

# LIBERTY TOWNSHIP LAND USE BOARD

Minutes – June 16, 2015

The Liberty Township Land Use Board met for a regular meeting on Tuesday, June 16, 2015 in the Municipal Building 349 Mt. Lake Rd, Great Meadows, and N.J. The meeting was opened by Chairman Sosnovik at 7:36 p.m. and it was declared that all aspects of the Open Public Meeting Act had been met by posting notice of this meeting on the bulletin board in the Municipal Building and notifying the Municipal Clerk. Advertisement of notice was placed in the Star-Gazette of Hackettstown and the Courier News of Somerset, NJ.

## ROLL CALL:

<i>Present:</i> Michael Beyer	Eric Tibak
Rudy Pasko	John Ward
Ray Sosnovik	Peter Wicki
Richard Schneider, Attorney	John Hansen, Engineer
Eric Snyder, PP/ZO	Kathy Dossena (By Mobile Device)

*Absent:* Matt Hawkswell. Not Present because of conflicts: Carl Cummins, Dan Grover, Wayne Jarvis, and Dave Schaaf

Note: Mrs. Dossena confirmed that the **Qualification to Vote** forms were turned in by Mr. Pasko, Mr. Wicki, Mr. Tibak, and Mr. Ward.

**MINUTES:** The Minutes of the May 19, 2015 meeting were approved as written by motion of Mr. Pasko. Mr. Wicki seconded the motion followed by a unanimous roll call.

## APPLICATIONS:

**Preliminary Site Plan – D Variance for Block 12, Lot 10.01 in the I-1 Zone – Cory Brothers, Applicant.**

**Completeness Review:** Attorney Schneider stated that a selective determination has been made that this is not a permitted use therefore a D Variance is required. The applicant will amend the application to reflect this and will serve Notice again for the July 21<sup>st</sup> meeting. Planner Snyder recommended that the application be deemed complete subject to the revisions noted (D-variance). Mr. Pasko made the motion based on Planner Snyder's recommendation. Public hearing will be set for July 21<sup>st</sup>. Mr. Wicki seconded the motion with roll call as follows:

Ayes: Mr. Pasko, Mr. Beyer, Mr. Tibak, Mr. Wicki, Mr. Ward, and Chairman Sosnovik  
Nays: None recorded  
Abstain: None recorded

Motion carries with six (6) affirmative votes

Attorney Schneider stated that if anyone is present tonight for the Cory Brothers application, there will be further notice given by the applicant for the July 21<sup>st</sup> meeting.

**Minor Site Plan with a D-Variance for Block 1, Lot 3. Roes Island, LLC – Applicant**

**Hearing:** Attorney James Rhatican was present to represent the applicant and reviewed the status of the application to this point. A report from Mr. Brady, applicant's engineer was marked into evidence as Exhibit A-6 and was in response to the March 11<sup>th</sup> report of Mr. Ferriero. Rhatican noted that the second witness tonight will be Tim Dunne, bee-keeper and the third witness will be Keenan Hughes, Planner.

Mr. Brady, sworn-in at the last meeting, answered the issues brought up in the Ferriero report. Mr. Brady was presenting from the map marked as Exhibit A-1. Mr. Wicki and Mr. Pasko asked to have Hope Road distinguished on the map. Attorney Rhatican asked questions of Mr. Brady. It was clarified that the Township would get copies of the applicant's annual monitoring report to the DEP. Mr. Brady noted that the total disturbance area, including ditches, is approximately 2500 square feet as the DEP has determined that the planting areas are not considered part of the disturbance area. The ditches would act as a division between the neighboring properties and this site. Attorney Rhatican stated that the Warren County Planning Board will receive an application for Site Plan as required by this Board.

Chairman Sosnovik opened the meeting up to the public for questions of Mr. Brady. Lawrence Cohen, Esq. representing Warren County Agricultural and Development, asked if the wetlands area will change once the improvements are put in. Mr. Brady said it would not change. It was confirmed that the wetlands will remain the same if this Board approves this project. It was also confirmed that a drainage study was not done. Liza Thomas asked what is wrong with the property that it needs to be improved. Mr. Brady stated that the wetlands will be enhanced – improved just means changes will be made. Joe Thomas asked about the maintenance program. John Beyer asked if an approval of this would set precedence – Attorney Schneider explained that it does not. Mr. Wicki noted that the applicant is seeking a change of use which requires a D-Variance. Al Beyer asked about the ditches. Wayne Jarvis asked how much higher the elevation of the water will be compared to the road and adjacent properties. Mr. Pyslak asked about the different categories of wetlands and what the height of the plantings will be? There is a planting chart on the A-1 map, answered Mr. Brady. Hearing no further questions, Chairman Sosnovik closed the session for public questions of Mr. Brady. Mr. Pasko spoke of the history of the area and asked what is wrong with the site the way it is.

