

Maurice River Township Land Use Board

The Chairman announced that this meeting was being held in accordance with Open Public Meetings Act of New Jersey.

Meeting Minutes: March 4, 2015

Present: B. Stowman, C. Thompson, A. Sarclette, J. Oliver, R. Chard, R. Hoffman, G. Gross, J. Pflaumer, T. Imbaratto, M. Benson, C. Morrissey, T. Cuvillo

Flag Salute

Motion to approve previous minutes Chard, 2nd Hoffman, AIF

Correspondence

*Copy of letter from Denise Peterson, Clerk to US Silica, including their Resource Extraction License from May 2013 to May 2018

*2014 Forestry Report

*Notice on classes for new Board Members from NJ Planning Officials

*Yank Marine Services, 487 Main St, Dorchester

Public notice and letter from US Dept. of the Interior, Fish and Wildlife Service. They are seeking funding to construct new docks, piers, and boat lifts.

Atlantic Masonry

Mining Application

Approval

Tabled from the February Meeting

M. Benson explained the application, it is a revision to the existing major site plan that was previously granted. To expand the mining that was previously approved for 5.93 acres to 20.44 acres. It does require a variance for the 100 ft buffer. The applicant did present information for that, siting Pinelands issue. It is a permitted use that has been approved. There is a Pinelands Certificate of Filing. The only issue from last meeting was the issue with the buffer.

Stowman stated that we did get through completeness and discussed both the professionals' reports. We went through everything and the question was about the 100 ft. buffer.

For the applicant

James Moore, Serber Konschak LLP

Vince Orlando, Engineering Design Associates (Sworn In)

Tom Tower, Owner (Sworn In)

James Moore spoke on the application and the buffer.

Vince Orlando stated they would like to propose construction of a chain link fence along the Weatherby Rd. frontage, at the 100 ft buffer and would like to construct it at the time the mine becomes wet. Currently the mine is not wet. The fence would be 100 ft. back. The area is heavily wooded in some areas, and scarce in others. You would really not see the fence during the warm months through the trees.

Mr. Moore questioned Mr. Orlando on the positive and negative criteria.

This use is permitted with certain conditions. The condition with this is that they need a 200 ft. buffer. Given the topographic conditions and the unique elements affecting property, specifically the Pinelands deed restriction of the lower portion of the property due to some threatened and endangered species that are located off site, it pushes the pit's usable area up to the front of the site. Because of those characteristics Mr. Orlando believes the Board can grant the variance for this condition.

With respect to the negative criteria, he believes that is eliminated by the inclusion of the fence anytime the pond will be wet. They mitigate the negative criteria by establishment of the fence.

How tall will the fence be? 6 foot, chain link

From the entrance road going eastward, are you going to take the fence close to where the property ends? Will probably do a return, 20 ft., at the end.

What is the size of the return on the westward side? Probably 40 ft.

Imbaratto asked, how does a chain link fence address the safety?

Mr. Orlando stated if the buffer was 200 ft you would still have the same conditions, someone could walk in the woods and enter the pit. Having a fence there would be deterrent and eliminate people coming in with all-terrain vehicles from the road into the pit. And the condition of safety is a very broad condition, you have areas within the twp. where you have ponds and water features right up against roads, it is not uncharacteristic. By the addition of a fence, it aides safety by not allowing people to enter in freely.

Thompson asked if the fence would be erected only when they start doing wet mining? Yes

How would that be announced? Mr. Orlando stated that the Boards engineer does a yearly inspection/site visit, so that is a built in protection. If the engineer sees the mine is wet, they would invoke the fence.

Benson asked if we could impose a requirement that the applicant advises the Board or the engineer that it has gone wet. Mr. Orlando stated absolutely. The owner will be very aware when the pit goes beyond the water table. We would notify the Board within 30 days and we would also notify the Board engineer that we are going to construct the fence for his inspection.

C. Morrissey spoke on the topography being up a little bit, at the entrance there is a thick vegetation. A combination of the elevation and the vegetation is a good thing.

Stowman stated that not having to remove any trees by putting the fence back at the 100 ft, is also a good thing.

T. Cuiello stated that it is also less likely to draw attention by it being back into the buffer, but it is still protecting the area.

Imbaratto asked if there were any other properties in the township with a 100 ft or less buffer. Cuiello stated that there may be but did not require variances because they were pre-existing.

