



TOWN OF HOPEDALE
Planning Board
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Stephen Chaplin Chairman
Kaplan Hasanoglu, Member
Jimmy Kohkar, Member
Michael Costanza, Member

**Hopedale Planning Board
Meeting Minutes
Via Zoom Video Conference
May 4, 2022**

Recorded meeting can be found on the Town of Hopedale website under meeting videos.
The continuation hearing was opened at 7:00 pm.

Members that were present:	Stephen Chaplin, Chair Kaplan Hasanoglu Jimmy Kohkar
Member that was absent:	Michael Costanza
Interim Secretary:	Mary Arcudi
Applicants and Representatives:	Joe Antonellis, Doug Hartnett, William Buckley, Marc Wallace, Ken Cram, Hilde Karpawich
Legal Counsel:	Jonathan Silverstein
Guests:	Colleen and Bryan Stone, PF Butcher, Michelle Bird, Brian Poitras, Ann DeMattis, Ricardo Lima, Lewis Family, Jacqueline Bart, Sarah Kastrinelis, Haley Palazola, Rich Anton, Bob LaRochelle, Jeannie Russell, Kenny Mitchell, Steve Zuromski, Denise Linder, Tim Watson

Kaplan Hasanoglu made a motion to approve the minutes of April 25, 2022, seconded by Jimmy Kohkar. All were in favor.

Continuation of the Public Hearing for 75 Plain Street – Application from GFI for Site Plan Review

Stephen Chaplin opened the continuation hearing noting that this hearing will allow the board members to request any last-minute additional information and to start deliberating the details of a final decision before closing the hearing.

One concern two members had was in regards to the community mitigation funds designated for specific town expenses. Stephen Chaplin spoke with Jonathan Silverstein who stated that these funds would go into the general fund and the Planning Board cannot restrict these funds. It is the hope that the town will honor the specified intention of these revenue sources.

Before reviewing the draft of the decision for the warehouse at 75 Plain Street, the board reviewed the zoning bylaws regarding site plan review, section 18. Specific sections were reviewed in detail. Section 18.3 details the decision has three options, not to approve if not enough adequate information is given, to approve with conditions to ensure the site plan meets the standard of this bylaw or the third option is to disapprove in extreme circumstances where no form of reasonable conditions can be devised to satisfy problems with the plan. The board members agreed that a decision can be reached to approve this application with conditions. Section 18.5 regarding surface run off water was reviewed by Graves Engineering and Water and Sewer Department Manager who stated that the plans were a major improvement to the site.

A resident requested that a plaque be placed onsite to commemorate the Rosenfeld family and Mr. Hartnett expressed that the plaque on the site now has been preserved for this reason.

Review of Draft Decision

Project Name: Proposed warehouse distribution facility – 616,875 sf.
75 Plain Street, Hopedale, MA

Owner: Rosenfeld Concrete Corp., f/k/a DMJ Concrete Corp.
P.O. Box 9187
100 North Washington Street
Boston, MA 02114
Applicant: 75-131 Plain Street, LLC
c/o GFI Partners, LLC
133 Pearl Street, Suite 300
Boston, MA 02110
Zoning District: LI – Light Industry District
Ground Water Protection District

All hearing dates are noted from October 6, 2021 to May 4, 2022 on pages 2 and 3. Also included is a summary of all engineering reviews and correspondences received which is also listed publicly on the Planning Board website. The summary includes the listing of petitions and opposition letters which the board believes valid but no findings were done to confirm accuracy.

Background

The Applicant proposes to construct a 616,875 square foot warehouse building with ancillary business offices included. The locus contains 141 acres and is on a parcel that has historically been used as a concrete manufacturing and sand and gravel plant. The property is adjacent to Plain Street on the East, Hopedale Country Club and drinking water well fields of the Town of Hopedale on the north, the mill river to the west, and the Plain Street Industrial Park (i.e., Rosenfeld Drive and Condon Way) to the south. The site is located in the LI (Light Industry) Zoning District. The entire site lies in the Groundwater Protection District. Major issues of concern raised during the public hearings included the impacts of traffic and trucks, noise, fumes from idling, hours of operation, impacts on the surrounding neighborhood and streets (i.e., Harford Avenue, Rt. 140, as well as side streets like Newton Street, Mellen Street, Warfield Street, Bens Way, Richard Road, and Neck Hill Road), and clarification as to the actual use of the building, since the final tenant is unknown. Changes to the proposal were made in response to comments from the Board, peer reviewers, and abutting owners to help reduce community impacts. These changes are reflected in the final plan set and the conditions set forth herein.

