

**HILLSBOROUGH TOWNSHIP PLANNING BOARD**  
**PUBLIC MEETING MINUTES**  
**January 07, 2016 – Regular Meeting**

Chairman Shawn Lipani called the Planning Board Public Meeting of January 07, 2016 to order at 7:33 p.m. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Municipal Complex.

Chairman Lipani announced the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 (“Sunshine Law”).

**ROLL CALL**

Mayor Frank DelCore - present	Sam Conard - present
Robert Wagner, Jr. - present	<b>Shawn Lipani, Chairman</b> - present
Deputy Mayor Carl Suraci - present	Kenneth Hesthag - present
Robert Peason - present	Sally Becorena (Alt. #1) - present
<b>Dr. Daniel Marulli, Vice Chairman</b> - present	Stephanie Forrest (Alt. #2) - present
<b>Neil Julian, Secretary</b> - present	

Also present: David K. Maski, PP, AICP, Township Planning Director; Eric M. Bernstein, Esq., Board Attorney (Eric M. Bernstein, & Associates); William H.R. White, III, PE, CME, Board Engineer (Maser Consulting P.A.); Lucille Grozinski, CCR, Board Court Reporter; and Caz Bielen, Board Videographer (Premier Media, LLC).

**DISPOSITION OF MINUTES**

None

**DISPOSITION OF RESOLUTIONS**

- Pierson Properties, LLC - File 15-PB-05-MSRV

A motion to approve was made by Mayor DelCore, seconded by Mr. Peason.

**Roll Call:** Mr. Peason - yes; Mr. Julian - yes; Mr. Wagner - yes; Mayor DelCore - yes; Chairman Lipani - yes. Motion carries.

**Professionals’ Contract Resolutions**

- Board Attorney
- Board Engineer
- Board Alternate Engineer(s)
- Board Court Reporter
- Board Videographer

A motion to approve all Contracts was made by Vice Chairman Marulli, seconded by Deputy Mayor Suraci.

**Roll Call:** Mr. Peason - yes; Mr. Julian - yes; Mr. Conard - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Ms. Becorena - yes; Ms. Forrest - yes; Vice Chairman Dr. Marulli - yes; Deputy Mayor Suraci - yes; Mayor DelCore - yes; Chairman Lipani - yes. Motion carries.

**PLANNING BOARD BUSINESS**

- 2015 Planning Board Annual Report

Mr. Peason pointed out a date change to be corrected in the attendance report.

A motion to approve, as amended, was made by Mr. Conard, seconded by Vice Chairman Dr. Marulli.

**Roll Call:** Mr. Peason - yes; Mr. Julian - yes; Mr. Conard - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Ms. Becorena - yes; Ms. Forrest - yes; Vice Chairman Dr. Marulli - yes; Deputy Mayor Suraci - yes; Mayor DelCore - yes; Chairman Lipani - yes. Motion carries.

- Glen Gery (GG RE Co.) - File #15-PB-04-MR - Extension of Time through 02-29-16

Chairman Lipani asked how long the application had been on file and when the last time notice had been provided.

Mr. Bernstein said it had been some time since the application had been filed. There have been ongoing discussions related to the application. Discussions will be continuing.

Chairman Lipani asked if the Applicant should be required to notice.

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Mr. Bernstein said this matter is for an extension of time. The Applicant may be coming back with a new plan and will need to re-notice.

A motion to approve was made by Mayor DelCore, seconded by Mr. Wagner.

**Roll Call:** Mr. Peason - yes; Mr. Julian - yes; Mr. Conard - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Vice Chairman Dr. Marulli - yes; Deputy Mayor Suraci - yes; Mayor DelCore - yes; Chairman Lipani - yes.  
Motion carries

APPROVED

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**SPECIAL COMMITTEE REPORTS**  
None

**BUSINESS FROM THE FLOOR**  
None

**CONSIDERATION OF ORDINANCES**  
None

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**PUBLIC HEARING - SUBDIVISION/SITE PLAN APPLICATIONS**

- **Planet Earth Bio-Diesel** - File 15-PB-17-MRV - Block 143, Lot 11.01 - 301 Roycefield Road. Applicant seeking Minor Subdivision Approval and 'c' bulk variance for relief from minimum lot area (Proposed Lot 11.04); minimum lot width at setback (Lot 11.01 and Proposed Lot 11.04); minimum rear yard setback (Lot 11.01); minimum side yard setback (Lot 11.01); maximum impervious coverage (Lot 11.01), to subdivide 4.0 acres into two lots: Lot 11.01 at 2.06 acres and Proposed Lot 11.04 at 1.94 acres, on property located in the I-2, Light Industrial Zoning District (EC Review: 12-14-15).

**David Singer, Esq.**, attorney for the Applicant, from Vella, Singer and Martinez, P.C., called his first witness.

**Wayne Ingram, PE** of Engineering & Land Planning Associates was sworn in, reviewed his credentials, was accepted by the Board and gave the following testimony in response to questions asked by Mr. Singer:

**Exhibit A-1 - Subdivision Plat**

Mr. Ingram reviewed Exhibit A-1. He said the application is for the subdivision of a 4 acre property at the intersection of Roycefield Road and Vincent Lane. The current zoning requires 2 acres. The property is only about half utilized; the parking is to the west and the south; the building is just west of center of the property; a railroad track is to the north of the property; Roycefield Road is to the east; Vincent Lane is to the south; and undeveloped industrial property to the west.

