

7:01:00 PM - - DENNIS TOWNSHIP CONSOLIDATED LAND USE BOARD  
Regular Meeting - July 28, 2022 - 7:00 p.m.

Attendance: Turner, Cowan, McEvoy, VanArtsdalen, Penrose,  
Chambers, Martucci, Walsh, Caprioni, Batastini, Fralinger,  
Jack Gibson

Applications:

PIERSON-PLEASANTVILLE, LLC - Block 224, Lots 68.01, 73, 74.02,  
75.03 and 78.04: Located on Woodbine-Ocean View Road in a  
Business District (B). Applicant seeking preliminary and final  
site plan approval, a use variance, bulk variances, waivers from  
subdivision and/or site plan standards and any and all waivers  
and/or approvals necessary to add ready mix concrete as an  
additional use associated with an existing gravel pit.

NARRIGAN, STEVE & SUSAN - Block 261, Lot 23, Unit 2: Located  
on North Route 9 in a Clermont Village Center District (CVC).  
Applicant seeking preliminary and final site plan approval and  
bulk variances to eliminate two seasonal tents located adjacent  
to the existing structure in order to replace same with  
open-air pavilions which will be constructed over existing  
paved surfaces. The applicant is also proposing a 120 square  
foot kitchen addition in order to provide additional kitchen  
storage space. (Adjourned)

ZEMAC CM, LLC - Block 262, Lot 1.03: Located on Route 9 North  
in a Clermont Village Center District (CVC). Applicant seeking  
preliminary and final site plan approval to construct a  
traditional self-storage facility and a building with eight (8)  
rental units of "flex" space for small businesses.

KLEBAUR, FRANCIS JOHN - Block 225.02, Lot 4: Located on Stoney  
Court in a Business (B) District. Applicant seeking  
preliminary and final site plan approval to construct a 60' X  
100' (6,000 square foot) building for the business of E.R.  
Dietz Masonry, which will consist of garage and storage space  
and a 25' X 25' office. (Adjourned)

Correspondence:

Discussion:

Master Plan Review  
Potential special meeting in August

Resolutions: DeVaul

Minutes: June 23, 2022

Bills

Adjourn.

7:01:00 PM - - Start Recording

7:01:02 PM - - Walsh - call meeting to order  
 7:02:14 PM - - Walsh - Brian VanArtsdalen - new member of Board, sworn in earlier today  
 7:02:39 PM - - Walsh - first application is ZEMAC  
 7:03:02 PM - - Ron Gelzunas, Esquire - attorney for applicant - previously approved for a site plan; site plan has been filed.  
 7:03:43 PM - - Vincent Orlando - engineer for applicant, take oath  
 7:04:06 PM - - Gelzunas - introduce Orlando  
 7:04:26 PM - - Turner - share screen with Orlando  
 7:04:36 PM - - Orlando - refer to color rendering of site plan; received use variance in October along with sign and parking variances. Now want to construct in 2 phases. Described. Received DOT approval. First phase - 6 buildings shown in red; all infrastructure will be constructed including storm water basins. Phase 2 areas will be graded and seeded in accordance with plan. Have provided extensive landscaping along front and northern edge; can provide 20 foot buffer along Parkway. Will enhance landscaping along north. Referred to Fralinger's report and discussed comments therein.  
 7:09:40 PM - - Gelzunas -  
 7:09:56 PM - - Orlando - respond to Batastini's questions regarding types of landscaping proposed.  
 7:10:48 PM - - Batastini - parking  
 7:10:59 PM - - Orlando - discussed parking; believes what is required is for residential spaces; will commit to requirements and willing to include charging stations.  
 7:11:57 PM - - Gelzunas - discussed parking requirements - doesn't seem to capture what is required, especially with respect to charging stations  
 7:12:59 PM - - Batastini - ask Gelzunas if he will agree if charging stations are required  
 7:13:39 PM - - Gelzunas - yes  
 7:13:44 PM - - Orlando - will provide required number of spaces if necessary  
 7:14:01 PM - - Batastini - ask Board for questions - none  
 7:14:12 PM - - Orlando - currently no trash storage area is provided; contractors are responsible for their own garbage.  
 7:15:05 PM - - Batastini  
 7:15:08 PM - - Fralinger - engineer's report  
 7:16:41 PM - - Orlando - respond to Fralinger regarding operation plan for facility - not 24 hour; typical storage units used for storage or warehousing; small office with 1 or 2 employees; limited activity in contractor area; minor access to Route 9  
 7:18:20 PM - - Fralinger - continue with engineer's report  
 7:19:10 PM - - Gelzunas - advise that a supplementary building operation plan was submitted today and summarizes what Orlando has already testified to  
 7:19:41 PM - - Batastini - ask Board for questions, none. Open to public - none.  
 7:20:08 PM - - Batastini - proposed motion for preliminary and final site plan approval and conditions  
 7:21:35 PM - - Chambers - motion to approve  
 7:21:48 PM - - McEvoy - second  
 7:21:55 PM - - Turner - question if he can vote  
 7:22:05 PM - - Batastini - yes  
 7:22:20 PM - - Walsh - Mr. Watson is present; ask if he heard all of the testimony  
 7:22:42 PM - - Watson - came in about 5 minutes after testimony began - won't be voting  
 7:23:07 PM - - Roll call - motion passed  
 7:24:24 PM - - Walsh - next application Pierson  
 7:25:04 PM - - Paul J. Baldini, Esquire - attorney for applicant - Board will need to determine if the structure is permanent because it is considered "portable" but is anchored to the ground.