Kaplan Hasanoglu requested enforcement concerns be added to the major issues and Stephen Chaplin stated this information is recorded in detail in the enforcement section of the draft. Kaplan also discussed property value concerns which was determined to be a concern outside the scope of the board to study and not included in the bylaws. The concern for impact on town services will be added to the major issues of concerns. Board members agree with the language in the background portion of the draft decision.

General Findings

The site lies in the LI (Light Industry) Zoning District and the Groundwater Protection District (GPD). The site does not lie within a FEMA flood zone. The site was used in the past as a concrete manufacturing and sand and gravel plant.

Warehouse uses are allowed by right in the LI District. Site Plan Review is required because the Applicant seeks to construct more than 6,000 square feet of gross floor area and requires the provision of ten or more parking spaces. (See By-Law § 18.2.)

A Special Permit under Groundwater Protection District is required because the project proposes to render more than 2,500 square feet of land impervious. (See By-Law, § 17.6(c)(6).)

Conservation: According to the Applicant's plans, significant wetlands exist on the site. The Applicant also informs the Board that significant environmental cleanup will be required due to the historic use of the property. Therefore, the Applicant must obtain all applicable Orders of Conditions from the Conservation Commission and must comply with all state and federal common law, statutes, regulations, administrative rulings/guidance, and other applicable legal standards when performing work at the property.

ZBA: No variances from zoning have been requested but the Applicant must obtain a Ground Water Protection District Special Permit from the ZBA.

A peer review of the civil/site issues has been performed on behalf of the Town by Graves Engineering. In accordance with a letter submitted by Graves Engineering, Inc. dated 02/02/2022

and corresponding adjustments made to Sheet C803 by the Applicant all civil/site issues identified by Graves have been resolved by the Applicant.

A peer review of the traffic issues has been performed on behalf of the Town by MDM Transportation Consultants, Inc.

A peer review of the Applicant's sound study was performed on behalf of the Town by HMMH.

The warehouse as submitted shows 138 loading spaces, 333 trailer parking spaces, and 326 passenger car parking spaces. The average number of weekday vehicle trips (car and truck combined) is expected to be 1,074. The conditions set forth herein refer to the building as a whole.

The review of this application has taken into consideration the criteria required for site plan review, as set forth in By-Law § 18.5, subject to the conditions listed herein, as described below:

- a. § 18.5(a): As conditioned, this project will be of social, economic and community benefit to the Town. The proposed warehouse use is allowed "by right" in this zoning district, with a special permit from the ZBA being required for rendering more than 2,500 sf impervious within the Ground Water Protection Zoning District (as stated previously, the Applicant must apply for and obtain this Special Permit from the ZBA). The building façade and construction are similar to what would be expected for a building of this type of use. The project should realize aesthetic and environmental improvements as compared to existing conditions. The tax revenue is estimated to be around \$1,000,000/year. The Town has zoned this area for industrial use in hopes of obtaining tax revenue from commercial development, which this project will provide. Demand on municipal utilities is minimal. Approximately 300 permanent local jobs will be created to operate this facility, in addition to numerous shorter term construction jobs.
- b. § 18.5(b): A Traffic Impact and Access Study (TIAS) was prepared for the Applicant by Bayside Engineering and was peer reviewed by MDM Transportation Consultants, Inc. for the Town. The TIAS and plans of the Applicant demonstrated compliance with the By-Law's minimal requirements of "safe vehicular and pedestrian movement within the site," for "convenient and safe" driveway openings in relationship the adjacent street network, and for "adequate emergency vehicle access."
- c. § 18.5(c): The Applicant's presentation has satisfied the Board that provisions have been made for adequate parking and loading spaces and for the minimization of visual intrusion of these areas from public ways. The building is located 672 feet from the nearest abutter on Plain Street and 997 feet from the nearest abutter on Neck Hill Road or Ben's Way. Additionally, the location of the building, the length of the entrance way and other factors ensure that there will be no need for on street parking. The site has been designed to allow trucks approaching and using the facility to do so without idling or parking on any public way in Hopedale.
- d. § 18.5(d): The Applicant's revised plans and renderings show landscaping measures and overall site design which sufficiently screen the appearance of off-street parking areas from abutting properties, and which create acceptable visual and noise buffers intended to minimize encroachment upon the residential property uses to the east, west, and north of the project site. More specifically, the use of grading, berms, sound walls and the like, as shown on the Applicant's revised plans, accomplish that which is required by By-Law § 18.5(d).
- e. § 18.5(e): The Applicant's plans and other application materials, including its peer-reviewed Stormwater Management Plan, make adequate provision for controlling surface water runoff so as to minimize impacts on neighboring properties and streets and to prevent soil erosion and sedimentation of the Town's surface waters. According to Graves Engineering, the Town's peer review consultant, the proposed development will not only meet the Town's regulations, but it will also significantly improve the existing site conditions by

