

7:01:53 PM - - DENNIS TOWNSHIP CONSOLIDATED LAND USE BOARD  
Regular Meeting - July 27, 2023 at 7:00 p.m.

Attendance: Turner, Walsh, Watson, Chambers, Cowan, Caprioni,  
Penrose, VanArtsdalen, Batastini, Fralinger

Call to Order.

Roll Call.

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.  
(Continued from May 25, 2023.)

Other Business:

Correspondence:

Discussion:

Resolutions:  
Seaboard Storage, LLC  
72 West Rising Sun, LLC

Minutes: June 22, 2023

Bills:

Adjourn.

7:01:53 PM - - Start Recording  
7:01:59 PM - - Walsh - call meeting to order  
7:02:07 PM - - Roll call  
7:02:54 PM - - Walsh - first and only application this evening is  
Pierson-Pleasantville, LLC  
7:03:40 PM - - Walsh - not sure where left off  
7:03:49 PM - - Balistreri - will start with cross of Mr. Lomax and then Tiffany  
Morrissey  
7:04:22 PM - - Batastini - administer oath to Lomax and Gibson  
7:04:54 PM - - Balistreri -  
7:05:00 PM - - Walsh -  
7:05:04 PM - - Balistreri - share screen and direct questions to Lomax -  
7:05:31 PM - - Lomax - Environmental Assessment Report - explain what that is;

confirm that unless waiver granted that it is a pre-requisite for such an application, but can be waived at Board's discretion if certain conditions met; will have negligible impact and should be granted for this application; concurs with checklist; answered questions about checklist; respond to questions regarding NJDEP letter submitted by applicant (read highlighted portion on page 2 into the record at request of Balistreri); confirmed that he has done hundreds of wetlands delineations and that they are valid for 5 years unless extended; confirm that letter is dated July 18, 2014 and expired in 2019 unless it was extended. Agreed that some wetlands have boundaries that change, but not all. Per Balistreri's request, read another highlighted portion from the checklist regarding disturbance of wildlife; confirm that inventory of wildlife species was not prepared by him for submission because he doesn't think due to the distance that it has no impact. Area was already highly disturbed and did not think it was necessary. In response to endangered species - read another area from the checklist and responded. The landscape project is a map of lands in NJ and referred to same to answer questions from Balistreri with respect to the subject property. Advise that he did not prepare the checklist and the activity area is miniscule. With respect to Fresh Waters Wetland Protection Act - read highlighted area at request of Balistreri with respect to Letter of Interpretation. Doesn't see relevance of obtaining a new LOI when he inspected the property himself (described how he inspected the property). Given the distance from the activity, saw no purpose of getting a LOI. Testified that proposed activity area is over 1,000 feet from Great Cedar Swamp. With reference to Exhibit A-31, responded to questions from Balistreri. Responded to lands marked as acquisition questions. Responded to questions about species and habitats on site.

7:31:29 PM - - Balistreri - no further questions of Lomax.  
7:31:50 PM - - Baldini - no follow-up questions for Lomax  
7:32:03 PM - - Walsh -  
7:32:07 PM - - Batastini - administer oath to Tiffany Morrissey  
7:32:31 PM - - Tiffany Morrissey - take oath  
7:33:00 PM - - Balistreri - questions to Morrissey  
7:33:28 PM - - Morrissey - (screen share by Balistreri of Exhibit) - referring to exhibit and confirmed that it refers to Barnegat Township Zoning Ordinance; confirm content of portions read by Balistreri.  
7:36:29 PM - - Balistreri -  
7:36:35 PM - - Baldini - objection - Ms. Morrissey is a planner and not familiar with NJ Court Rules and is in appropriate  
7:37:10 PM - - Balistreri - continue with questioning  
7:37:26 PM - - Morrissey - responses to Balistreri; there is an existing mining operation with a temporary concrete facility is all that she can confirm with respect to the Barnegat situation; continue with answers to questions from Balistreri.  
7:39:58 PM - - Balistreri - Exhibit O-16 regarding accessory uses  
7:40:17 PM - - Morrissey - read section from said exhibit that were highlighted by Balistreri; confirms that a concrete plant is not listed as an accessory use.  
7:41:05 PM - - Balistreri - history of application previously provided by Morrissey  
7:41:28 PM - - Morrissey - respond to Balistreri's questions regarding history of application.  
7:42:40 PM - - Balistreri - rephrase question  
7:42:55 PM - - Baldini - object - if the question was to the Board it would be OK, but not to Morrissey  
7:43:26 PM - - Balistreri - no further questions  
7:43:44 PM - - Baldini -

