

Offered By: Mr. Vignola

Second: Mr. Grossman

Date: November 6, 2014

Minutes of October 2, 2014 Land Use Board Meeting

Regular Meeting of the Hazlet Township Land Use Board scheduled for October 2, 2014 was called to order at 7:30PM with a Salute to the Flag followed by a moment of Silent Prayer and a Reading of the Letter of Compliance by Trish Cullen.

ROLL CALL:

Present: Mr. Bace, Mr. Vignola, Mr. Moore, Mr. Grossman, Mr. Szczuplak, Chairman Tyler, Mr. Skowronski

Professionals- Mr. Kittner, Mr. Vella, Mrs. Keegan

Absent: Mr. Pisano, Mr. Solomeno, Mayor DiNardo, Mr. Lavan, Deputy Mayor Belasco, Mr. Pobega

Approval of Minutes of the Regular Meeting of August 7, 2014

Offered by: Mr. Vignola

2nd: Mr. Moore

<u>ROLL CALL</u>	<u>Yes</u>	<u>No</u>
Mr. Pobega	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Lavan (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Szczuplak	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chairman Tyler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Vignola	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor Belasco (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mayor DiNardo (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Alt #1 Mr. Grossman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #2 Mr. Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #3 Mr. Skowronski	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #4 Mr. Pisano (absent)	<input type="checkbox"/>	<input type="checkbox"/>

Chairman Tyler- Before we go to the next item on the agenda we had a matter come up.

Mr. Vella- The chairman, myself and the board secretary received a correspondence by email from board member Vincent Solomeno advising us that he has been ordered and deployed to parts unknown. He doesn't expect to be back in the United States to participate on this board until October 2015 so he asks for a leave of absence. Considering that request I would ask the board to make a motion and second granting him the leave of absence till he returns from his military duty. That would give him an excused absence until he comes back so he doesn't lose his position. At any meeting he's not here and we take a vote the first alternate member would take his place, if the first alternate isn't here then the second would and so on. If there are no questions or comments I suggest you make a motion.

Motion to Approve:

Offered by: Chairman Tyler

2nd: Mr. Grossman

<u>ROLL CALL</u>	<u>Yes</u>	<u>No</u>
Mr. Pobega	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Lavan (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Szczuplak	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chairman Tyler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Vignola	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor Belasco (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mayor DiNardo (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Alt #1 Mr. Grossman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #2 Mr. Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #3 Mr. Skowronski	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #4 Mr. Pisano (absent)	<input type="checkbox"/>	<input type="checkbox"/>

Memorial Resolution- # 13-13P- 311 Laurel Avenue; Baytul- Iman, Inc.; Block 36 lot 1; R-70 Zone. Applicant obtained Amended Preliminary and Final Site Plan approval to add a kitchen with condition that the freezer storage must be inside the facility and K-12 with a maximum of 5 student drivers. Applicant withdrew the boarding school. Board denied Pre-k, front yard fence, storage shed, night college courses and Holly Avenue access.

Mr. Grossman- Didn't we say something about the hours that the school could be open?

Mr. Vella- We will make a condition to modify the resolution that there is to be no school activities after 10pm.

Motion to Approve:

Offered by: Mr. Grossman

2nd: Mr. Vignola

<u>ROLL CALL</u>	<u>Yes</u>	<u>No</u>
Mr. Pobega	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Lavan (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Szczuplak	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chairman Tyler	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Vignola	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor Belasco (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mayor DiNardo (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Alt #1 Mr. Grossman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #2 Mr. Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #3 Mr. Skowronski	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alt #4 Mr. Pisano (absent)	<input type="checkbox"/>	<input type="checkbox"/>

New Case # 14-11L- 49 Virginia Avenue; Andrew Szumera; Block 86 Lot 3; R-70 Zone. Applicant is seeking permission to retain an 18.5ft x 16ft wood deck, 13ft x 16ft concrete/paver patio, 6ft x 21ft and 3ft x 4ft patio/walkway.

Swearing in Andrew and Jean Szumera

Mr. Vella- We will mark as A-1 survey dated September 2, 2014. This is your case and tell us what you want.

Mr. Szumera- We recently sold our home and in order to complete the sales transaction we need to have variance approvals. With regard to the variances we are seeking, the deck is a trek deck it's a 20 x 17 deck and the engineer report has 18.5 x 16.

Mr. Kittner- What critical is the offset dimension from the deck to the rear property line which is 9.9 feet and that is accurate. The copies were obviously not to scale and we used what was on the application.

Mr. Szumera- The back of the deck has a 6ft privacy structure. This structure along with 7 trees and a 6ft stockade fence at the property line is the buffer.

Mr. Vella- We will mark as A-2 series of pictures submitted with application.

Mr. Kittner- Just so the board is clear this is a rear yard setback variance where 10 feet is required and it's 9.9ft to the corner of the deck.

Mr. Vella- Did you receive a permit when you built the deck?

Mr. Szumera- No I thought the contractor took care of all of that. This was about 10 years ago.

Mrs. Keegan- If this application is approved tonight you are going to have to apply for construction permits.