decreasing untreated runoff from the site by 76% in a two-year storm and 72 % in a 10-year storm.

- f. § 18.5(f): The Applicant's plans do not call for sewage disposal nor the use, storage, handling, or containment of hazardous substances in any form, and therefore, the proposed activities do not create a risk of groundwater contamination as contemplated by By-Law § 18.5(f). The site will be served by municipal sewer and the Applicant's plans are to the satisfaction of the Water & Sewer Department's Manager.
- g. § 18.5(g): The project, as conditioned, contains appropriate safeguards and monitoring with respect to the risk of excessive or unreasonable, noise, smoke, vapors, fumes, dust, glare, and the like. Impacts are addressed as follows:
 - i. Odors/Vapors/Fumes: The actual facility is not anticipated to create any objectionable odors, vapors, or fumes. Fumes from vehicles will be reduced via the use of electric vehicles as specified in the Applicant's plans and presentation. Observance of Massachusetts' anti-idling law on site as well as the site layout should serve to minimize the impact of diesel fumes on nearby residences.
 - ii. Dust and Glare: Based on testimony during the hearings, no dust or glare is expected to be generated from the facility.
 - iii. Noise: Provisions to limit noise impacts on the surrounding neighborhood have been incorporated into the conditions set forth herein, including the installation of berms/sound barriers to the west of the site adjacent to the mill river and along the north and south of the site driveway.
 - iv. Visual: The building will be the largest in the Town, but screening in the form of shrubs, berms, wooded buffer areas, and landscaping will be provided, and in addition, the building will be set back from the street significantly. The view of the site from the public way post-construction will represent a significant improvement as compared to the current view of the significantly-disturbed property.
 - v. Other: The applicant represents that truck traffic volumes will be minimal during the overnight hours, which will reduce overall impacts from the development.

§ 18.5(h): The project does not implicate structures listed in the State Register of Historic Places.

Pursuant to By-Law § 17.7(a), this Board finds that the intent and specific criteria of the Ground Water Protection (GWP) By-Law is met by this Application and that and that the Applicant's application materials include sufficiently detailed, definite, and credible information to support positive findings in in relationship to the standards set forth within the GWP By-Law. More specifically, pursuant to By-Law § 17.7(c), the Board finds:

- h. 17.7(c)(1): The proposed use will not adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District. Based upon comments from the Water & Sewer Departments and the Planning Board's peer reviewers, snow removal/storage/plowing plans have been altered so that snow will be stored on the south side of the property, thereby alleviating concerns of possible drinking water contamination. In his correspondence of February 11, 2022, Water & Sewer Department Manager Timothy J. Watson states, among other things, "[after reviewing the storm water plan, I am comfortable with the protection provided to the Mill Street Well Field." (Watson Correspondence, p.1, ¶4.)
- i. 17.7(c)(2): The proposed use is designed to avoid substantial disturbance of soils, topography, drainage, vegetation, and other water-related natural characteristics (if any) of the site to be developed. According to Manager Watson, "[t]he property owner will also be fully responsible for any environmental remediating on site, which includes a 20,000-gallon UST, and

any other areas identified during construction.” (Watson correspondence, p.1, ¶5.) “The removal of this ground contamination, as well as others that may be identified, will be beneficial to all.” (*Id.*, at pp.1-2.) The following concluding remarks in Mr. Watson’s correspondence, cement this Board’s conclusion that the requirements of the GWP By-Law are met, if not exceeded:

“In closing, I agree with the Peer Review from Graves Engineering that the SWP will reduce the surface water runoff and increase the on-site infiltration.... This new infiltration, with proper treatment could in fact be beneficial to the Water & Sewer aspects. I do not believe I would have the same opinion if this were undeveloped forestland or “clean site” and not a defunct cement yard....” (Watson correspondence, p.2, ¶3.)

To the extent the GPD By-Law requires this Board make a recommendation to the ZBA, this Board recommends that the ZBA issue a GPD Special Permit to the Applicant

The proposed use, as conditioned, is not noxious, harmful or hazardous, is socially and economically desirable, meets an existing or potential need and the Applicant has no reasonable alternative available to accomplish the purpose of the application in a manner more compatible with the character of the immediate neighborhood. As part of its proposed work, the Applicant has committed to “reclaiming” previously disturbed wooded areas and removing above-ground and underground fuel storage tanks, as well as to remove existing industrial debris from the site’s previous use.

The advantages of the proposed use, as conditioned, outweigh any detrimental effects, and such detrimental effects on the neighborhood and the environment will not be greater than could be expected from development which could occur if the site plan were denied. The Applicant projects that the project, once built, will result in a real estate assessment of \$34,873,803.11, resulting in annual real estate tax revenues in excess of \$1,000,000, in addition to 300 jobs to the local economy and a building permit fee expected to exceed \$700,000.

The board members had a lengthy discussion regarding noise, truck traffic and hours of operation. Kaplan detailed his concerns about the abutting neighbors being disturbed during the quietest hours of the night with truck traffic. His thoughts were to consider restricting the number of trucks instead of outright banning trucks during those hours. The board will be reviewing this in more detail, reviewing all pertinent documents received to see if this is a health hazard to consider in the conditions of the decision. The board agreed that the day time hours regarding truck traffic was agreeable.

- Board members agree all other findings are acceptable.

Administrative Conditions, Earth Removal Conditions, and Stormwater & Sediment Control Conditions

The board members will review these three sections on their own and review together as a board at the next meeting.

General Conditions

This section was also tabled to the next meeting for the board to review.

Special Conditions – this section of the draft was tabled to be discussed at the next meeting which includes vehicle limitations and traffic mitigation.

Noise Impacts:

- a. No-idling signs shall be placed around the building so as to be clearly visible to all trucks. No vehicles shall be allowed to idle for more than 5 minutes. For purposes of clarity, the provisions of G.L. c. 90, § 16A (the “Anti-idling Law”) shall be enforceable on the site, and to the extent such statute may be deemed to only apply to public ways in the Commonwealth of Massachusetts, the Applicant agrees that its tenants, licensees, and invitees shall be bound by the terms set forth within the statute when on the site. Furthermore, the exemptions listed under the Anti-idling Law relative to delivery of goods and the need for alternative power sources shall not apply to vehicles at the Facility. It shall be the responsibility of the Applicant to ensure that adequate infrastructure is available at the Facility to allow trucks to utilize the Facility without the need to idle.