7:43:48 PM - - Batastini -  
 7:44:04 PM - - Balistreri -  
 7:44:10 PM - - Batastini - ask Board members for questions of Lomax or Morrissey -  
 7:44:34 PM - - Walsh - poll Board - none  
 7:44:51 PM - - Batastini - ask Board if they have any questions of Woolley-Dillon  
 7:45:23 PM - - Board - none  
 7:45:31 PM - - Batastini - ask Board if they have any questions or clarification from Gibson  
 7:46:04 PM - - Walsh - is an accel/decel lane proposed for trucks  
 7:46:33 PM - - Gibson - it is implied  
 7:46:40 PM - - Walsh - questions for Mr. Gibson - none  
 7:46:57 PM - - Batastini - is there any public that would like to comment on this application  
 7:47:25 PM - - Walsh - sees couple of ID's, ask them to unmute if they want to speak - none  
 7:47:56 PM - - Batastini - doesn't look like anyone wants to comment; ask Balistreri for his summation  
 7:48:23 PM - - Balistreri - will do his best to keep as short as possible. Extraordinary application; many major requests for a single site. Mining uses are not a permitted use and they are going to be phased out and reclaimed. Applicant is asking the Board to disregard that plan and be used forever; applicant has already brought this application 3 times previously and was denied; referred to res judicata. Indicated changes made to each application to indicate a change, but proposed changes are not substantial changes. No new credible evidence has been presented. There are many uses in the immediate area - residential, campground, brewery, light industrial, etc. - not this type of use. Applicant hasn't presented any testimony why they think this application should be approved. Application has not public benefit and is only for applicant's profit. Testimony was given regarding not meeting negative and positive criteria, the increased amount of noise, increased traffic, environmental impact. In short, granting application would only benefit the applicant and not the public. Ask Board to deny application.  
 7:59:07 PM - - Walsh -  
 7:59:12 PM - - Batastini - public comment has now ended and opportunity for anyone else to object to the application; public portion closed; move on to Baldini's summation  
 8:00:02 PM - - (person wanting to comment)  
 8:00:14 PM - - Walsh -  
 8:00:17 PM - - Troiano -  
 8:00:22 PM - - Batastini - administer oath to Ernest Troiano, Jr. 157 West Leaming Avenue. Wildwood, NJ 08260  
 8:00:55 PM - - Troiano - take oath  
 8:01:06 PM - - Batastini -  
 8:01:10 PM - - Troiano - does not own property in Dennis Township. He has a 105 year old concrete plant in Wildwood (Rio Grande Building Materials) on Route 47 in Rio Grande; their plant was massive as opposed to this applicant's; area is begging for competition; he was thinking of opening a plant himself; competition helps regulate prices; very much would like to see this operation - would be closer to him and would benefit him; could produce better product for him as well; they were able to deal with Route 47 traffic and had a lot of traffic in and out; doesn't think it will impact area as much as has been testified to; hopes Board will vote favorably.  
 8:05:18 PM - - Walsh - thank Troiano - any other member of public before closing public portion  
 8:05:42 PM - - Batastini - ask some one to mute; no one else seeking public comment - will now go to Baldini for final summation

8:06:25 PM - - Baldini - summation - thank Board. Wants to go through facts in detail. This is a fact sensitive case. Describe the requests made in the application. Address res judicata - respectfully submitted that it does not apply and was put out as a red herring. Reviewed reasons that this application is different from the previous applications and describe differences. Review of surrounding businesses in the area and how area has changed significantly since the last application. Refer to Brian Murphy's testimony with respect to this application and provide summary - describe property and current uses; the process of making concrete and need to transport quickly; other concrete plants that are or have been in the area; would not require additional disturbance of property; there is already truck traffic in and out; there are higher facilities already on site; broken concrete will be stockpiled and removed from site; requested variances are all in the same family; described certain existing facilities (such as the office) can be used for the proposed use as well; there is sufficient space for the proposed use; will assist in lower cost of concrete for area customers; testified as to more efficient use of land - no need for additional support facilities; proposed height of concrete plant was addressed - need for height (gravity); height will have minimal impact - other higher structures in area (electric wires, etc.); facility will be mostly hidden by trees; better alternative than creating a second site; needs variance, but is variance fitting the existing site use; reviewed special reasons; addressed the positive and negative criteria; machinery within 200 feet of property line - is buffered by the electric substation; not in proximity to residences; no endangered species; filter system for air quality control; level of service of roadways; nearest wetlands are hundreds of feet away; NJDEP has been on site and verified no wetlands in area of structure and LOI is intact; reviewed photos showing various locations on the applicant's property; no dust would be created; internal circulation of traffic; also provided photos of surrounding business operations; the Township's Master Plan encourages industrial uses; uses are compatible with surrounding use. Then provided a summary of Shropshire's testimony: Identified exhibits referred to by Shropshire; provided testimony as to Woodbine-Ocean View Road and Corson Tavern Road, as well as King's Highway as to lane and shoulder width and any controls associated with those roads (traffic lights, Stop signs, turn lanes); traffic counts were performed during peak periods; anticipate truck travel into and out of plant for concrete facility; his opinion as to level of service on each road during peak times; addition of concrete plant will not cause any changes in level of service during peak hours with a small change in one direction on Woodbine-Ocean View Road; with respect to sound - prepared report and submitted, explained how data was collected and determined that noise measurements were within limits permitted in residential areas; responded to each comment of the Board Engineer and Board Engineer was satisfied; testified with respect to the visual assessment; visual character of area will remain wooded; further testimony as to no impact as to traffic, sound levels, visual impact. Refer to Mr. Todd's testimony as to plant operations, loading of trucks, truck deliveries will be no different, trucks mostly arrive empty and leave full, about 6 minutes per truck to load, average loads of trucks, concrete would not be stored on site. Refer to testimony of Tiffany Morrissey as to planning aspects; provided professional opinion as to this application and the reasons why it can be granted - providing how it fits in with current use and is an accessory use; testified as to how process is working



