

Re: Jan 11th Meeting**Hopedale Zoning Board <Zoning@hopedale-ma.gov>**

Tue 1/10/2023 11:08 PM

To: Preserve Hopedale <preservehopedale@gmail.com>

Your email has been received and will be added to the record and shared with the other board members.

Scott Savage
Chair
Zoning Board of Appeals

When communicating with the Hopedale Zoning Board of Appeals, please be advised that the Secretary of the Commonwealth of Massachusetts has determined that correspondence received or sent by a public entity is subject to disclosure as a public record under G.L. c. 4, § 7.

On Jan 9, 2023, at 5:21 PM, Preserve Hopedale <preservehopedale@gmail.com> wrote:

Dear Hopedale Zoning Board of Appeals,

Regarding the upcoming meeting on Wednesday 1/11/2023, we respectfully request that the Zoning Board deny the request for a Special Permit by GFI Partners on the application of 75-131 Plain St, LLC to render more than 15% of the lot impervious in the Groundwater Protection District.

Significant weight is being placed on the land court's default decision in the case of *Rosenfeld Concrete Corp. v. Town of Hopedale*, recorded 10/27/2022, however these considerations should be taken into account ...

- Rosenfeld did not own the land at 75 Plain St. at the time of the litigation being filed or the date the default judgement was recorded – therefore, it should seem to render the decision invalid as the plaintiff was not the legal owner at the time. According to the registry of deeds, Justin Piccirillo and Melissa Haskell owned the land at the time (beginning on August 8, 2022), and it was not deeded back to Rosenfeld Concrete until December 2, 2022. While this is a 'technicality' it indicates the court did not fact check the claims, considering the plaintiff did not even own the land at the time of litigation.
- The first point in that default judgement is factually incorrect. On page 2, under the section entitled "ORDERED, ADJUDGED and DECLARED:", it states as point #1, "That warehouses are a by-right use in the Light Industrial and Ground Water Protection zoning districts in the Town." The Hopedale Town by-laws list the permitted uses in the Groundwater Protection District in section 17.6(a) – a warehouse is not one of them.
- Given the above, (a change from one non-conforming use to another non-conforming use), this would seem to trigger section 4.5 of the by-laws. It should be noted the full text of the by-laws was not provided by the plaintiff to the court for review.
- It is apparent that the current state of the land, as documented in the letter dated December 9, 2022 by the Water & Sewer Department Manager, Tim Watson, is non-compliant and has been for years. While the applicant, GFI Partners, intends to handle the

clean-up to bring this property into compliance, this benefit will occur with or without the special permit for the additional square footage and impervious surface coverage, as part of the approval for the 411,000 square foot project. The Special Permit for the additional impervious surface coverage *is not required* for the benefits of the clean-up/compliance to occur.

Our town by-laws should not be ignored or waived in this case. Doing so would just add risk in a Groundwater Protection District, for which our by-laws are intended to protect, and for no supplemental increased benefit beyond what will already be realized. At the end of the day, the Groundwater Protection District's purpose is to prevent temporary and permanent contamination of the environment/resources. Even best practices and mitigation measures can be subject to human error, system failures, and other natural occurrences (fire, floods, etc.), making enforcement of section 17.6(a) of our by-laws more critical.

The court's default decision was a direct result of the Select Board voting to not send council to defend the town and its by-laws (as written and voted on by residents). Therefore, the court made its decision based solely on the incomplete information provided by the plaintiff. In addition, at a subsequent Select Board meeting the chair expressed her concern that she did not realize that voting to not send council would result in a default judgement for the applicant.

As appointed members of the Hopedale Zoning Board, we request you vote in a manner consistent with **your** knowledge of the Groundwater Protection by-laws, as written, and their intended purpose to protect our limited resources. The default judgement was only awarded because of a decision made by the Select Board (in private executive session) without consulting with the Zoning Board, who has the most authority over the Groundwater Protection District as the Special Permit Granting Authority. Relying solely on the factually inaccurate default judgement would, essentially, set the precedent that future applicants can negotiate our by-laws to fit their wants/needs through unchallenged litigation.

Regards,

The Preserve Hopedale Team