



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
Louis J. Costanza, Member
Scott M. Savage, Member

**Hopedale Zoning Board of Appeals
Meeting Minutes
February 22, 2023**

Chairman Scott Savage called the public hearing to order on February 22, 2023 at 7:00 pm. The meeting was held in the Town Hall Draper Room, streamed live via Zoom and on Hopedale Cable Access.

Members that were present:

Scott Savage, Chair
Sandra Biagetti
Lou Costanza
Nick Alexander
Nicole G. Small

Graves Engineer:

Jeff Walsh

Legal Counsel:

Jonathan Silverstein

Applicants:

Attorney Joseph Antonellis, William Buckley, Doug Hartnett, Robert Bird, Steve Goodman, Hilde Karpawich, Attorney Jay Tallerman

Guests:

Chief Daige, Walter Swift, Lou Arcudi, Ricardo Lima, David G, Beverly Swift, Emily Montag, Mike Costanza, Tara Costanza, Rich Anton, Tim Watson, Carole Mullen, Patrick Melle, Jacqueline Martin, Rick Espanet, Brian Pinch, Will Duffy, Tony Faath, Bob Manning, Henry Gjestebj, Matthew Madden, Michael Costanza, Tom Bird, Janice Doyle, Liz Reilly, Evers Family, Tony Faath, Mike Reynolds, Pat DiPietropolo

Lou Costanza made a motion to accept the minutes from February 15, 2023, seconded by Nick Alexander. All were in favor.

Continuation Hearing for Case # 1-2023

The applicant, 75-131 Plain St, LLC is seeking a special permit under the Hopedale Zoning Bylaw, Section 17 Groundwater Protection District, Subsection 17.6(c)(6) for a use that will render impervious more than fifteen percent or 2,500 square feet of any lot at 75 Plain Street.

Joe Antonellis, Attorney for the applicant, stated his appreciation the efforts of the board in continuing the hearing. The applicant prepared a presentation showing scientific criteria for groundwater and the improvement of the overall quality of the project and the manner in which the stormwater meets and exceeds the groundwater regulations. This will demonstrate to the board that the building project will have no adverse effect but an enhancement of the water in the groundwater protection district.

Chairman Scott Savage stated that Nicole G. Small has signed the certificate of an absent member in regards to her absence at the February 15, 2023 hearing and is eligible to vote.

Doug Hartnett shared a presentation, which detailed responses to concerns the Zoning Board raised regarding compliance with the DEP stormwater management standards. The applicant was asked to look at the plan for additional enhancements that could be made to the design even as the project already meets the standard.

Mr. Hartnett reviewed the peak rate, water quality and recharge in detail and showed that this project far exceeds what the DEP requires as designed. In reviewing the water quality, the applicant felt retrofitting some of the drainage areas with hydrodynamic separators would allow the sediments to settle to the bottom allowing clearer water to be released in select locations in the design. They additionally looked at the roof area and retrofit roof headers. In conclusion he felt the project design significantly exceeds the standard.

Mr. Bird addressed the concerns regarding the monitoring wells and the impact to private water supply wells on the west side of the Mill River. There are existing monitoring wells on site and nothing on the site has exceeded the GW1 standards. Ground water has not been affected. As work is being done, the wells will continue to be tested. The DEP case cannot be closed out until all standards are met. Once completed the DEP requires the closing of the monitoring wells. As far as the impact to private water supply wells, historic releases have not been seen and based on the bedrock; contaminate releases from the site will not impact those wells.

Attorney Tallerman, attorney for the applicant, reviewed the list of potential conditions previously considered, that were collaboratively reviewed with the board's legal counsel Jonathan Silverstein.

1. In regards to the concerns with melting snow piles to be removed, the stormwater plan was already designed to accommodate this. It was determined that this condition is not necessary.
2. There was a concern regarding the monitoring wells to be studied. The applicant is committing to studying the wells and no additional assurances are needed nor a need to include this into the conditions for the decision.
3. A condition was considered to hold the applicant responsible for environmental and financial remediation. The applicant did agree upon the language suggested by legal counsel.
4. The applicant was asked that if a water supply well on an undeveloped portion of the property was found, if they would be mutually agreeable to enter into an agreement to donate this to the Town water withdrawal rights, provided that such withdrawal does not limit or adversely impact the permitting, construction or operation of the facility. The applicant is agreeable to this condition.
5. and 6. The applicant was asked and has agreed to provide as much notice of tenancy as possible. Language was agreed based on notifying the ZBA 45 days prior to occupancy, or change in occupancy, who the tenant will be, based on the use list and groundwater limitations. Copies of emergency response plans will be presented.
7. The board asked the applicant to name the town as an additional insured. With respect of town owned assets, the applicant is not opposed in concept but rather have the Select Board and Town Administrator take the lead and see if they are interested in pursuing this.