now as to concrete and the involvement of another plant and how having the operation at this site would cut out a step in the process; there will be no new clearing; meets noise and dust controls; will be set away from the V and R zones; will provide a service to customers in the area; referred to other businesses in the area having large equipment on their sites; testified as to how mining uses/permits were different; mining operation in a business zone; sits on a County road designed to handle significant traffic and already handles significant traffic; discussed goals of the Master Plan of the Township and how this application fits in; testified as to visibility and height of project; addressed impact on public good; limitation on hours of operation; visual impact is less than other projects in the area. Baldini then referred to the testimony of Lomax. He testified that environmental assessment not necessary and can be waived; it was his opinion that this project will not affect wetlands; no streams on subject site; parcel is adjacent to conservation zone, but washout zone is not and is entitled to waiver; there is a parcel in the conversation zone; testified as to distances between various zones and proposed activities; discussed the Great Cedar Swamp and this site and no impact being created; all testified as to traffic created by the plant - roadways and types and number of vehicles; all testified that wildlife is acclimated to the traffic; testified as to edge areas - buffer to woodland, contains no habitat fragmentation and proposed activities will have no impact; testified as to sound and dust levels. (All references to the testimony of these people were read into the record by Baldini from a prepared statement.)

- 9:25:09 PM - - Baldini - after finishing review of expert's testimony began his own summation. Reviewed previous applications and circumstances of other applications approved by Board (Fehrle); address several items and then begin discussion of negative criteria and how surrounding parcels are similar and this project is a better fit. Read into record "Goal 1" from the Township's Master Plan and indicate how this application fits in with that goal. Then moved on to the positive criteria - is suited to the site; location access to truck route; site is already disturbed and no further disruption will be done; more efficient use of land as operations work together; such a use has already been permitted in the zone (Fehrle); among other reasons. Applicant has made agreements with respect to the County roadway and the County has already approved same. Referred to testimony of Litwarnia and his not preparing any reports. Referred to Kerlinger's testimony and no report prepared; Referred to Woolley-Dillon's testimony. Added that the testimony of the opposition's attorney and applicants were paid by another party. Brian Murphy was thorough with this testimony and report; as were the applicant's other experts. Reviewed the impact of the project, the efficient use of the land; reasons variances can be granted; reasons waivers can be granted; storm water runoff; environmental and residential distances from this site; thank Board for time, apologize for taking so long, but needed to provide a complete summary; ask for exhibits to be entered into the record. Thank all. (This was also read from a prepared statement of Baldini.)
- 9:50:40 PM - - Walsh - thank for completion of application, will take into consideration and vote at meeting next month.
- 9:51:13 PM - - Baldini - wanted to put on record that he agrees to the postponement of this matter; no further notice required; next meeting is on 8/24/23 at 7:00 p.m.; and waives time constraints
- 9:52:09 PM - - Batastini -
- 9:52:13 PM - - Balistreri - objected previously to unpublished decision, still

objects and ask Batastini to address with Board. Thank all.  
9:53:05 PM - - Batastini - call for 5 minute break or continue -continue  
9:53:29 PM - - Batastini  
9:53:37 PM - - Walsh - Seaboard Resolution  
9:53:49 PM - - Batastini - Seaboard Resolution  
9:54:24 PM - - Turner - motion to approve  
9:54:30 PM - - Cowan - second  
9:54:34 PM - - Roll call - motion passed  
9:55:19 PM - - Batastini - Resoulution for 72 West Rising Sun, LLC  
9:56:08 PM - - Turner - Motion to approve  
9:56:22 PM - - Cowan - second  
9:57:06 PM - - Roll call - motion passed  
9:57:14 PM - - Minutes - voice vote - approved  
9:57:29 PM - - Batastini - bills (asked to use hourly rate for Pierson  
Resolution)  
9:58:22 PM - - Turner - motion  
9:58:28 PM - - Chambers - second  
9:58:37 PM - - Roll call  
9:59:07 PM - - Motion to adjourn, all in favor - meeting adjourned at 9:59 p.m.  
9:59:24 PM - -  
9:59:35 PM - - Stop Recording