- b. Implementation of and observance of the Applicant's self-imposed "Good Neighbor" mitigation shall be a condition of this approval, including:
- a. Requiring tenants to designate a person responsible for the on-site compliance of the conditions of this Decision, as well as state, local and federal environmental laws and regulations;
 - b. Posting signage and requiring tenants to enforce the Anti-idling Law to reduce idling vehicles, noise, and air emissions whenever possible;
 - c. Requiring all rooftop equipment to comply with MassDEP Noise Regulations;
 - d. Actively promoting and encouraging the use of "white noise" backup alarms to the fullest extent permitted by law;
 - e. Providing an on-site break room to minimize vehicle trips and provide a lounge area for drivers;
 - f. Prohibiting refrigerated storage or refrigerated trucks unless they can meet the sound requirements of this Decision and of the HMMH's peer review analysis;
 - g. Requiring that dock doors and exterior doors be closed when not in use to minimize any interior noise from exiting the building;
 - h. Requiring facility tenants to train managers and employees on efficient scheduling and load management to eliminate queuing and idling of trucks;
 - i. Requiring the use of electric powered yard trucks during established "quiet hours" and provide charging stations for their use;
 - j. Posting signs and educating drivers on approved truck delivery routes to the nearest highway system and clearly designating site entrance and exit points to prevent any truck traffic through residential streets;
 - k. Prohibiting any parking of vehicles on Plain Street and overnighting on-site;
 - l. Prohibiting any tenant installed speed bumps on site;
 - m. Prohibiting the use of so-called "jake breaks" or "jake breaking" on Plain Street or anywhere in the facility, except when required for safety purposes;
 - n. Prohibiting any alterations of buildings that would locate any additional dock doors on the Plain Street or Mill River sides of the building;
 - o. Maintaining site paved areas to reduce truck noise from uneven pavement;
 - p. Performing preventative maintenance of all rooftop equipment to minimize sound from mechanical equipment; and
 - q. Prohibiting the use of any exterior public address systems that are audible at the property line.
- c. Idling reduction technologies, including electric parking spaces (anti-idling plugs) shall be installed at all operational loading bays throughout the building.
- d. If rooftop air conditioning units are installed, they shall be shielded to prevent noise impacts to the abutting residences. The specifications for such screening shall be presented to the Building Commissioner and Planning Board for review and approval prior to installation. The Building Commissioner may employ, at the Applicant's expense, an acoustical engineer to review and make recommendations regarding such screening.
- e. The site plans have been revised to include: (a) a sound berm/barrier to mitigate impacts to Bens Way and Richard Road which will be 715 long with a top elevation of 248 feet; (b) maintaining an existing precast concrete block wall to the east of the property which is 446 feet long with top elevation of 266 feet; and (c) berms to the north and south of the site driveway with top elevations of 268 and 270 feet, respectively. Design of the walls shall be approved by the Building Commissioner prior to installation and may be subject to peer review by at the Building Commissioner's discretion and the Applicant's expense.

- f. Plans also reflect the stated intent of the Applicant that, during the overnight hours, terminal tractors (i.e., yard truck or hostler) used to transport trailers to and from the warehouse building and the trailer storage areas will be electrically powered (i.e., substantially quieter than diesel-powered tractors).
- g. The ZEO or Board may employ, at the Applicant's expense, a peer review acoustical engineer to review and make recommendations regarding the noise studies prepared by the Applicant. In addition, the final design of the sound barrier may, at the Board's discretion, be reviewed by an acoustical expert of the Board's choosing, at the Applicant's expense, and prior to construction, to ensure the design will be robust enough to meet the noise standards listed herein. The design shall also minimize the aesthetic impact on the neighboring residences. In addition to maintaining limits conditioned above, the barrier shall be designed to minimize to the maximum extent practicable any sporadic additional noises such as truck backup beepers, door slams and loud instantaneous banging. The Applicant shall pay for the services of an acoustical engineer of the Town's choice for all review of the noise conditions set forth herein, including those needed by the ZEO to ensure compliance with these conditions after construction and the issuance of the Certificate of Occupancy.
- h. A pre-construction ambient noise level study of existing conditions shall be performed by a qualified acoustical engineer, at the Applicant's expense, and is required prior to the start of construction. To establish pre-construction (and post-occupancy) sound levels, the Applicant shall engage the sound engineer to install sound monitors on the project site at/near the property line closest to residential receptors. The sound engineer shall program the monitors to continuously measure sound levels and frequency spectra (tonal characteristics) for a minimum of a one-week time duration, with standardized sound level descriptors reported in one-hour time intervals throughout the minimum one-week monitoring duration. Upon completion of the pre-construction sound monitoring, the Applicant's sound engineer shall submit a report to the Planning Board summarizing the results of the monitoring. The report shall provide a description of the methodology, the data collected, the results of the monitoring, and conclusions regarding the existing ambient sound levels. Additional information may be requested by the Board or its consultant if needed prior to the start of construction.
- i. The Board may require post-occupancy monitoring, at the Applicant's expense, within six months of building occupancy, but not sooner than two months after building occupancy to allow time to establish routine procedures within the facility. Upon completion of the post-occupancy sound monitoring, the Owner's sound engineer shall submit a report to the Planning Board summarizing the results of the monitoring. The report shall provide a description of the methodology, the data collected, the results of the monitoring, and a comparison between pre-construction ambient sound levels and post-occupancy ambient sound levels. Additional information may be requested by the Board or its consultant if needed to ensure compliance with these conditions.
- j. Sound pressure levels originating from the project site and measured along neighboring residential property lines shall not exceed a maximum level of 60 dB, or 5 dB above ambient, whichever is lower, between 7:30 PM and 6:30 AM.
- k. Sound pressure levels originating from the project site and measured along neighboring residential property lines shall not exceed a maximum level of 70 dB during other hours of the day, or 5 dB above ambient sound levels, whichever is lower.
- l. The above listed sound levels are operational limits, and are not expected to be enforced during construction of the site. The sound barrier shall be installed as early as possible during construction in order to reduce construction impacts to the abutters.
- m. If the ZEO deems there may be good reason to believe that these acoustical conditions are not being met, the Applicant shall be required to monitor and report on actual noise levels after facility operation commences, at reasonable intervals using reasonably customary methodology, to ensure that the facility operation is consistent with the sound conditions listed above. Should sound levels exceed the conditioned levels, the Applicant shall cease