7:26:28 PM - - Kevin Balistreri, Esquire - attorney for Stoney 9 (Stoney Court) who are across the street from the applicant's property and objects to application

7:27:34 PM - - Batastini - can address objections at appropriate time

7:27:47 PM - - Balistreri - wants to bring to the Board's attention that this is the third time this applicant has been before the Board for essentially the same application; also believes environmental assessment is necessary

7:28:58 PM - - Batastini - any waivers can and will be addressed during the hearing. Discussed res judicata and asked Baldini to advise why this application is different from previous applications.

7:30:26 PM - - Baldini - This is an application that doesn't include a recycling facility as the previous application as well as no asphalt; location of concrete plant is different; traffic and noise patterns are altered; height and capacity of this plant has been reduced; this application seeks relief different from previous applications.

7:33:27 PM - - Balistreri - respond to Baldini - 2007 and 2011 applications sought use variance on this site; request for asphalt plant in previous application was withdrawn; essential that Board realize that asphalt and concrete plants were voted on separately in previous application. Will agree that plant is moved to a different location and the height is lessened but the amounts are inconsequential due to the size of the site. Further discussed res judicata and reasons why it must be applied in this case and should be explored further before moving forward.

7:37:23 PM - - Batastini - ask Baldini if notice requests any and all waivers, etc.

7:37:55 PM - - Baldini - yes

7:38:00 PM - - Batastini - advise Board what they need to look for in this application with respect to res judicata and provided examples. Before moving forward should decide if res judicata applies in this matter. Ask Board members if they have reviewed application and whether or not they believe application is res judicata and their reasons.

7:41:02 PM - - Walsh - has 2 site plans with 2 different dates - how far back do they have to look back

7:41:32 PM - - Batastini - further examples of res judicata - not just one factor or time period - provide further explanation. Best example is is this application substantially different from previous applications or not. Have heard that it is different and not different. Board has to decide.

7:44:31 PM - - Walsh - after review, doesn't believe that res judicata applies.

7:45:15 PM - - Chambers - application is different

7:45:35 PM - - Cowan - this application is completely different

7:45:58 PM - - Penrose - doesn't recall details of original applications; would feel better having time to review and get more information

7:46:55 PM - - Batastini - that would be a no, doesn't have enough information

7:47:25 PM - - Balistreri -

7:47:47 PM - - Batastini - respond to Balistreri - Board members take their job seriously

7:48:39 PM - - McEvoy - agrees that it is different

7:48:55 PM - - Watson - if concrete plant was voted on separately previously to him says it's same application

7:49:45 PM - - Caprioni - has to say it's different plant because recycling isn't included

7:50:16 PM - - Martucci - agrees similarities but there are enough differences to warrant it being heard

7:51:05 PM - - 6 yes and 2 no votes as to the res judicata issue

7:51:22 PM - - Batastini - advise Balistreri of his ability to appeal but Board will be moving forward