Gross stated that he looked at all the mining applications and the only one that he could find that had a 100 ft set back approval on improved or unimproved roads was Atlantic Masonry at their entrance. We have granted it on the sides and rear but not on road frontage.

Imbaratto asked what would happen if other mining companies asked for the same thing.

Cuiello stated that there is no precedents in Land Use. Each application is unique. Each situation would be looked at specifically and individually. And with this application you have a situation where they have an enhanced buffer restriction where they have off site T and E species. Here there is a

unique characteristic that impacts the way this site could be used. You can find this to be different than other situations.

Mr. Orlando showed on the map where the restriction is on the south west side.

Stowman asked Mr. Tower how deep would they expect to go, in general.

Morrissey stated that it would be 45 ft. deep.

Mr. Tower stated that is potentially the depth, when and if we get to the wet mining. Because the site has been so reduced we can only go so deep because the characteristic of the site is so small.

Stowman questioned how they plan for end use?

Mr. Orlando stated the sloping is an ongoing process.

Stowman asked if they are planning on going right up to the 100 ft buffer with a cliff?

Absolutely not. The plan that was submitted shows the sloping.

Mr. Orlando explained the slope and angle of the pond.

Public Noticed was made for last month. The application was tabled to this month.

Motion to open for public hearing for Atlantic Masonry's Application, Block 247, Lots 41, 42, and 43.

Hoffman, 2nd Sarclette, AIF

No members of the public present

Motion to close Sarclette, 2nd Chard, AIF

Board Discussion:

Gross commented on the buffer and fence. He would like to see it maintained closer to the 200 ft buffer. There are no other fences on any other property. It would kind of make it stick out.

Pflaumer would like to see the 200 ft buffer. He feels it would keep the public from seeing the sandwash.

Gross thinks the fence will attract people.

Mr. Tower spoke on the site and the buffer. They showed some pictures of a body of water (EXHIBIT A-1) that is on Weatherby Rd, when you come from Upper Twp. it is on the left hand side. And also pictures of the existing buffer as it exists now, without leaves on the trees. (EXHIBIT A-2)

Because of Pinelands and the endangered species, he stated they have tried to please everyone. He feels the fence is a good compromise.

The pictures were discussed.

Stowman stated they granted the 100 ft at the entrance, it was already there.

Tower spoke on the uniqueness of the property in reference to Pinelands and the deed restricted area. He stated it had been 5-6 years working with Pinelands.

Mr. Orlando spoke on the fence and stated that if the problem was the fence being visible, they could make it a black chain link fence. You will not see the fence and it will not become an attracted nuisance.

Mr. Tower stated that they would agree to put plantings where it the buffer is light.

Pictures from the applicant were marked as follows:

Cranberry Bog Pictures were marked as Exhibit A-1 #1-4

Site Pictures from Weatherby Rd. as Exhibit A-2 #1-66

Mr. Orlando commented on the pictures.

He also stated they could plant evergreen where it is not heavily vegetative. It is very dense buffer.

He stated that to move it back to 200 ft, it really does not give any advantage for safety or for visual.

You will not see the pit. There is berming that does occur there.

The pictures were passed around to the Board.

Mr. Orlando stated due to the enhanced buffer that the Pinelands required, they lost 21.6 acres. He spoke more on the buffers and the fence. To make the fence black would make it unnoticeable in all seasons.

Stowman stated that he feels the Board is struggling with the safety. The site is far from where people are, but because it is isolated people could just go out there. He asked the Board to comment on the black chain link fencing and the tree buffering.

Board Discussion:

Gordon stated he like the idea of the extra vegetation and possible berming instead of the fence.

Sarclette and Hoffman both agreed. Sarclette also stated that since you can't see the black fence you could be increasing the safety hazard if cycles were trespassing and riding in the woods.

Discussion on location of the berm.

Mr. Orlando stated they would take a 10-15 foot area to berm and do landscaping on that. He stated they could do a smaller tree and let them grow to develop a dense vegetative buffer. 2 ½ -4 foot high berm, slope it, and put vegetation. It would be more substantial. It would actually be adding to the 100 ft buffer.

Pflaumer asked about what they would do with the 100 ft buffer at the entrance. It is gated and it is already bermed there. Pflaumer commented that it is a straight driveway and you can see down it.

Thompson asked if they would construct the berm and plantings right now so they would grow before they actually got to the mining? Mr. Orlando stated that has they started to clear certain areas they would install the berm and the trees. They do not want to clear all the trees at this time to put a berm in. It could be 10 years before they are mining on that side.

