

# LIBERTY TOWNSHIP LAND USE BOARD

Minutes – May 19, 2015

The Liberty Township Land Use Board met for a regular meeting on Tuesday, May 19, 2015 in the Municipal Building 349 Mt. Lake Rd, Great Meadows, and N.J. The meeting was opened by Attorney Schneider at 7:45 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.

**OATH OF OFFICE:** The oath of office was administered by Attorney Schneider to Rudy Pasko – Class IV (expires 12/18), Mike Beyer – Class IV (unexpired Ward – 12/17), and John Ward – Alt 2 (unexpired Hawkswell – 12/16)

## ROLL CALL:

**Present:** Michael Beyer  
Rudy Pasko  
Ray Sosnovik

Eric Tibak  
John Ward  
Peter Wicki

Richard Schneider, Attorney  
Eric Snyder, PP/ZO

John Hansen, Engineer  
Kathy Dossena (By Mobile Device)

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

**NOMINATIONS FOR CHAIR AND VICE CHAIR:** A motion was made by Mr. Pasko to nominate Ray Sosnovik for Chair. Mr. Tibak seconded the motion. Attorney Schneider asked for any other nominations. Hearing none a roll call was taken showing all ayes. Mr. Sosnovik accepted the position.

**Vice Chair:** Mr. Pasko nominated Mr. Tibak. Mr. Tibak noted his work schedule would be keeping him from attending some meetings. The nomination was seconded by Mr. Beyer. Roll call was taken showing all ayes. Mr. Tibak accepted the position.

**MINUTES:** The Minutes of the February 17, 2015 meeting were approved as written by motion of Mr. Sosnovik. Mr. Beyer seconded the motion followed by a unanimous roll call.

**APPLICATION:** *Completeness Review and Hearing for a Minor Site Plan with a D-Variance for Block 1, Lot 3. Roes Island, LLC – Applicant*

**Completeness Review:** Planner Snyder recommended that the application be deemed complete. A motion was made by Mr. Tibak on Planner Snyder's recommendation to deem this application complete as presented. Mr. Beyer seconded the motion with roll call as follows:

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

Nays: None recorded

Abstain: None recorded

Motion carries with six (6) affirmative votes.

**Hearing:** Attorney Schneider explained the status of the application to this point. He also confirmed that there are five (5) eligible members. Mr. Pasko noted that he did read the transcript and confirmed his eligibility to vote. Therefore, we have six (6) eligible members tonight. Attorney Schneider also confirmed that the members who were not present but have hence read the transcript (Mr. Pasko, Mr. Tibak, Mr. Wicki, and Mr. Ward) can follow up on any questions from the February 19<sup>th</sup> meeting that they did not have the opportunity to ask.

Attorney James Rhatican was present to represent the applicant and noted that there will be some repetition in testimony from the February meeting. The position of the applicant is that this application is composed of a wetlands enhancement program with certain agricultural components. There will be planting of vegetation and trees naturally found in wetland areas. Attorney Rhatican noted that he does not feel that a Site Plan is necessary as there are no site improvements or impervious coverage being added. The DEP has approved this project and last night Independence Township approved the application for an Interpretation as per their ordinances. The applicant will rely somewhat on the testimony presented at the February 17<sup>th</sup> meeting. The applicant feels that enhancing wetlands is important and is considered an inherently beneficial use.

Dr. Douglas Freeze will be the first witness and was reminded that he was duly sworn at the February 17<sup>th</sup> meeting. Dr. Freeze noted that he has worked on many of these projects in the State of NJ and proceeded to explain that the State feels that there are benefits to wetlands protection such as flood control, purifies runoff that enters the wetlands by providing buffers, provides recreation, etc. The Board did not have any questions for Dr. Freeze. Chairman Sosnovik opened the meeting to the public for questions of Dr. Freeze. David Demsky of Washington Township asked if this area is within a flood plain (Yes) and if there are dangerous species (not that they know of). It is privately owned and the transfer to public entities is possible. Lawrence Cohen with Courter, Kolbert & Cohen asked Dr. Freeze to repeat his qualifications. Mr. Cohen then asked who the owners of the property are. Dr. Freeze stated that he is a part owner and therefore does have a financial interest in this property. Mr. Cohen asked if he had reviewed the wetlands map for Liberty Township (no). Freeze did review the DEP map which shows almost the entire property is listed as wetlands. As Dr. Freeze has not looked at the Liberty map, stated Mr. Cohen, we then do not know what percentage of land in Liberty Township would be classified as wetlands. Dr. Freeze feels that this property has approx. 30

acres of wetlands in Liberty and provides some minimal flooding protection. All but approximately three (3) acres of this property is cultivated farmland in Liberty.