Timothy Dunne was sworn-in by Attorney Schneider noting his experience as a bee-keeper. He is employed by the NRCS (Natural Resources Conservation Services) as a wildlife biologist and listed his qualifications. The Board accepted Mr. Dunne as an expert witness in wetlands restoration and wildlife biology. Mr. Dunne noted the benefits to wildlife that would be enhanced by this project. Because of the eight (8) foot fence, wildlife would not be a danger to neighboring properties.

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Mr. Beyer asked if spraying of pesticides would have an effect on the bees. Mr. Dunne felt it would not. With no further questions from the Board, the meeting was opened to the Public for questions of Mr. Dunne. Lawrence Cohen asked if Mr. Dunne has been to the site and was present for Mr. Brady's testimony and he answered yes to both. Dunne does not agree with Mr. Cohen's statement that there is flood control presently at the site. Mr. Cohen asked several questions concerning the changing of the classification of the wetlands. Four (4) to six (6) bee hives will be established in 1,000 to 1,200 square feet. Dave Dempsey asked if the hives would attract bears. Dunne answered that it is possible but not likely. Joe Thomas asked if any other land owners were approached about having the bee hives on their property. Wayne Jarvis asked if any of the grounds that Dunne has reclaimed have been as productive agricultural lands as on this site. Dunne answered yes and in Warren County. Attorney Rhatican asked Mr. Dunne to rephrase some of his testimony and Lawrence Cohen objected to these statements. Mr. Cohen asked if the loss of 20 acres of cropland is insignificant in Dunne's opinion. Mr. Dunne feels there is a vast amount of agricultural land in this area. Attorney Rhatican verified that there have been lands of higher acreage claimed by these projects.

Mr. Hughes, Planner was called as the next witness and was sworn-in by Attorney Schneider. He maintains that this is not an independent use on this property. This proposed project is an inherently beneficial use as per Mr. Hughes and cites the MLUL definition. This project is in accordance with the DEP regulations for wetlands enhancement. Mr. Hughes cited the Liberty Township Master Plan as supporting this type of project. Attorney Rhatican asked if there is any mandate in this ordinance that this particular property be farmed. Mr. Hughes said that there is not. Attorney Schneider stated that the fact that the Use serves a public purpose does not make this an inherently beneficial use. Attorney Schneider asked several questions of Mr. Hughes on this issue. Planner Snyder asked if the intent of this zone, which was created for agricultural use worthy of particular consideration, is to encourage this use then what is the benefit of removing it from this agricultural use and putting it into the forestry use. Mr. Hughes stated that what is purposed here is less intensive than what is actually permitted on this site. As there were no further questions, the meeting was opened to the public for questions of Mr. Hughes. Joe Thomas stated that he was involved in the Master Plan several years ago and he does not remember ever discussing taking this area away from an agricultural use. Lawrence Cohen questioned the standard for establishing an inherently beneficial use vs. an expansion of an inheritably beneficial use. Mr. Hughes stated that the present on site storm retention system will be greatly enhanced by this project. Mr. Cohen continued with several planning questions concerning the enhancement process. Mr. Hughes feels that this particular piece of property fits the intended use and that the Master Plan does recognize the importance of wetlands. Attorney Schneider stated that he agrees that it would be unusual for wetlands to be something that would be the function of a zoning ordinance. Wayne Jarvis asked what the exact benefit to his adjoining property is as it has been stated that this project benefits the community. Mr. Jarvis feels that losing cropland is a negative benefit to the community. Mr. Hughes feels that this project is compatible to traditional agriculture. The public questions portion of the meeting is now closed. Mr. Tibak asked if Mr. Hughes has a financial interest in this property and he answered that he does not. The meeting is now open for public comments. Liza Thomas

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asked how Meeting Notice is given as this meeting was not listed on the website. Wayne Jarvis stated that when this Board votes tonight you will be taking highly productive farmland forever away from the agricultural use. Liza Thomas asked that this Board stop this project. Several unidentified citizens made comments.

Mr. Cohen summarized his opinion of this application. Attorney Rhatican presented his summation starting at 11:08 pm. At 11:38 pm Attorney Schneider reviewed the relief that the applicant is seeking and the criteria that the Board Members would be considering to render their decision. Discussion ensued with the Board Members asking clarification on several issues. Attorney Schneider was asked to explain what would be considered substantial detriments to the public good. Attorney Schneider suggested that the Board deal with the Use variance first. Planner Snyder and Engineer Hansen added comments.

A motion was made by Mr. Pasko to deny the Use variance application. Mr. Tibak seconded the motion. Mr. Pasko and Mr. Tibak fully explained their reasons for making the motion. Mrs. Dossena took the roll call and it was recorded as follows:

Ayes: Mr. Pasko, Mr. Beyer, Mr. Wicki, Mr. Ward, and Mr. Tibak

Nays: Chairman Sosnovik

Abstain: None recorded

Motion carries with five (5) affirmative votes.

**ADJOURNMENT:** As there was no further business, Chairman Sosnovik adjourned the meeting at 12:01am

Respectfully submitted,

Kathy Dossena  
Land Use Administrator