Mr. Tower also commented that the term "sandwash" was used, but that is not their intention to put a sandwash there. The site is so tiny it is not economically sound to put a sandwash there.

Mr. Orlando also stated that the mining operation does not start until approx. 300 feet from the entrance area. The timing on the construction of the berm, as they clear certain areas towards the east, they would construct the berm and put plantings, and they would still be at a dry mining state.

Stowman stated that the Board would have to make a motion soon. And he asked the Board if the berm and the extra vegetation sound like a good idea? Mr. Orlando stated it would be a mixture of evergreens, with a tighter canopy to the ground.

Stowman stated the other issue is the buffer. But, at some point there will have to be a motion and you need to be clear as to how we are making the motion. And also not to forget there is also a request for a 100 ft buffer on the east side. The west side buffer was done in a previous application.

Mr. Orlando stated their proposal is to construct a berm along the entire frontage of Weatherby, adjacent to the pit, 3 foot high with evergreen plantings. That information would be shared with our engineer for approval. The berm will be on the 100 ft side, so it will be a 100 ft woods and then this buffer(berm). With the 3 ft high berm, it will be between 15-20 ft. wide. 100 ft. woods will be undisturbed and the berm will be constructed. It will be approx. 1350-1400 ft. long.

Oliver asked to clarify when the berm will be constructed. The berm will be a progression as the site is cleared. It will be constructed in stages with the approval and inspection of the Board's engineer.

Imbaratto stated doing a piece at a time seems to defeat the purpose of the berm and the purpose is to keep people safe. Mr. Orlando stated the area is wooded. It was also stated that as much as they are digging the hole they are putting the berm in. Mr. Orlando explained by showing how/where they would mine and where they would be putting the berm on the map. Also where the wooded area is now, is a 1000 ft buffer on the east. They will move from West to East, they will clear as it is needed.

Mr. Pflaumer asked Mr. Morrissey if this berm would be adequate. Mr. Morrissey said yes, and gave an example of a berm and discussed the way it should be planted.

Mr. Benson asked if their "planting plan" will be subject to approval. The applicant stated absolutely.

Mr. Morrissey stated that there is also an annual inspection, as well as the 5-year license review. Mr. Pflaumer also asked about the berm wearing down. CuvIELlo stated that it will not erode with the landscaping, it will become more stable with the root growth. Morrissey reminded everyone that the applicant also has to maintain it. He spoke on the elevation being "up" in terms of the drivers' eye and that should help. Mr. Orlando commented on same.

Stowman asked the Board if they were in general agreement that the berm is better than the fence. Most of the Board agreed. Stowman mentioned that we acknowledge that the applicant requested the 100 ft buffer because of other restrictions with Pinelands. Benson stated they are arguing a hardship in effect because of the expanded buffer. CuvIELlo commented that the restriction has led to a more than ½ a reduction of the site, it is so much more unique than other sites.

Sarclette commented that they are maintaining the slope throughout the site for the safety aspect. Stowman asked Morrissey if there were any other things left from the last meeting. Morrissey stated he thinks they were covered. Showing the test pits on the plan were done. And the county required them to put an apron at the driveway that has to be on the final plan.

Motion to approve was made by Chard to approve,
There was a discussion on the type of variance, because of the type of variance, Sarclette and Oliver are not able to vote.

Motion was seconded by Thompson, Roll Call Vote, 6 yays, 1 nay.

Other

Sarclette stated he was approached because we do not allow pigs in the twp. CuvIELlo stated there are Department of Health issues with pigs and we should check with them.

Discussion on the ordinance.

Environmental issues were discussed.

Would it make a difference if it was a pet or a farm?

The county may have regulations that will oversee that. Gross will call the county and look into it.

CuvIELlo spoke on the memo on the Sapello Foundry. She explained what the memo is.

The Sapello property is deed restricted to just open space and recreation. Oliver questioned the recreation use, could that include a cycle club? Stowman asked is there is any way to get it removed off that deed? Morrissey spoke on a diversion by "switching" with another property.

There was a discussion on what we approved last year.

CuvIELlo went over what was permitted as per the deed.

CuvIELlo stated that she will look further into it and what the actual restrictions are.

No public present for comment

No Other Business

Motion to adjourn Chard, 2nd Hoffman, AIF

Respectfully Submitted,


Lillian Johnson, Secretary