7:51:54 PM - - Baldini -

7:52:23 PM - - Batastini - administer oath to Brian Murphy

7:52:51 PM - - Baldini - provide copy of Brian Murphy's resume

7:53:55 PM - - Brian Murphy - state his credentials for the record

7:55:51 PM - - Walsh - accept Brian Murphy as expert witness

7:56:20 PM - - Baldini - questions to Murphy

7:56:31 PM - - Murphy - identify site plan; provided background of property. It has been an active gravel pit for well over a half century; list what uses have occurred on this property over the years. Explain how concrete is made and that it is a strong and affordable material. It has a short window after ingredients are mixed. There is only one other ready-mix concrete plant in the County and one other concrete plant (transit), which is directly across the street from the Pierson property. Explain difference between the two different types. This use is almost identical to the old Matalucci gravel pit in Dennis Township. Refer to plan and describe property; takes advantage of roadways in area; no new entrances proposed; gate is to west of office and will remain; all trucks will enter and leave through that gate. Described location of concrete plant and how trucks will arrive there; load and leave. Person in scale house will be watching to make sure operation operates correctly. The ingredients for the concrete are already on the site, making this location perfect for the concrete facility. Discussed permitted uses of site. Discussed other items that a concrete plant would require, such as office, etc. and that same are already on the site. The general operation of the facility would remain unchanged. Application does require a variance for the height of the structure, but it will have a no visual impact. Plant is located behind other structures already on the site and is more than five times the required minimum setback. There is no need for additional buffers. Describe structures, etc. that are existing on site; feels that one additional structure would have no impact. Summarize positive and negative criteria as to why this application can be granted. Discussed C2 variance that is being requested - no negative effect, no residences in area, no visual impact; behind existing structure. Describe location of site and surrounding properties and their uses.

8:25:45 PM - - Baldini - questions to Murphy - ask him to explain environmental checklist

8:26:15 PM - - Murphy - environmental checklist is part of packet that is required to be submitted; describe its contents and how it pertains to this property and that there is no significant impact on this site.

8:32:15 PM - - Baldini - asking for waiver of stormwater calculations - ask Murphy to address

8:32:40 PM - - Murphy - structure is on pedestals; large lake already on property; will be no impact

8:33:16 PM - - Baldini

8:33:19 PM - - Murphy - no significant disturbance of property will occur to property. There are wetlands on site regulated by the DEP; DEP has been out to site; and has issued a letter.

8:35:14 PM - - Baldini -

8:35:21 PM - - Murphy - refer to screen-shared photographs of the site as it exists and describe each and confirm that each accurately depicts the site. Describe where and how the concrete plant site will operate; no dust will be associated with the operation due to a hood that protects the air quality Describe this operation as opposed to the transit mix site across the street which is smaller; had visited that site and did not see

anything that would protect the air quality as to dust. Referring to aerial view of area, described surrounding properties and their uses. Using same photo show that the other concrete plant is directly across the street from the applicant's property. Feels this site is a perfect location for this concrete plant. Area consists of many light industrial uses. Advise that all photographs being shown are Cape May County photographs and available to the public on the County's website. (Photos are marked as exhibits.) Referring to a wide angle photograph describe surrounding area and what is located on each property, which is not significantly different from that of applicant's property.

- 8:59:11 PM - - Baldini -
- 8:59:19 PM - - Murphy - refer to letters issued by the Cape May County Planning Board. First letter received disapproved the application and made comments. Applicant made revisions to satisfy County. Added that proposed structure is considered portable because it is on pedestals and can be moved.
- 9:03:56 PM - - Baldini - ask Murphy if he has anything else to add.
- 9:04:15 PM - - Murphy - believes that the project meets the Township's Master Plan and at this site is proper, useful and beneficial.
- 9:06:02 PM - - Batastini - at some point will allow Mr. Balistreri to cross-exam Murphy. Will first ask the Board if they have any questions of Mr. Murphy. After that is complete, will take a 10 minute break and then continue. Will continue until 10:30 p.m. as the Board has other business to address this evening. Ask Board for questions.
- 9:08:04 PM - - Penrose - does concrete use aggregates that are brought in and washed at this site.
- 9:08:28 PM - - Murphy - there will be aggregate used from this site and also some imported; the trucks are used efficiently when they bring in aggregate, they will leave with sand. Most aggregate will be imported.
- 9:10:08 PM - - Penrose - will there be winter concrete with heated water
- 9:10:22 PM - - Murphy - that will be answered later by Pierson personnel and would rather have them answer the question
- 9:10:56 PM - - Walsh - what about dust?
- 9:11:11 PM - - Murphy - there is an asphalt drive area that is kept clean; there is constantly equipment moving, but if dust becomes a problem they are able to minimize it and will do so.
- 9:12:32 PM - - Batastini - any other questions
- 9:12:45 PM - - Baldini - has another questions for Murphy - ask if he has reviewed the Board Engineer's comments and any problem in meeting same
- 9:13:28 PM - - Murphy - he has reviewed the Board Engineer's comments and refers to certain comments and also responds that certain of Mr. Gibson's comments will be addressed by Mr. Shropshire or Pierson personnel later in the presentation.
- 9:16:33 PM - - Baldini -
- 9:16:39 PM - - Murphy - prepared to address Mr. Gibson's comments.
- 9:17:13 PM - - Batastini - will now take a 15 minute break and will be back at 9:33 p.m.
- 9:17:43 PM - - Balistreri - would like to have list from Mr. Baldini as to other witnesses and their topics
- 9:18:30 PM - - Batastini - will have Mr. Baldini answer that
- 9:18:50 PM - - Baldini - applicant intends to call Mr. Shropshire as next witness; personnel from Pierson as to operation of plant; Ms. Morrissey as licensed planner; may or may not be others
- 9:20:17 PM - - Batastini - see everyone back at 9:35 p.m.
- 9:20:29 PM - -
- 9:20:35 PM - - Pause
- 9:35:49 PM - - Resume
- 9:35:54 PM - - Batastini -