Chairman Tyler- If something was built wrong they will have to make you do it over but that has nothing to do with this.

Mr. Szczuplak- The three foot that you have on this patio and the fence to your left, what's on the other side of the fence?

Mr. Szumera- There's a side walk and the street.

Motion to Approve:

Offered by: Mr. Szczuplak

2nd: Mr. Bace

<u>ROLL CALL</u>	<u>Yes</u>	<u>No</u>
Mr. Pobega (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Lavan (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Szczuplak	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chairman Tyler	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Mr. Solomeno (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Vignola	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Alt #4 Mr. Pisano (absent)	<input type="checkbox"/>	<input type="checkbox"/>

New Case # 14-10L Geo Peak Energy, LLC; 600 Highway 36; Block 120 Lots 2, 3, 5, 6; BH Zone. Applicant is seeking permission to retain the solar panels constructed with the side yard setback.

Mr. Steib- Michael Steib appearing on behalf of the applicant. This is a request for variances for the setback encroachments in connection with the IFF solar project that was approved by this board last August and during the course of the construction there were certain (inaudible) in the field. Those deviations from the ordinance requirements include 2 panels in the front yard with a setback of 24.1 and 23.6 feet where 25 feet is required and that's not the entire panel that is a triangular portion of the overhang at one end of each of the panels. In addition there are 9 panel rows that have deficient side yard setbacks along the westerly property line. Those side yard setback ranges from 9.9 feet where 10feet is required down to 4 feet. What happened was when construction was commenced during the course of construction it was found that there were some underground utility lines that they did not know about previously that came through the property and they had to set the panels aside and go on either side of them so the panel supports didn't puncture those lines. Had we known about these pipes to begin with we would have asked for that relief a year ago. In your engineer's report there are a couple things that need to be addressed that include that there is fencing around the property that is 8ft in height and we submit that the 8ft is an aesthetic improvement. CME requested a status of how the project is moving along and the project has been completed with one exception, which would be we would have to go to the DOT to get approval for the sidewalk in the front and DOT never does anything too quickly. We think they are looking at the final revision and are anticipating getting final approval very shortly at which point we will install the sidewalk. Another item is that there is landscaping that has not been surviving. Part of the reason some of it is not surviving is because IFF had an anniversary event earlier this year and required us to install landscaping not in the proper season. Finally CME reported that they though there was part of fencing that was encroaching on the westerly property line Tuesday of this week we had that fence relocated.

Mr. Vella- I'm going to mark as A-1 plans entitled partial boundary and partial location topographical survey.

Swearing in Robert Duva

Mr. Vella- We will mark as A-2 mounted approved site plan.

Mr. Duva- The visual take-away is the continuous lines which is the actual rows of solar panels and what I want you to notice is the singular break straight down this path. That is the only one we felt was required at the time of the design and we were aware of the setback requirements throughout both near the front row and near the western side of the property then construction happened.

Mr. Vella- Mark A-3 mounted constructed site plan.

Mr. Duva- In addition to the break for the underground utility lines you now have two additional breaks one for gas and one for a water main. Some of the mark outs were not correct in terms of identifying lines and we ordered a ground penetrating radar to scope out the entire property. We were well aware of the setback requirements however you can see with those breaks will would now going to be impinging upon that buffer more and more.

Mr. Kittner- Was the mark out requested in advance of the design plans?

Mr. Duva- Yes.

Mr. Kittner- The fact that they missed it on the mark out as a result you were not aware of the utility?

Mr. Duva- Yes. We weren't aware of the utility initially but the mark outs along the side of the westerly property we thought we were within the correct setback.

Mr. Kittner- As you're aware the variance you're requesting is a C-2 flexible C which requires you to demonstrate that the positive benefit of deviating from the ordinance out weights any detriment. Looking at the buffer and the adjoining uses both along the side and the front from that perspective you should provide testimony to the board that there is not going to be any detrimental impact.

Mr. Duva- The benefit of it we have followed Hazlet's request for all of the electric lines to be buried. Second to that the land to west is a wetland protected area. Finally any elimination of modules would cause the system to not function.

Mr. Steib- This was an integrated system designed to function as a whole?

Mr. Duva- That's correct.

Mr. Steib- During the course of construction you had to adapt in order to deal with those site constraints that being the underground utilities.

Mr. Duva- That's correct.

Mr. Vella- Just for the record that exhibit has already been marked as A-1.

Mr. Kittner- I would say that the layout of the solar panels is substantially in conformance with the design plans that were approved but the 2 panels, I don't recall seeing 2 panels on the design plans was that an addition panel that was added as result of-

Mr. Duva- These modules were closer to here to accommodate for the gap in the water main so we had to break apart this row and shift it in one direction or another.

Mr. Steib- The actual structure that attaches the panel into the ground doesn't encroach it's the portion of the overhang.

Mr. Kittner- What is the approximate height of the average panel from finish grade?

Mr. Duva- I'd say 5-6 feet from finish grade. At the roadway line the fence should be enough to cover that (inaudible) there is a drop off or drip in the grade.

