

**TOWNSHIP OF HOPEWELL
ZONING BOARD OF ADJUSTMENT**

WEDNESDAY, June 1, 2016

The June 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 Klapinski at 7:33 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: Cane, Hatke, Lockwood, Moser, Purandare, Schoelwer, Chairman Klapinski
ABSENT: Ferrara, van Raalte
ALSO PRESENT: Attorney Kevin Van Hise, Zoning Officer Miller, Township Engineer Pogorzelski

Chairman Klapinski announced that the following applications would be carried to the July 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.

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.

CASE 2016-8 - FIRST HARTFORD REALTY CORPORATION d/b/a CVS PHARMACY - 105 Route 31 South, Hopewell, New Jersey, Block 68, Lot 8 (on the Township Tax Map). The portion of the property in Pennington is identified as Block 908, Lot 8 (on the Pennington Tax Map). Applicant is applying for Use, Bulk, and Preliminary and Final Major Site Plan approval to permit the construction of a 14,600 square foot CVS Pharmacy and drive-through window, with 60 off-street parking spaces, signage, and proposed landscaping; located in the R-100 Zoning District.

CASE 2016-12 - MID-STATE EQUIPMENT CO., INC. - 63 Route 31 North, Hopewell, New Jersey, Block 46, Lot 55 (on the Township Tax Map). Applicant is requesting Use and Bulk Variances, plus Preliminary and Final Site Plans to use the existing pole barn structure on the premises for its farm and landscaping equipment showroom, sales area, office, and repair facility; located in the IC Zoning District.

Mr. Robert Ridolfi, attorney for Mid-State Equipment Co., Inc., mentioned that postponement of this hearing was due to scheduling issues with their traffic consultant. It was noted that the Notice of Publication requirements were complied with and the Board had jurisdiction of this application. No further notification will be necessary.

The Board asked Mr. Ridolfi, who is also the attorney for the Richard J. Hutchinson application, about its intention to be heard at the July 6, 2016 meeting. Mr. Ridolfi noted difficulty in coordinating attendance with the large number of consultants during the summer months and he will contact the Board Secretary prior to that meeting to let him know of his intentions. It was noted that notice will be necessary.

CASE 2016-10 - THE TOWNSHIP OF HOPEWELL/LAWRENCE HOPEWELL TRAIL - 188 Pennington-Rocky Hill Road, Hopewell, New Jersey, Block 39, Lot 53 (on the Township Tax Map). Applicant seeks variance relief for proposed subdivision to create continuance of the Lawrence Hopewell Trail. Existing non-conforming tower lot will be reduced by lands devoted to the trail; located in the VRC Zoning District.

Attorney Tara St. Angelo of Gebhardt & Kiefer, P.C.; there representing the Township as Special Conflict Counsel, informed the Board that she had spoken with Attorney Van Hise prior to the meeting regarding any conflict issues, and it was agreed that there were none. She then turned the meeting over to Mr. Paul Pogorzelski, Township Engineer.

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

Mr. Pogorzelski gave the Board his work and licensing background, which was accepted. Mr. Pogorzelski discussed the following:

- This application advances a section of the Lawrence Hopewell Trail (a Master Plan amenity), known as Crown Castle (or Pinnacle Tower Site). A description of the property, and history leading up to this application, was given.
- Exhibit A-1 - Color copy of proposed Minor Subdivision Plan
- Completion of the trail should be done by June 15, 2016. Bridges are in place and abutments are poured. All that is left is to consummate the subdivision.
- Exhibit A-2 - Color Aerial Image entitled "Subdivision/LHT Key Map Showing Existing Tower Heights
- Exhibit A-3 (also referred to as Exhibit C) - Color GIS Image entitled "Proposed Lawrence Hopewell Trail Route"
- Use Variance (D Variance) was sought due to making the lot smaller by 1.4 acres. (There is a pre-existing condition of existing towers not being allowed to be on residential property).
- A C Variance was also sought
- Both variances were sought to support the intent and purpose of the Master Plan
- Tower #3 does not meet 110% of 204-205 foot setback. The Township is at 189.2 feet so, the property line will be shifted 5 feet in that area to comply with the 110% setback.
- Deficiency and variance relief was discussed

Discussion with Board Members included:

- There will be no lighting on the trail
- Blue area on Exhibit A-1

There were no questions or comments from the public

MOTION by Cane, seconded by Moser, to close the public hearing.
MOTION UNANIMOUSLY CARRIED

MOTION by Schoelwer, seconded by Lockwood, to recommend that the variances requested be granted.