9:36:40 PM - - Roll call taken to confirm all members are present

9:37:01 PM - - Batastini - advise Balistreri he can now cross-examine Murphy

9:37:27 PM - - Balistreri - questions to Murphy

9:37:43 PM - - Murphy - there is 165 acres - a little bit in the conservation zone, residential zone and mostly in business zone; looked at site as a whole; conservation and residential zones remain as they are now.

9:39:15 PM - - Balistreri - ask to share screen. Screen shared Township's Zoning Ordinance and read section regarding business uses, then questioned Murphy.

9:42:49 PM - - Murphy - there is a gravel pit on site which has its own set of rules and the concrete is within the gravel pit

9:43:39 PM - - Balistreri -

9:43:55 PM - - Murphy - confirm that gravel pit is a pre-existing for many years. At Balistreri's request explained reclamation; discussed limits that can be mined; and once mining of area has reached its limit it has to be restored.

9:48:52 PM - - Balistreri -

9:49:04 PM - - Murphy - applicant is conforming to gravel pit ordinance; concrete plant coming on to business use is a non-conforming use; concrete plant coming on to this site is non-conforming but best to place for such a use is on a gravel pit.

9:51:04 PM - - Balistreri - questions regarding conservation zone

9:51:31 PM - - Murphy - respond

9:51:56 PM - - Balistreri - questions regarding resort based and asked Murphy to describe what that means

9:53:03 PM - - Murphy - respond

9:53:10 PM - - Batastini - ask Balistreri who he represents and does he represent any of the tenants

9:54:20 PM - - Balistreri - he represents the owner and landlord of the property who also owns the on-site marina. He indicated that he mentioned campgrounds only with respect to the resort based economy.

9:56:00 PM - - Murphy - the only campground adjacent to the subject site is Lake and Shore and it appears they are not concerned.

9:56:43 PM - - Watson - advise he is having some computer problems and may disappear

9:57:23 PM - - Batastini - advise that if he does disappear he can listen to the meeting

9:58:00 PM - - Balistreri - there are 14 active campgrounds in Dennis Township; a substantial number of campsites from those campgrounds are within a mile of this site.

9:59:41 PM - - Murphy - doesn't believe that there were noise complaints from a mile away; there may have been noise complaints in the past due to equipment on location, but nothing recently.

10:01:00 PM - - Balistreri - letter from DEP issued 15 years ago, why was it submitted with application

10:01:30 PM - - Murphy - there are wetlands on the site and they respect that and there is nothing being done in that area.

10:02:21 PM - - Balistreri - there is a second letter regarding wetlands delineation that was submitted in July, 2014 that had an expiration at the end of 5 years.

10:03:39 PM - - Murphy - there is a lake on site but it is not regulated wetlands; the regulated wetlands are farther back on the property and nothing has changed.

10:05:44 PM - - Balistreri - changing use on site

10:06:41 PM - - Murphy - not changing use, but adding a use. The use on this site that concerns the DEP is mining. There are two types of wetlands - regulated, which concerns the DEP, and is in the northwest portion of the site; and the pond, which changes every day. Didn't do a wetlands delineation; last delineation was done by Gibson & Associates he believes.