or reduce operations until such time that adequate sound mitigation is provided to meet these standards.

- Board members find the noise section of the draft decision to be acceptable and will review in more detail at the next meeting as well.

Use Limitations:

The use of this building is limited to warehouse, with ancillary business offices. These uses are permitted “by right” under the local zoning bylaws. The warehouse traffic patterns correspond to ITE (Institute of Transportation Engineers) Land Use Code 150, which anticipates an average daily traffic generation rate of 1,092 total vehicle trips per day for a building of this size. Traffic volumes that correlate to ITE Land Use Codes 155 (Fulfillment Center) and LUC 156 (Parcel Hub) are not permitted for this site. The vehicle cap numbers listed above are provided to allow appropriate daily fluctuations from the average vehicular volumes expected for the permitted warehouse and business office uses, but, as a whole, traffic trips are expected to closely mimic the anticipated trip numbers provided by the Applicant. The use of aerial drones for building operational purposes is not permitted on the site. No refrigerated storage is allowed in the facility unless it meets the noise restrictions contained in this decision.

Water impacts:

- a. The existing municipal water service is sufficient to service the property. In addition, the Applicant has agreed to, at the Applicant’s expense, construct an extension of an existing water line on Plain Street approximately 500’ from an existing fire hydrant to the Town line with Mendon at the intersection of Plain Street and Hartford Avenue, which shall be completed in conjunction with the above-stated intersection improvements. All such work shall be reviewed and approved in advance with the Water & Sewer, Highway, Roads and Building Departments, and the Applicant shall provide such departments and their consultants reasonable plans and shall conform with all applicable, federal, state, and local laws, rules, and regulations. All such work shall be completed prior to the issuance of a Building Permit.
- b. Hydrants are proposed around the building, and fire flows will be augmented by a storage tank and a pumped system to facilitate the building sprinklers. Specific details of this system have not been provided to the Board. The higher flows created by this pumped emergency system may impact the municipal water network. If requested by the Hopedale DPW, the Applicant shall pay, under the provisions of MCL Ch. 44, Sec. 53G, for the services of a peer reviewer to perform hydraulic modeling to study the impacts on the overall system. System upgrades, if determined necessary by the Board’s peer review consultant, shall be at the expense of the Applicant.
- c. The Applicant shall provide access easements to the Town in areas agreed upon between the Applicant and the Water & Sewer Department for accessing potential off-site well locations, provided that said easements shall not unreasonably interfere with construction or operations of the site.
- d. The Applicant also agrees to be bound by four (4) to one (1) removal of inflow and infiltration, even if the Town’s current standards are lesser.
 - Board members find the use limitation section acceptable.

Visual impacts:

Berms, plantings, fencing and other landscape features designed to screen the site from neighboring parcels shall be maintained in good condition for the life of the facility.