ROLL CALL VOTE:

AYES: Cane, Hatke, Lockwood, Moser, Purandare, Schoelwer, Chairman Klapinski

NOES: None

ABSENT: Ferrara, van Raalte

A short break was taken from 7:53 to 8:05 p.m. to review an already prepared Resolution on the above case.

CASE 2016-3 AMENDED - CHAD GOERNER d/b/a MOUNT ROSE DISTILLERY - 3 Aunt Molly Road, Hopewell, New Jersey, Block 16, Lot 51 (on the Township Tax Map). Applicant is requesting an Amended Use Variance and Site Plan Waiver to convert a portion of the existing barn into a craft distillery; located in the MRC Zoning District. This Amended Application was continued from the April 6, 2016 regular meeting at the Applicant's request.

Attorney Van Hise stated that notice was in order and the Board could take jurisdiction of the application. Messrs. Chad Goerner and Goeffrey Goll, of Princeton Hydro, were sworn in.

Mr. Robert Ridolfi, attorney for the Applicant, stated that this was not an Amended Use Variance. It was an application to modify a condition previously imposed on this application when it was first approved on February 3, 2016 and memorialized on March 2, 2016, by way of Resolution 2016-3. Changes sought were for Condition #2 - which required this applicant to make a connection to the public water system, by New Jersey American Water, and Condition #10 - which said, if a modification of any of the conditions was required, that the Applicant was then asked to return to the Board for an amendment.

Mr. Ridolfi then went on to give history of this application and a description of the timeline of events which occurred and lead up to the Applicant returning to the Board for an amended resolution. Public water is not available to service this site.

A listing of the items to be used during discussion were:

- Memo from the Health Department, dated May 23, 2016, which recommended approval to use the existing well
- Stover Yield Test, dated May 5, 2016
- Memo from the Board of Fire Commissioners, dated May 27, 2016, which recommends approval. Mr. Goerner also met with personally with one of the fire Commissioners to review the application.
- Report from M2 Associates, dated February 23, 2016, which recommends approval
- Report from Princeton Hydro, dated March 21, 2016, which confirmed that there is sufficient water using the existing well to service Mr. Goerner's proposed use.

The Board requested a copy of the letter from the water company, due to not having previously received a copy with their paperwork. That information had come in the form of an e-mail to Mr. Pogorzelski, who testified to its contents. He was told that New Jersey American Water would not consider expansion of their franchise area on a lot-by-lot incremental basis.

Board Member Lockwood stated her findings after personally contacting New Jersey American Water. She was told, by Mr. Joe Davignon of New Jersey American Water, details on how they could run a line to Mr. Goerner's property, but that it would be done at the resident's cost. Mr. Pogorzelski explained that he had spoken with Elliott Schwartz, who is the Chief Engineer for New Jersey American Water, and that ultimately he and one of his staff had communicated with him that they would not consider an expansion of their franchise area on a lot-by-lot basis.

Mr. Goerner gave a history of his attempts at reaching New Jersey American Water and retention of Stover Well Drilling to prepare a well capacity test, which was submitted to the Health Department for review. A summary of his water needs and the conditions, as stated at previous hearings, was also given.

