

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held Monday, May 12, 2014 at 7:00 pm in the Municipal Building, Seabrook, N.J.

Vice Chairman Ed Overdevest called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to South Jersey Times South and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

Present:

Vice Chairman: Ed Overdevest

Members: Edward Fleetwood, Russ Vanella, Pauline Smith, Terry O'Neill, Scott Smith, Jack Waselik, Louis J. Bramante, Jr (arrived 7:09pm), Anthony Buono alt# 1, Robert Comer alt# 2, Joseph Spoltore alt# 4

Staff: Engineer Robert C. DuBois, P.E., Planner Randy Scheule, PP, AIC, Solicitors Theodore H. Ritter, Esq. and Matthew Ritter, Esq., Secretary Vicki Vagnarelli.

Absent: Chairman: Bruno Basile, Michael Blandino alt# 3,

On motion of Ed Fleetwood, seconded by Jack Waselik, Minutes of March 10, 2014 Approved

APPLICANT/DEVELOPMENT

24-2013 (P-13-13) **K & E Holdings I, LLC**, Fox Road, Block 707, Lots 2 and 5 **Public Hearing** Pre/Fin Major S/P Expansion of Resource Extraction License - plan revised to eliminate need for conditional use variance & comply with review comments of Planner Scheule and Twp. Ordinances regarding Land mining/resource extraction (Completeness 12/9/13 memorialized 1/13/14)

Solicitor Ritter spoke to audience and Board members regarding application and process for meeting.

The Board has no jurisdiction and cannot prohibit work on lot 5 which currently has 3 year approval.

Approvals of this site began in 1986.

Regarding Lot 2, Board can have some say regarding whether road is paved or graveled and whether height of fence is 4 or 6 feet.

Manner in which hearing works is the Board hears evidence just as a jury hears evidence in a jury trial.

Residents cannot speak with any Board member outside of this hearing. Staff reports will be presented by Planner and Engineer and Site Plan review committee will give report based on site visit conducted in December 2013.

Attorney's will make opening statements then call one witness at a time. Will be direct, cross and redirect examinations.

Planning Board has no authorization or authority to enforce laws, does not make laws or pass ordinances.

Does enforce and interpret ordinances. Board is obligated to look at site plan and whether or not it conforms to 405-42, Attorney Ritter cited Jackson case law. 405-70A does not contain additional standards. Township has standards adopted regarding public health, welfare and traffic and Planning Board has no authority to adopt their own standards.

Audience members are allowed and encouraged to speak and pay attention. Once both attorneys have rested public will come forward one at a time to be sworn in and give testimony and both attorneys will have opportunity to ask them questions. There is actually no procedure for one public member to ask another public member a question: it will be handled as and if the situation arises.

Opening statements:

Representing applicant K & E Holding I LLC : Attorney Michael Fralinger, Bob Mulford, Engineer, Fralinger Engineering, Lance Landgraf, Planner, Marathon Engineering & Environmental Services Inc, Richard Peirson, member of applicant, Donald Rogers, prior owner of Kim Sod, Errett Vielehr, Commercial Appraiser, Robert Sapio Real Estate Appraisal Consulting.

Completeness for applicant was December 2013 with adoption January 2014. Revised Plans were submitted March 2014 to comply with 405-42 and Planner Scheule's review. Variances are for fence height from 4 to 6 feet and road surface gravel to paved. Road variance will be removed if applicant's request for paved road is not approved.

Attorney Gerald Neski representing Joe Lacotte, Mike Taylor and a number of other homeowners. Neski does not agree with Planning Board solicitor Ted Ritter. He believes application to be a Conditional Use before the Board. Referenced 405-70A land extraction and believes there are specifics the Board is required to look at - such as addressing each and every specific character of neighborhood. Believes application is missing vital information and that the Time Table Extraction page should have been given in advance to public hearing. (Professionals, Board & Attorney Neski received copy at meeting). Questioned the 500 foot requirement and plan does not measure edge of pit to house.