Mr. Kittner- Can you describe what the adjoining use is on the side yard to the west?

Swearing in Adnan Javan

Mr. Javan- There is a 50ft buffer that is between the property line and the westerly side. The modules in question are about 5ft from that property line which is still 10ft away from the buffer line.

Mr. Kittner- Just to clarify the wetland transition is not being violated?

Mr. Javan- Correct.

Chairman Tyler- Driving past I didn't really like the way the buffering works along the highway. My recollection was that we discussed a berm. Even if the trees weren't dying they wouldn't really provide much of a buffer there. I don't think replacing the trees there certainly with what's there will make any difference.

Mr. Javan- The DEP said no berm. The plan is to make this look great.

Mr. Kittner- So they promoted the basin but did not want the berm?

Mr. Javan- The engineer on record worked with the DEP and came up with a solution of what would the board recommend.

Mr. Kittner- There are select landscaping species that are low lined that could fill in the gaps underneath the canopy of the tree.

Chairman Tyler- Are there any members of the public that wish to testify?

Swearing in Don Hutson 1631 Union Avenue

Mr. Hutson- I would like to know where to solar panels will abut my property.

Chairman Tyler- Everything that is there that's all that's going to be there.

Mr. Hutson- There's a drainage ditch that runs up the west side of the property and the back is the East creek. I just want to make sure that any improvements made on the land will not go into that ditch.

Mr. Javan- The modules are at least 700ft away.

Mr. Hutson- It's actually 900ft.

Chairman Tyler- My recollection is there was no grading at all.

Mr. Javan- Zero grading.

Mr. Vella- If anyone does deem this application favorable they'd have a condition that the applicant will work with the board engineer to add additional landscaping in the front and work with the engineer to fill in the gaps and install landscaping recommended by board engineer.

Motion to Approve:

Offered by: Mr. Bace

2nd: Mr. Moore

<u>ROLL CALL</u>	<u>Yes</u>	<u>No</u>
Mr. Pobega (absent)	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Bace	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Lavan (absent)	<input type="checkbox"/>	<input type="checkbox"/>
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- **Discussion on creating a sustainable Land Use pledge for the Green Team.**

Ms. Keegan- Passing the sustainable land use pledge reflects the communities' intention to develop and redevelop in ways that are livable for residents and more protective of the environment now and future generations to come. The pledge will serve as Hazlet's intention to align its Land Use decisions to promote smart growth and sustainable development. After the Land Use Board discusses a model resolution it will develop a recommend ordinance and submit to the Township Committee.

Mr. Grossman- The Green Team is a program which gives out credits for certain things that we do that are used to protect the environment for example the solar panels on the schools.

Chairman Tyler- This is a singular mission by this group that overlaps with various existing boards in town.

Mrs. Keegan- Within this pledge we will have to put some content to it and we will get 20points for it.

Mr. Grossman- It's up to the township committee to say where that money is going to be used.

Mrs. Keegan- The Green Team was created in July as a 7 member advisory council and we gather the information which we were under a dead line that I've submitted to the state. Once we get certified there are grants that are offered out there for different things and amounts.

Mr. Grossman- There's a pledge on the website that we can modify.

- **Discussion on potential changes of building coverage and lot coverage.**

Mrs. Keegan- Paul and I had a conference call with Greg the other day and as you know we have a lot of people coming in for the coverage variances and impervious so we are trying to do a separation between building coverage and lot coverage. We used Stafford, Middletown and Marlboro and we came up with percentages. R-70 zone would have building coverage of 35 % and lot coverage of 40% but then we have exceptions to it. The lot coverage or impervious includes all parking areas for automobile access driveways and internal roadways whether covered by an impervious and pervious material.

Chairman Tyler- What other towns are doing is creating at further break down that gives you more latitude for things like what we saw tonight.

Mr. Vella- At least they can be at the maximum consistent with a single family use and if those other uses then need to come before the board for lot coverage then we get to look out but if another use is a similar size for residential use we don't have to bother with them.

Mr. Grossman- What does the 40% include?

Mrs. Keegan- That includes everything. As part of doing this there are corrections or updates to certain definitions with this. All these modifications have to be sent to the Township Committee if this board is in agreement with it for them to adopt and then we will change the ordinance.

Mr. Vella- It's really just changing residential not commercial.

Mrs. Keegan- So like I said they are just basic definitions that get changed along or amended along with this. There is an added thing we are looking to do with the mother-daughter dwellings that we have, so trying to create an ordinance that will designate as an actual type. (definition of Mother-Daughter)

Mr. Vella- Middletown requires if they come before the board because they need a variance for something or building permit to that, the town requires a deed restriction that sets forth language like that they file with the county. What that does is provide that added comfort to the town for future sales of homes.

Mrs. Keegan- If everyone is in agreement with this I suppose I'll write it up and I'll send it to the Township Committee.

Motion to Approve:

Offered by: Mr. Moore

2nd: Mr. Szczuplak

VOICE VOTE: YES

Motion to Adjourn: Sole Offer

Next Meeting: October 16, 2014

Trish Cullen

Secretary