- Board members agree with the visual impact section of the draft decision.

Financial impacts/Mitigation:

The Applicant has submitted a proposed mitigation package, which in addition to the intersection improvements, sound barriers, water line extension, and water-sewer easements referenced above, consists of payment to the Town the sum of \$625,000, which monies are intended (subject to municipal finance laws) to be applied as follows:

- a. \$200,000 intended to be used for upgrades, improvements or repairs to the Town’s existing parks and recreation areas;

- b. \$200,000 intended to be used for improvements or expansion of existing Town services;
- c. \$200,000 intended to be applied towards expenses associated with the construction of a new water tank for the Town; and
- d. \$25,000 for the DPW to use for engineering and construction costs necessary to mitigate pre-existing drainage concerns on Plain Street.

The above sum of \$625,000 shall be payable to the Town prior to the issuance of a Certificate of Occupancy.

- Board members agree with the financial impact/mitigation statements in the draft decision.

Enforcement

The Board may work in coordination with the Zoning Enforcement Officer (“ZEO”) to ensure compliance with these conditions. As an alternative, or in addition, to the authority of the ZEO under G.L. c.40A, §7 and the Zoning Bylaw, the Board may reopen this decision if, in its discretion, it determines such action appropriate to address any alleged violations:

- a. The ZEO shall provide the Board with copies of all violation orders and notices issued to the Applicant.
- b. The Board may determine to hold a public meeting to review such violations; in such event, the Board shall provide written notice to the Applicant and/or its authorized representatives, who shall appear before the Board at such public meeting to respond to and address said allegations.
- c. The Board shall review the applicable information and make findings with respect to the alleged violations.
- d. The Board shall require the Applicant to take any reasonable corrective and preventative action measures to mitigate impact from the violations and to prevent reoccurrence of similar violations in the future. The Board may impose reasonable additional conditions upon this Decision to ensure compliance and mitigate impacts of the project.
- e. The Board’s administrative process is not intended to preclude any enforcement action that may be taken by the ZEO, or to discourage the Applicant from taking self-corrective action prior to Board review. It is expected that if the ZEO raises areas of potential non-compliance, the Applicant will work expeditiously with the ZEO to resolve the issues raised, without requiring Board action.
- f. The Board or ZEO may require the Applicant to pay any reasonable costs associated with addressing any violation, such as police detail, peer review, legal or administrative costs.
- g. In addition to the above, the ZEO may also issue fines to enforce compliance. Each violation of these conditions shall constitute a separate offense. For example:
 - i. Each daily vehicle trip that exceeds the conditioned cap shall constitute a separate violation.
 - ii. Each day where noise exceeds the conditioned threshold shall constitute a separate violation.
 - iii. Each day where the hours of operation exceed the conditioned threshold shall constitute a separate violation.
- h. This decision is binding on the building in its entirety and all tenants therein. If the building is utilized by multiple tenants, it is not the responsibility of the Board to determine which tenant is in violation. Rather, all tenants shall be deemed in non-compliance until such time as the issues for the building as a whole are resolved.
- i. The ZEO may additionally seek enforcement of the conditions through judicial means in any Massachusetts court of competent jurisdiction, and the Applicant shall reimburse the Town for its reasonable attorney fees and litigation incurred in any such enforcement action.

The board agrees with the enforcement authority section. Where Hopedale does not have a Town Planner, the enforcement falls with the Building Commissioner who is our Zoning Enforcement Officer. This section details his enforcement authority.

With approval from the applicant, Jimmy Kohkar made a motion to continue the hearing to May 11, 2022 at 7 pm, seconded by Kaplan Hasanoglu. All members were in favor.

Kaplan Hasanoglu made a motion to adjourn at 9:19 pm, seconded by Jimmy Kohkar. Motion passes.

Respectfully submitted,

Mary Arcudi
Planning Board Secretary

Mike Costanza made a motion to continue the hearing to May 4, 2022, seconded by Kaplan Hasanoglu. All were in favor.

Mike Costanza made a motion to adjourn at 9:34 pm, seconded by Kaplan Hasanoglu. All were in favor.

Respectfully submitted,

Mary Arcudi
Planning Board Interim Secretary