10:10:23 PM - - Balistreri - refer to documents that are to be submitted with

the application (envrionmental assessment)

10:11:34 PM - - Murphy - documents that are required to be submitted were submitted

10:12:28 PM - - Batastini - ask Balistreri where he is reading from

10:12:49 PM - - Balistreri - respond to Batastini

10:13:32 PM - - Batastini - ask Balistreri to also look at another relevant section

10:13:57 PM - - Balistreri - continue reading from ordinance. Went to another document in package - NJ Pollutant Discharge Permit which was issued in 2008 and expired in 2013 and asked what it is.

10:15:44 PM - - Murphy - permit for site stormwater discharge; has no idea why it was issued; provided with application, Pierson has people who track down permits, it was in the folder and they are sharing.

10:17:29 PM - - Batastini - his understand that there is no stormwater waiver needed for this site

10:17:58 PM - - Baldini - he believes that is correct

10:18:10 PM - - Batastini - advise that he is jumping to keep the Board aware and so that he doesn't have to go back and clean things up

10:19:06 PM - - Balistreri - what is purpose of this permit

10:19:25 PM - - Murphy - doesn't think the DEP requires this permit. If it is needed, they will get it.

10:20:05 PM - - Balistreri - wants to go back to the site plan Murphy prepared - was based on survey prepared by Gibson & Associates - questions to Murphy

10:21:19 PM - - Murphy - believes last wetlands delineation is incorporated in site plan. Per request of Balistreri read "purpose of application" listed on site plan. Does a lot of gravel pit work and what he sees is standard language used. In response to question about "open concrete stockpile" he responded that there is a washout of the leftover concrete until there is a truckload which is then hauled away. There is no loose concrete on site. With respect to the concrete plant, he confirmed that it is within 200 feet of a residential site and there is nothing within sight or hearing of the selected location and, additionally, it is the perfect spot - no clearing, behind other buildings. With respect to the tower, it can be moved - has to be unbolted and folded and moved by truck.

10:30:51 PM - - Batastini - advise Mr. Balistreri he has 5 more minutes.

10:31:12 PM - - Balestreri - why was tower listed as 52 feet and didn't include the 8 foot vent on top

10:31:59 PM - - Murphy - he concedes that. Confirmed that vent will help to reduce dust, won't totally eliminate dust.

10:32:56 PM - - Balistreri - advise he will stop questions now

10:33:15 PM - - Batastini - will continue application until 8/25/22; ask Board members not to discuss application with anyone; no further notice is required; Board will continue with its agenda

10:34:35 PM - - Baldini - understands that there are more applications behind them; would like to put on the table the possibility of a special meeting

10:35:31 PM - - Batastini - doesn't think that will be possible; much arranging of many schedules of Board members

10:36:29 PM - - Walsh - agree, would be pretty tough to do, should go ahead with scheduling as is and maybe have a special meeting for the other applications

10:37:21 PM - - Batastini - may see if the other applications can be pushed off for another month or so, will try to work out; also confirm that all exhibits have been marked into evidence

10:38:21 PM - - Baldini - thank members of Board for listening

10:38:35 PM - - Batastini -

10:38:58 PM - - Walsh - next on the agenda was Master Plan review; has a few bullet-points from Randy - comments made by Mr. Watson on Route

47.

10:40:38 PM - - Turner - campgrounds are a pre-existing non-conforming use; thinks should take a look at all of the pre-existing non-conforming uses in the Township as it seems that with this title they are no longer wanted anymore in the long run.

10:43:05 PM - - Batastini - that is not true. When you have a campground that is a pre-existing non-conforming use it has all the rights of a conforming use, the only way it can loose this is if the use is abandoned. Some discussion followed.

10:45:28 PM - - Turner - next issue is fences and height

10:45:53 PM - - Walsh - some inconsistencies in ordinance; redfine outdoor seating; building height and some other definitions

10:46:40 PM - - Turner - as to building height, is currently 30 feet. Also food trucks are not allowed at breweries per the ABC; some ways around it and would like to discuss how it can be handled and protect businesses.

10:48:03 PM - - Walsh - accessory buildings - determine as to size of lot - looking at; also free-standing signs; turbines; architectural guidelines

10:49:01 PM - - Walsh - DeVaul Resolution next on agenda

10:49:17 PM - - Batastini - review DeVaul application

10:50:08 PM - - Watson - motion to approve

10:50:18 PM - - Chambers - second

10:51:20 PM - - Walsh - 6/23/22 minutes - all in favor

10:51:43 PM - - Walsh - bills

10:53:05 PM - - Turner - motion to pay bills

10:53:15 PM - - Penrose - second

10:54:25 PM - - All in favor

10:54:30 PM - - Walsh - meeting adjourned.

10:55:00 PM - - Stop Recording