Other topics of discussion were:

- Septic design servicing the barn
- Memorandum from the Board of Fire Commissioners and how the site would be serviced in case of a fire

Discussion with Board Members included:

- Production estimates, based on water usage, as used in supporting documentation and reports
- Water usage should the use of neutral grain spirit be used, instead
- Exhibit A-1 - E-mail from Elliott Schwartz, of New Jersey American Water (Elliott.Schwartz@amwater.com), to Mr. Pogorzelski, dated February 5, 2016
- History of when and how inquiries to New Jersey American Water were made
- Potential uses of water during the distillation process
- Definition of 1,500 case per year production of distilled liquor products, equals twelve 750ml bottles per case. Total volume of liquid would be about 3,566 gallons.
- Discussion regarding having a meter installed on the water line going to the barn for the distillery operation

Questions from the public included:

- Ms. Lee Rosati, 70 Aunt Molly Road, questioned whether this was a different production amount from what was previously stated
- Mr. Thaddeus Wojcik, 47 Aunt Molly Road, questioned what happens to the waste (or the residuals) from the distilling process

Mr. Geoffrey Goll, P.E., of Princeton Hydro (a water resource and geotechnical/soils engineering firm), gave the Board his background information, which was accepted. Exhibit A-2 - Geoffrey M. Goll, P.E., of Princeton Hydro - Curriculum Vitae was distributed to the Board Members. Topics of discussion were:

- His familiarity with all application information, including the M2 Associates report. Mr. Goll also summarized the M2 Associates report, and the findings by Mr. Mulhall; that the impact by this operation would probably be minimal (equivalent to about 1 household), and that the majority of the water used will be discharged back to the aquifer by way of the septic system. Mr. Goll was hired due to Mr. Mulhall's recommendation for an informal storm water management plan to encourage runoff from areas (including the barn roof) to come in contact with unpaved areas of the property. Mr. Mulhall also recommended that the Applicant evaluate his well to ensure that the existing well onsite has the capacity to meet the demands of both the home and the proposed distillery, resulting in the Stover Yield Test Report.
- It was noted that Mr. Mulhall had originally prepared the Township's 2001 Hydrogeologic Report, which determined the capacity of various land uses within the Township
- Exhibit A-3 - Report from Princeton Hydro, dated March 21, 2016, revised June 1, 2016 (with minor "typo" revisions). The proposed use is about 420 gallons per day, with about 320 gallons

per day discharged back into the septic system. Discussion was held regarding possible ways to maximize water concentrations back to the aquifer.

- Mr. Goll's professional opinion is that according to the Stover Well Test Report there is sufficient water supply, on this property from the existing well, to service Mr. Goerner's project.

Discussion with the Board included:

- Rain Barrel (cistern) usage
- Township Ordinance regarding sprinkling/watering systems for his fruit orchard
- Number of employees - 1, Residents in home - 2
- Daily home water usage per day and that the Applicant would like to be held to the same standards of any of his neighbors
- Possibility of putting water meter on the well (for total property water usage), rather than only on the line going to the barn
- Fluctuation between household usages and how using one meter for the entire property could affect the exact reading on what water is actually being used going into the barn. It was felt by Mr. Pogorzelski felt that historically and efficiently - one meter, on the line to the barn, would be best for aiding Health and Township Staff with enforcing the resolution.
- Draw-down testing/report results done on adjacent wells
- Rain Garden application, possibility of insect/pest nuisance, and composition of soil, sand, and plants to encourage water infiltration
- Effect of bringing in neutral grain spirit, during the distillation process, would lower the amount of water usage

Questions from the public included:

- Ms. Lee Rosati, 70 Aunt Molly Road, questioned the absolute water usage being limited to 420 gallons per day, and if she can measure the draw-down of water in her well. It was noted that she can install a meter in her well at her own cost. According to the Stover Well Test Report, they did a recovery of the Applicant's well and within 1 hour the well had recovered, so the zone of influence is likely very small. The effects of drought or lack of rainwater were raised and there was additional discussion with regard to installing a cistern.

As a point of clarification, it was confirmed by Mr. Van Hise that there is already a condition that the use runs with property and that the applicant must remain on the site in order to keep this use on the property.