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Dr. Freeze stated that 22 acres of hayfield will remain in Liberty. 10 acres of hayfields will be eliminated in Liberty. No cultivated farmlands will remain in Independence Township. Mr. Cohen asked what benefit planting trees on the property creates for Liberty. Dr. Freeze answered that the benefits include habitat for endangered species, flooding control, utilize restored wetlands to enhance hunting. Mr. Cohen asked how much money the owners stand to make on this project. Discussion ensued as to whether or not financial figures need to be made part of the record. Attorney Schneider does not feel that noting an anticipated amount of profit is relevant to the application. It was noted that Dr. Freeze is a partial property owner and does stand to benefit financially from this project. There is an existing vernal pool on the property which is approximately two acres and that will stay. Another proposed vernal pool has been eliminated from the plan. Mr. Cohen asked what the purpose was to buy this property two (2) years ago. Dr. Freeze stated that the buyers were interested in creating farm management plans.

Wayne Jarvis, Liberty Township, is a neighboring property owner and would like to know the immediate benefits of this project to his (Jarvis) property. What kind of buffers will be established on the easement? Dr. Freeze stated that there are no buffers on the easement. Mr. Tibak noted that he would like to know what degree of additional benefit the Township would see if these agricultural wetlands would become forested wetlands. Dr. Freeze stated that it would be a substantial improvement. Agricultural wetlands would rate about a 3 and if enhanced to become forested wetlands it would be a 7 or 8. Is it relevant to the Board if additional wetlands are needed in Liberty? Planner Snyder stated that the applicant feels that the enhanced wetlands are a benefit to the Township. Mr. Beyer asked why they bought this property. (Create farm management plans). Mr. Wicki asked if the size of the buffers could change as the result of this project (no). Mr. Pasko asked about the 5-year time limit and what will happen to the land after that. Dr. Freeze stated that a management plan is in place for the property and it will be followed. A Forestry Management Plan has been submitted to the State of NJ and is being considered now.

Attorney Rhatican submitted a letter dated December 9, 2014 from the NJDEP into evidence and it was marked as A-5 (5/19/15). The letter is from Ms. Gruer, Assistant Director of the Division of Land Use Regulations, noting that General Permit GP16 authorizes wetlands enhancement which provides an overall environmental benefit to the area. Mr. Cohen asked to see the letter and asked questions concerning the statements included within.

NOTE: A break was taken at 9:40 pm and the meeting was called back to order at 9:48 pm.

Mr. Cohen asked Dr. Freeze to indicate the area on the map where the bee hives will be located. They will be on the Independence side. A small area will be dedicated to this. Mr. Cohen asked if the applicant has the intention of filing for farmland assessment. Dr. Freeze noted that the land is already farmland assessed and they will list any revenue generating activity on the updated

application form. Attorney Rhatican responded to Mr. Cohen's questions to Dr. Freeze. Mr. Pasko

asked how long of a time period are you obligated to these people for this job. Dr. Freeze noted that the minimum period is for five (5) years. Amy Greene Environmental is out of the project in

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five (5) years. Attorney Rhatican noted that after five (5) years it is no longer necessary to monitor the project as per the NJDEP. It could go beyond five (5) years and only applies to the wetlands enhancement and does not pertain to the harvesting of the crops. Wayne Jarvis questioned the date of the letter from the DEP (December 9, 2014) because he has a permit dated December 8, 2014. Dr. Freeze stated that there was an error on the original permit, the DEP caught it and sent out another one on Dec. 9<sup>th</sup>.

Attorney Schneider asked how many more witnesses the applicant will be presenting. Attorney Rhatican stated that they still have their civil engineer, bee expert, plus their professional planner. Edward Brady is a licensed civil engineer in the State of NJ and stated his qualifications. The Board accepts Mr. Brady as an expert witness. Mr. Brady drew the plans for this project and revised them as per the Board's checklist. These plans have not been changed since that revision. Mr. Brady described the layout of the site using exhibit A-2.

Mr. Wicki asked how the area was determined for this project. Mr. Brady described the process – there is no actual type of formula, it was categorized on the acreage disturbed. Planner Snyder noted that it is important for the Board to know what will be the impact of what the applicant is doing on the land to the drainage as it exists now and where it will be in the future. Mr. Brady discussed the operation of the ditches. Engineer John Hansen stated that he submitted a report on March 11<sup>th</sup> with several items that he feels have not been answered. The applicant will address our engineer's report at the next meeting. Because of the lateness of the hour, Attorney Schneider stated that this application will be carried without further notice to the June 16<sup>th</sup> meeting and the applicant grants an extension of time to the Board.

#### **DISCUSSION:**

Planner Snyder noted that we have an application for next month and it will be on the agenda for completeness only.

Housing Element: New rules have been implemented and although we have limited possibilities because of the Highlands, we will eventually have to look at a Third round to our housing element.

**BILLS**: Mrs. Dossena noted that she looked over the bills and found them to be satisfactory. Therefore she approved them for payment because of two months of meeting cancelations

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**ADJOURNMENT:** As there was no further business, Chairman Sosnovik adjourned the meeting at 10:45 p.m. (A motion for adjournment was made however; it was not recorded as it was past the automatic adjournment time of 10:30 pm)

Respectfully submitted,

Kathy Dossena  
Land Use Administrator