from Mr. Blackwell - Historic Preservation Committee offers their support and Mr. Blackwell will continue conversations with the applicant to initiate historic status. This is the previous home of Drs. Jamie and Armatridge who served the Woodsville neighborhood.
- Setbacks - proposed addition, where porch is being closed in, will change the front setback to the house. There will be a need for some front yard relief, also.
- Increase in lot coverage will be from 18.2% to 18.9%, which equals a .7% difference

There were no questions from the public

MOTION by van Raalte, seconded by Schoelwer, to close the public hearing.

MOTION UNANIMOUSLY CARRIED

MOTION by Ferrara, seconded by Schoelwer, to approve the application with the extra .7% increase in lot coverage.

ROLL CALL VOTE:

AYES: Ferrara, Klapinski, Schoelwer, van Raalte, Chairman Connolly

NOES: None

ABSENT: Cane, Lockwood, Moser

Short break from 8:25 to 8:34 p.m.

CASE 2016-6 - PENNWELL HOLDINGS, LLC AND THE GADBAY ORGANISATION (KOOLTRONIC SITE): INTERPRETATION - 30 Pennington Hopewell Road, Pennington, New Jersey, Block 37 Lots 17.03 and 17.011 (on the Township Tax Map). Applicant sought an interpretation of Section 17-172 J3 of the Township's Land Use and Development Ordinance as it applied to Draft Deed Restrictions; located in the VRC-HLI Zoning District.

Attorney Van Hise stated that notice was in order and the Board could take jurisdiction of the application. Attorney Van Hise also mentioned issues raised to the Administration regarding the notice:

- Block and Lot identifiers - In the notice published, it was identified as Block 3, not Block 37; however Attorney Van Hise is satisfied that case law establishes that this notice is fine due to acceptable typographical error, and because the property was identified both by street address and by it's commonly known name of Kooltronics
- Some of the lots within the 200 foot list may have been erroneously not included by the tax assessor. However, the applicant is entitled to rely upon the certified notice list provided by the Township
- Notice is not required under the MLUL Ordinances for an application for an interpretation of the Zoning Ordinance, although we do require it as a matter of practice

Mr. Gerald Muller of Miller, Porter & Muller, PC; there on behalf of the applicant, explained that his interpretation will be only a legal argument with no witnesses. He read from a section in the Hamlet Zoning Ordinance saying "if you are going to transfer development potential, it has to be done by a deed restriction within uses authorized and enumerated in the sale or conveyance of the development potential restricted". They submitted their application in a Deed Restriction form, feeling it was the best way to apply, because they will eventually sell this land to a developer. Part of it will be a transfer of development potential from the Valley and Mountain districts. They need to know, up front, what kind of arrangement they can make with the property owners and Valley and Conversation Districts so that they avoid the prospect, after putting down monies, of hearing from the Planning Board that they feel this is not what the ordinance intended to do or that it complies with the meaning of the above-noted section in the Zoning Ordinance.

Attorney Van Hise discussed the possibility that this form of restriction, if imposed, may or may not be binding for the Planning Board, and how that affects the interpretation.

After extensive discussion between Mr. Muller and Board Members it was decided that the applicant will come back with more specific questions, addressing the various provisions, so that the Board will be better able to discuss this interpretation.

Questions and concerns from the public were heard:

- Mr. Mike Pisauro, the Policy Director for the Stony Brook Millstone Watershed Association, discussed his concerns having to do with Page 20 of the Master Plan and how it applies to golf courses and houses. He would also like to speak with Mr. Muller before this application comes back to the Board.
- Ms. Patty Cronheim voiced her concerns of having a golf course being considered due to water issues. She stated that a typical family uses 300 gallons of water per day; while a golf course uses, on average, about 320,000 gallons of water per day - stating that this amount is 80 times more usage than 14 houses would use per day. (The comparison use of 14 houses on the property is the maximum number of homes which can be built on the applicant's property). Her concern also extended to the highly intensive use of chemicals should this property be used as a golf course.

Discussion with Board Members and Ms. Cronheim made it known that a specific argument regarding chemicals would need to be brought down to a per acre comparison. Another point of view was heard that another way to think of it could be from the perspective of "what are we trying to accomplish when we prevent further development of land, and how could that objective be met in this context".

Further questions and concerns from the public:

- Dr. James Taylor of 107 Washington Crossing - Pennington Road, offered his view that it would be best to go to the Master Plan (with its objective to preserve and protect) which places limits on the environmental or traffic impact of any proposed or possible new development, whether it be allowable houses, or a golf course, bar, club room, etc.; as the guideline for making the final decision.

The applicant will come back for the Regular Zoning Board of Adjustment Meeting, scheduled for Wednesday, April 6, 2016, to resume this discussion with an amended application. Re-noticing will not be necessary.

RESOLUTIONS/MEMORIALIZATION

**CASE 2016-2 - PRINCETON FARMHOUSE, LLC d/b/a THE FARMHOUSE AT THE
TECHNOLOGY CENTER OF PRINCETON
NO ACTION TAKEN**

**CASE 2016-3 CHAD GOERNER d/b/a MOUNT ROSE DISTILLERY
NO ACTION TAKEN**

**CASE 2016-4 - MUSIC ON THE HILL, LLC
NO ACTION TAKEN**

At 9:06 p.m. **MOTION** by Klapinski, seconded by Ferrara, to adjourn the meeting.
MOTION UNANIMOUSLY CARRIED

Respectfully submitted,



Susan Potocki
Zoning Board Recording Secretary