Scott Savage reported that no additional correspondences were received since the last meeting to present this evening.

Public Comments

Beverly Swift, 21 Anthony Road, lives in a neighborhood that has wells and has concerns regarding the affect from this project development.

Matt Madden 12, Tilitson Road, stated this environmental project for the town of Hopedale shows the benefit is clear. It addresses stormwater improvements and exceeding the DEP standards.

Rick Espanet, 50 Westcott Road, remarked that the applicant has addressed our water concerns. Clearly there have been some give and take and this will be done in the best interest of Hopedale.

Board Comments

Nicole G. Small thanked the applicant for the depth of their presentation and the explanation given has answered the questions she had previously.

Lou Costanza stated the presentation was outstanding and he had no other questions.

Sandra Biagetti had concerns regarding the activity the tenant will produce. Scott Savage's response was the operations within a warehouse are consistent with the plans. Bill Buckley stated the applicant is more than willing to agree on the condition regarding the tenant language. Granting of the special permit

includes the bylaw prohibited uses. Mr. Buckley also is willing to allow the exclusion of a transfer site to be in the conditions.

Nick Alexander asked Attorney Tallerman if something went wrong with the drinking well water, what is plan B for these homeowners. Mr. Tallerman responded that they are strictly liable for any damages; insurance policies will be in place and the impact to the residential wells is extremely unlikely.

BOB Bird explained the process to control any hazardous situation. The applicant has been proactive on the design of the project. DEP would be aggressively in enforcement.

Scott Savage said most of the conditions have been addressed. His additional conditions that have come to the board's attention include language regarding the construction material of the roof, no long-term storage on trailers and to prohibit truck to truck transfer station.

Jeff Walsh from Graves Engineering was present and opined in regarding the project as he has completed the peer review for the Planning Board and the Zoning Board for this application. He offered a suggestion that the roofing construction be completed with a metal surface and rubber covering.

He agreed with the information Mr. Hartnett presented on the predevelopment and post development regarding the groundwater. He is very comfortable to the improvements made and he does not have a problem with the water quality units. He suggested moving certain piping and spillway locations. Doug Hartnett did consider these suggestions and feels they are minor revisions that can be incorporated easily. Jeff Walsh will be working with the applicant throughout the project and adjustments can be made throughout the development as a condition of the Planning Board decision.

Return to Public Comments

Beverly Swift had concerns regarding the cleanup process and the applicant stated they will remediate the property.

Board Comments

Sandra Biagetti had concerns regarding PSAF contamination for the wells. Joe Antonellis commented that since outside storage is prohibited on the site, and there are significant restrictions, these types of contaminates would not be getting into the applicant's system.

Lou Costanza made a motion to close the public hearing, seconded by Sandra Biagetti. All were in favor.

During the deliberation, the following conditions were agreeable to all members of the Zoning Board.

1. As may be required by law, the Applicant shall be responsible for any environmental or financial remediation needed due to spills, contamination or accidents during construction or operations.
2. Subject to execution of a mutually acceptable license agreement, the Applicant has agreed to and will provide access to the Town and its agents to evaluate undeveloped portions of the Property for the possible location of a public water source, ...and has further indicated willingness to entering into a mutually agreeable agreement to donate to the Town water withdrawal rights, provided that such withdrawal does not limit or adversely impact permitting, construction or operation of the Facility.
3. At least 45 days prior to initial occupancy, or change of tenant, the Applicant will provide the Board with written notice identifying each tenant, the specific nature of its operations, and the portion(s) of the project it will be occupying. Such notice shall also include copies of any emergency response plans of such tenant. The Chair may place the matter on the Zoning Board's agenda for a meeting within 30 days after receipt of such notice, at which the Applicant and the tenant shall appear, so that the Zoning Board may ask questions and receive further information regarding the prospective tenant and ensure that the proposed occupancy will be consistent with this special permit.
4. Construction material for the roof will be metal roofing surface with rubber covering.
5. The applicant will prohibit any truck-to-truck solid waste transfer tenant.
6. Trailers on site must remain empty outside of the normal business operations.

The applicant is willing to engage with the Select Board and the Town Administrator if they desire to be named in a joint insurance policy but this is not a condition of the special permit.

Lou Costanza made a motion to approve the special permit for a use that will render impervious more than fifteen percent or 2,500 square feet of any lot at 75 Plain Street, with the 6 conditions listed above, with final draft language review by legal counsel. Motion seconded by Nicole G. Small. Vote was as follows:

Nicole G. Small	yes
Lou Costanza	yes
Nick Alexander	no based on the risk to contamination of water
Scott Savage	yes
Sandra Biagetti	yes

Motion passes in favor with a vote of four in favor and one not in favor.

Lou made a motion to adjourn at 9:00 pm, seconded by Nick Alexander. All were in favor.

Respectfully submitted,

Mary Arcudi
ZBA Secretary