

**Town Of Hopedale
Decision of the Hopedale Zoning Board of Appeals
February 22, 2023**

Case: 01-2023

Applicant(s): 75-131 Plain Street, LLC

Property Owner:

Property: 75 Plain Street
Hopedale, MA 01747

Application Filed: December 1, 2022

Hearings Held: January 11, 2023
February 15, 2023
February 22, 2023

Relief Sought: The applicant 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.

Decision: Following the closing of the public hearing on February 22, 2023, the board approved the request for a special permit for a use that will render impervious more than 15% or 2,500 square feet of any lot at 75 Plain Street with a vote of 4 in favor and 1 not in favor with the following conditions:

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 acceptable 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. No truck-to-truck solid waste transfer tenant shall occupy or utilize the Facility.
6. Trailers on site must remain empty outside of the normal business operations.

Certification

This is to certify that the above action was taken in compliance with the statutory requirements as set forth in Chapter 40A of General Laws, and that copies of this decision and plans referred to in this decision, if any, were filed with the Town Clerk on _____, 2023

Special Permit or Variance is not in effect until the decision is recorded with the Worcester County Registry of Deeds and the building permit will not be issued until proof of recording is presented.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PERSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

Scott Savage, Chairman

Record of Proceedings Hopedale Zoning Board of Appeals

Case:01-2023

Applicant(s): 75-131 Plain Street, LLC

Property Owner:

Property: 75 Plain Street
Hopedale, MA 01747

Hearing Proceedings

Hearing Date: January 11, 2023

On January 11, 2023 the Hopedale Board of Appeals held a public hearing on the above application. The hearing, which was convened following publication, posting and notice to parties in interest, pursuant to the provisions of M.G.L. c. 40A, Section 11, was opened by the Acting Chair at 7:05 pm.

The following Board Members noted as present were in attendance throughout the hearing:

Chair (Chair):	Scott Savage
Voting Member:	Lou Costanza
Voting Member:	Sandra Biagetti
Voting Member:	Nicole G. Small
Voting Member:	Nick Alexander

Discussion Details:

The applicant has submitted a comprehensive ZBA application for a special permit to construct phase II of the project for a warehouse construction on the site on render more than 15% of the site impervious. The applicant amended the site plan to the Planning Board, due to construction supply issues, to decrease the size to stay under the 15% impervious. The building permit is pending on the phase I amended site plan previously approved. The clean-up process that will consist of:

- The removal of a 20,000 underground storage tank
- The management and removal of contaminated soil from past releases of petroleum and diesel fuel. There are currently two AULs on site due to historic petroleum releases.
- The management and cleanup of any newly encountered contamination on site
- The process of removing these materials will be done in accordance of the MCP (310 CMR 40.000) under the supervision of a Massachusetts Licensed Site Professional.

All contaminants will be eliminated and former buildings and the establishment of cleaner wetland areas including the restoration of the degraded area with landscaping. Phase II will include the 205,000 sq foot building additional with the associated construction of impervious area. In Phase I all stormwater facilities will be constructed up front. Upon completion of the project there will be 616,875 square foot warehouse with a single access. All degraded area will

be restored with vegetation and screening will enhance the vegetative buffers. The restoration of the groundcover will control the runoff and this improves the ground water quality. Stormwater management system has been fully designed in compliance with MA DEP Stormwater Policy Handbook.

The board requested a further review of the plans, agreed by the applicant and Sandra Biagetti made a motion, seconded by Lou Costanza to continue the hearing to February 15, 2023. All were in favor.

Hearing Date: February 15, 2023

On February 15, 2023 the Hopedale Board of Appeals held a continuance public hearing on the above application. was opened by the Acting Chair at 7:00 pm.

The following Board Members noted as present were in attendance throughout the hearing:

Chair (Chair):	Scott Savage
Voting Member:	Lou Costanza
Voting Member:	Sandra Biagetti
Voting Member:	Nick Alexander

Discussion Details:

Due to one member who could not attend this hearing, the applicant requested a continuance to another date. Nick Alexander made a motion to continue the hearing to February 22, 2023, seconded by Lou Costanza. All were in favor.

Hearing Date: February 22, 2023

On February 22, 2023 the Hopedale Board of Appeals held a continuance public hearing on the above application. The hearing was opened by the Acting Chair at 7:05 pm.

The following Board Members noted as present were in attendance throughout the hearing:

Chair (Chair):	Scott Savage
Voting Member:	Lou Costanza
Voting Member:	Sandra Biagetti
Voting Member:	Nicole G. Small
Voting Member:	Nick Alexander

Discussion Details:

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 demonstrated 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 detailed responses to concerns the Zoning Board raised regarding compliance with the DEP stormwater management standards. 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.

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, seconded by Nicole G. Small, to approve the request for 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

with the following conditions:

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 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 to approve the special permit by a vote of four in favor and one not in favor.