Attorney Fralinger called first witness Donald Rogers Jr. - Topics discussed - project office manager for Don Rogers Inc. since 1988, selling of property to K & E, , information regarding schedule of operations for K & E, number of loads out, equipment uses, excavation of material and for what purposes, current sales, condition of Fox Road, how operation works, 75 – 80 percent done with current lot, lot 2 being in reserve, restoration, plan for lot 5,

Attorney Neski cross examine Donald Rogers Jr. – 50% wooded being visible from home, limits of what's extracted, K & E largest construction business in SJ, water and standby water, actively farmed, leased, nest 2 year period, next phase, buffer on Fox Road, pine trees, restoration of slopes.

Second Witness Attorney Fralinger called Robert Mulford Engineer project manager with Fralinger Engineering. Topics discussed - Lot 5 72.22 acres with 51 acres being mined, 100' wooded berm 25' wide Lot 2 has 500 buffer from all residents, 100 from property line, mineable area for lot 5 is 5.88 of 29 acres, 3 years for each phase, first phase is existing site next 2 phases are 3 years each, area complete in 2029, trees, paving better surface to reduce mud and dust, Twp. Ordinance desires unpaved surface, maintenance, consolidate lots, propose fence on lot 2 off existing Fox and Centerton Road, remove fence from lot 5, berming, ground water, elevations, stormwater, traffic impacts, current use, road conditions, time schedule, Time schedule was entered into evidence and distributed to Board members (App 1 5/12/14), comply with ordinance.

Neski cross examine Mulford – objection accepting schedule due to not being given in 10 days, no calculation on plan, use most instances are property line, 500 to residential or non related commercial use, southern portion activity, existing road,

Fralinger redirect Mulford – property line not mentioned in ordinance, number of loads day, year top soil, cubic yards of site

Neski recross Mulford – pool in yard of Taylor house

Approximately ten minute break taken per Vice Chair Ed Overdevest.

Fralinger redirect Mulford – pool accessory use to residential

Third witness Attorney Fralinger Mr. Pierson Jr. owner with brother – Don Rogers Inc., stock piles, I-5 crushed stone material, active days, current farming lot 2 from bottom to top, equipment uses, noise back up alarm, federal government mandates, dust, ATV's, 20 yrs in extraction pit, own of sand washes, 3 yrs move to lot 2, move entrance sign further off road, consolidate both lots, mandatory to build scale house and scale, Mine Safety and Health Administration (MSHA) mandates logs be kept on all equipment, Don Rogers part of construction crew totaling 15 employees,

Time restraints ended the public hearing at 10:00 and will resume June 16, 2014 at 7pm.

Professionals/Committees:

Solicitor Ted Ritter: Review of Township Resolution 14-77 Finding and Declaring Upper Deerfield Township to be an Area in Need of Rehabilitation in Support of the Adoption of a Tax Abatement Ordinance pursuant to NJSA 40A:21-1 ET SEQ., The Five Year Exemption and Abatement Law. – **Statute requires that the Declaration of Area in Need of Rehabilitation be referred to the Planning Board.**

Declaration is for the sole purpose of adopting a five year tax abatement for houses 20 yrs old or older.

Roll Call

Bruno Basile – Absent

Russell Vanella – Aye

Pauline Smith – Aye

Scott Smith – Aye

Louis J. Bramante, Jr., Aye

Anthony Buono, Sr., Alt #1 Aye

Michael Blandino, Alt #3 Absent

Ed Overdevest – Aye

Ed Fleetwood – Aye

Terry O'Neill – Aye

Jack Waselik – Aye

Robert Comer, Alt #2 no vote

Joseph Spoltore, Alt #4 no vote

Planner Scheule: may have items to review – distributed

There was no public comment

Board Member Additional Information

Block 501 Lot 4 Retta Cattell enrolled in Permanent Farmland Preservation Program

Received via Certified Mail Notification ACE Application for Renewal Multi-Permit for Power Line Rights-of-Way Vegetative and Structural Maintenance, Rebuilds and Upgrades Various Blocks and Lots, ACE Service Area 130 Municipalities, NJDEP DLUR File No. 0102-08-0016.1

No further business the meeting was adjourned