Comments and opinions from the public included:

- Mr. Max Hayden, 984 Cherry Valley Road, the Architect for the Applicant, was sworn in, spoke in support of the project and conveyed his experience with a water line being installed from Cherry Valley Road (from Mount Rose, off of Drakes Corner Road) to Bristol Myer Squibb, in 2011. Part of the condition for running that line was to extend water service to anyone who wanted to hook up along that route. He and some of his neighbors were given the right to connect at that time. He gave a description of how difficult it was, and how long it took, to connect to service even with being given the right to do so. Mr. Hayden also discussed his pleasure at seeing Mr. Goerner's historic barn being kept in use
- Mr. Richard Dreher (Mr. Goerner's adjoining neighbor), 13 Aunt Molly Road, was sworn in, voiced his pleasure at seeing an adaptive re-use of Mr. Goerner's barn, and spoke in support of the project
- Mr. Mark Solomon, 6 Bayberry Road, was sworn in and spoke in support of the project
- Mr. Adam Maloof, 41 Aunt Molly Road, a Professor of Geology at Princeton University, was sworn in, explained that he had read the Hydrogeology Report, and spoke in support of the project

- Ms. DeAngelo, 3 Aunt Molly Road, was sworn in and questioned Ms. Lockwood, a neighbor, being a Board Member yet being able to speak against an applicant. Chairman Klapinski and Attorney Van Hise addressed this.

MOTION by Cane, seconded by Moser, to close the public hearing.

MOTION UNANIMOUSLY CARRIED

There was further discussion with Board Members:

- As to whether there would actually be a possibility that Mr. Goerner could be eligible to hook up to public water service. It was determined that Ms. Lockwood's information could only be taken as hearsay without Mr. Davignon appearing before the Board. There was also discussion regarding the difference between being in a franchise area and being outside of a franchise area.
- The full line of questioning and discussion between Mr. Pogorzelski and Mr. Schwartz (of New Jersey American Water) was explored, and it was determined that every possibility for bringing a water line onto the Applicant's property had been discussed and turned down
- There were questions raised regarding the inability to question professionals, relying solely on their reports, and also relying on Mr. Goerner's estimates
- Water usage to be stated in the resolution cannot be exceeded
- Discussion as to who would oversee the water meter information and compliance with the resolution

MOTION by Cane, seconded by Hatke, to accept the application, with the proviso that there will be a meter put on the water line going to the barn, and the well in total.

Further discussion with Board Members included:

- Difficulty with monitoring both the barn and home consumption of water
- Honesty of not running a hose from the house to the barn, using the NJDEP limit for home usage, whether to monitor home usage
- Suggestion that wording in the resolution be "The barn shall operate independently and there shall be no sharing of any water utility component between the house and the barn" and discussion of what that means.

AMENDED MOTION by Cane, seconded by Moser, to strike the condition requiring the public hookup that was in the original resolution. There will be a condition that the Applicant will install a meter on the line to the barn, with quarterly reports submitted to the Health Department. There is a second condition that there can be no water from the house going to the barn/distillery. The meter on the distillery is limited to 421 gallons per day.

There was no further discussion on the motion

ROLL CALL VOTE:

AYES: Cane, Hatke, Moser, Purandare, Schoelwer, Chairman Klapinski

NOES: Lockwood

ABSENT: Ferrara, van Raalte

RESOLUTIONS/MEMORIALIZATION

**CASE 2016-11 - CARTER ROAD III, LLC d/b/a TECHNOLOGY CENTER OF PRINCETON -
330 CARTER ROAD PARKING RESTRIPIING**

MOTION BY Schoelwer, seconded by Hatke to approve the resolution reliant upon conditions

ABSTENTION BY Moser

MOTION UNANIMOUSLY CARRIED

CASE 2016-10 - THE TOWNSHIP OF HOPEWELL/LAWRENCE HOPEWELL TRAIL

MOTION BY Moser, seconded by Cane to approve the resolution with standard Board Conditions

MOTION UNANIMOUSLY CARRIED

CASE 2016-6 - PENNWELL HOLDINGS, LLC AND THE GADBNEY ORGANISATION

(KOOLTRONIC SITE): INTERPRETATION

NO ACTION TAKEN

ADJOURNMENT

At 9:58 p.m. **MOTION** by Schoelwer, seconded by Cane, to adjourn the meeting.

MOTION UNANIMOUSLY CARRIED

Respectfully submitted,



Susan Potocki

Zoning Board Recording Secretary