

**WARREN TOWNSHIP ZONING BOARD OF ADJUSTMENT
MEETING MINUTES March 6, 2023**

APPROVED

CALL TO ORDER:

ROLL CALL:

Mr. John Villani
Mr. Michael Galbraith
Mr. Frank Rica (excused)
Mr. Donald Huber
Mr. Scott Bowen
Mr. Anthony Paoella
Mr. Foster Cooper
Ms. Valentina Carleo Alternate # 2
Mr. Mark Peck, Esq.

ANNOUNCEMENT:

Adequate notice of this meeting has been provided by posting Public Notice on the Municipal Bulletin Board on the main floor of the Municipal Building, and sending a copy to the Star Ledger, and filing a copy with the Municipal Clerk, all on January 11, 2023.

FLAG SALUTE

MINUTES:

The minutes of the February 6, 2023 meeting were not complete

COMMUNICATIONS:

PRIVILEGE OF THE FLOOR PORTION OF THE MEETING:

Floor is opened to any member of the public wish to make a statement, which is unrelated to the meeting agenda. Seeing no one come forward Mr. Cooper closed that portion of the meeting.

AGENDA CASE APPLICATIONS:

CASE BA22-02 Tractor Supply Store
69 Stirling Road, lock 110 lots 9.03 and 9.04
Preliminary and Final Site Plan

Request to cut trees/clear property before site plans are signed

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Mr. Lawrence Powers came forward as the attorney for the applicant. The applicant has received a letter from NJDEP and notified them that they would not be able to cut down trees from April 1 through September 31, due to the Indiana Bat restriction that has expanded to south of Route 78, during the bat breeding time. They want to ask the board if they could commence cutting trees on the site before the approval is perfected/plans are signed.

The applicant has submitted a letter from the estate (of the subject property) that they have permission from them to cut the trees, and they obtained approval from Somerset County Planning Board to go forward. The property is 2.3 acres and there are a lot of trees. They don't need to do all the clearing and grubbing before the April 1 date.

They feel it will delay their schedule. They have the survey that shows where the trees are. Mr. Cooper asked what the time frame is for perfecting the application. Mr. Powers feels it will be within the next 90 days. Mr. Cooper asked why they wouldn't take the trees down and clean up the site. Mr. Powers said they will clean up the site. The board doesn't want the trees to be taken down and left as it would be quite a mess. They just won't start any construction. They will clear the site.

Mr. Kyle Kubinski, from Dynamic Engineering was present for the applicant and Mike Sanders, from Hix Snedeker as the applicant. They were both sworn in, as well as Mr. John T. Chadwick, the Township Planner, and Christian M. Kastrud, the Township Engineer.

It was determined that they would take down all trees that are necessary for development. They stipulate that they will clear the site.

Mr. Powers asked for Mr. Kubinski's qualification, he gave them and was accepted by the board.

Mr. Kubinski brought in Exhibit A-1, a survey by Dynamic Engineering and a reduced version was submitted with the site plan packet. There are approximately 100 trees on the site.

The trees for the bat restriction include any tree over six inches in diameter. Mr. Cooper asked if a homeowner could take down a tree during that period. Mr. Kubinsky said it is part of the DEP permit process.

Mr. Bowen asked what is outstanding in the compliance process. There is a letter that the board received with that information. Mr. Powers said that Dynamic had submitted their compliance documents with a letter addressing comments of the professionals.

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Mr. Powers said the Township Engineer did not want to review the compliance until the applicant received the NJDEP Treatment Works Approval. They do not have that yet. It has been submitted. The applicant has also resubmitted to the County Planning Board recently.

The Health Department did not sign off on the Treatment Works Approval until they (the applicant) could demonstrate that NJDEP would accept the lower gallons that they proposed for the site. It involved some negotiation so it was delayed.

Mr. Bowen asked Mr. Kastrud if he believed that any of these items could keep these approvals out to September 1st, regardless of the trees restriction. Mr. Kastrud said that if the DEP does not approve or agree with the calculations, then 90 days turns into a request from DEP for more information. Mr. Powers said it is technically possible but not likely.

Mr. Cooper asked if Tractor Supply had a date that they want to be open in that store. Mr. Powers said by the end of the year. There was discussion on Indiana Bat supporters showing up at the site.

Mr. Kastrud clarified the process for compliance with all the approvals, County, DEP, Board of Health, Sewer (if needed) in place, and then makes it way down to the Engineering Department. It is reviewed there and when complete, it goes to legal and when approved there, the plans are signed.

Mr. Powers said they submitted the package in August and it had everything but the Treatment Works Approval. Mr. Kastrud said they did not have Somerset County either. Mr. Cooper asked if there were any other questions, and asked if the public had any questions. No one came forward and the public question portion of the meeting was closed.

Mr. Chadwick said if the board decides to permit the clearing, the applicant should stipulate that the clearing operation will be during the normal work hours of the Township. There won't be a developers agreement signed yet but they anticipate there will be a developer's agreement within 90 days. There was discussion on a restoration bond or bonding for landscaping that could be put in place. The biggest incentive would be not to perfect the site plan.

Mr. Cooper asked if anyone from the public had comments. Seeing no one come forward, this portion of the hearing was closed.

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Mr. Peck, the Board Attorney, went over what the deliberation is,--to permit the applicant to clear the trees, as shown on the plans, prior to satisfying all the compliance needed for the final site plan. There would be the condition to clear all the trees taken down (will be taken off the lot), and the work will be done during normal township working hours.

Mr. Cooper asked if they need a resolution or is it approved with this meeting. Mr. Peck felt the minutes could suitable reflect the motion, waiting for a memorialized resolution defeats the purpose (of time constraints).

Mr. Huber asked if they need a stipulation that if approved, the applicant will properly maintain street security. Mr. Chadwick said that runs with the application. Mr. Bowen asked about the trees being removed and affecting run off to surrounding properties or the street. Mr. Kastrud said the Soil Conservation District and all the soil conservation measures should be in place.

Mr. Cooper wants clarity on tree removal and clean up and any issues with runoff is corrected. The board was okay with permitting with these circumstances and conditions agreed to.

Motion was made by Mr. Villani, seconded by Mr. Bowen to permit clearing.

ROLL CALL

For: Mr. Villani, Mr. Galbraith, Mr. Huber, Mr. Paoella, Mr. Bowen, Mr. Cooper, and Ms Carleo

Next meeting will be April 3, 2023

Pending applications

BA22-09 Daniela Calabrese, Block 87.03 lot 5.04, 4 Hemlock Circle Minor Subdivision

BA23-01 Gupta. Block 71 lot 33, 73 Mount Bethel Road renovate dwelling with C1 setback variances.

BA20-09 (last heard Oct 3, 2022 waiting on soil testing) Block 12 lots 17 and 18, Second street subdivision with variances.

MEETING ADJOURNED: approximately 7:30 P.M.