Mr. Ingram addressed the comments found in the report from the Board's Engineer: Comment #2 calls for a right-of-way dedication on Vincent Lane. Apparently, there is a bulb of a road of a cul-de-sac that was approved as part of an earlier subdivision. Because the lot to the west was not developed, the cul-de-sac was stopped at the property. The Applicant has no objection to providing a right-of-way. However, the request is that it be done by easement. He said the thinking is if the lot behind is ever developed, it is likely that the bulb would be extended to the back of the property, at which time some of the impervious and the cul-de-sac would go away. If it were dedicated by deed and the cul-de-sac went away, the Applicant would then lose some acreage and the area could no longer be utilized.

Mr. Bernstein said the matter would need to be reviewed to see if it would be done in that form or by deed.

Mr. Ingram continued with the Board Engineer's request for a cross-access easement. There are two entry drives on the property; one in the southwestern corner, one in the center of the western side. The proposal is to leave both entrances to make them the accesses between the two properties, and give Lot 11.01 to the west a right of continued access.

Mr. Ingram stated the application had received SCPB approval. The application has been before the Environmental Commission, with comments provided. Application has been made to the Fire Official, awaiting comments.

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Mr. Ingram said he agreed with all variances identified in the report from the Planning Director. He explained the proposed 51% lot coverage for the new lot. The current property as a whole has 36% lot coverage, roughly 60% of what is allowed in the zone for development. As proposed, the developed lot would then be at 67%. One of the concerns for the Environmental Commission was the excessive coverage. The remedy proposed is to create the subdivision such that the two lots when looked at as one, would always be at 60%. Therefore, 51% is the allowable remaining coverage for Proposed Lot 11.04, leaving the 67% coverage for Lot 11.01.

Mr. Julian stated the Environmental Commission supported the application. He said the proposal of averaging the impervious coverage for both lots was new to the Commission.

Mr. Bernstein said the Resolution and Deeds would need to clearly designate to anyone who subsequently owns the property, whether it be a common party or subsequent owner, the limitations for which the second lot can be developed. It would be a condition for any and all contracts and deeds, and a condition in the Resolution of Approval.

Mr. Maski said there is logic to the proposal. The allowance is 60% coverage on each lot. The Applicant would be balancing off the coverage by reducing the lot coverage for the interior lot, through a contractual agreement, that that lot would not exceed 51% impervious coverage.

Mr. Maski added that when meeting with the Applicant prior to the application being made, there were suggestions made that the Applicant try to mitigate the impervious coverage in whatever way they could to not have to request a variance for lot coverage on the interior lot. He said this appears to be part of that mitigation effort.

Mr. Ingram said the driveway to the south is overly wide but it did not seem to be a good use of expenditures to take up 300 ft. of curb for the sake of reducing 1½ ft. of blacktop.

Mr. Bernstein asked if the Applicant could come up to testify.

Todd Magee of Planet Earth Bio-Diesel was sworn in.

Mr. Bernstein asked Mr. Magee, under the guidance of his counsel, if he understood that both lots, now and going forward, whether he try to sell the lots or develop the lots, that there are restrictions on the impervious coverage for both lots in order to meet the requirements.

Mr. Magee said he understood and agreed to such.

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Mr. Maski said the rear of the existing building is shown on the plan as a gravel drive, but there is no delineation. Gravel is 100% impervious. If the Board chooses to approve the application, there will need to be more detail put on the compliance plan that outlines exactly where the gravel goes to. The detail is necessary to be able to determine the impervious is not being extended at some point, and to verify that the submitted calculations are indeed correct.

Mr. Ingram said the gravel depicted on the plan was included in the impervious coverage calculation. Expansion will be limited to that area.

Mr. Maski asked for clarification as to what Mr. Ingram referred to as “that area.”

Mr. Ingram said there are two lines; one just short of the property line to the north, the other just shy of the paved area of the parking lot.

Mr. Maski asked that the final plan reflect the extent of the gravel area.

Mr. Ingram agreed.

Mr. Ingram was asked the use of the gravel driveway.

Mr. Ingram stated it is for storage and vehicular access.

Mr. Maski asked for more information on the two trailer trucks parked in that area when he visited the site.

Mr. Magee said the gravel area is used to park trucks.

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Chairman Lipani asked if the impervious would be reduced if grass pavers were used.

Mr. White said there is a certain percentage that is open. Pervious concrete and pavers have not come up with a way to account for that. Grass pavers are probably 60% impervious.

Chairman Lipani explained grass pavers are used a lot in emergency right-of-ways for firetrucks. Grass grows through it and gets mowed so it is not unsightly. These pavers are able to accommodate heavy vehicles.

Mr. Singer said there are other measures that will be taken to reduce the impervious coverage.

Mr. Ingram continued with review of the Planning report. The required 45 parking stalls are provided, where 39 are required. The 45 spaces are existing and proposed. Three stalls are proposed to be on the new lot, leaving 42 stalls on Lot 11.01. The three stalls could be associated with the other lot but remain on Lot 11.01, due to the cross access. This is another way in which mitigation of the impervious has been addressed.

Mr. Maski asked if the proposal is to not remove spaces, but subdivide three parking spaces.

After some discussion, Mr. Maski said the use of these three parking spaces can only be addressed at the time of site plan for development of the new lot.

Mr. Maski said when he was out to the site there were about 40 dumpsters stacked up on top of each other, over the span of eight parking spaces. Mr. Maski asked for an explanation.

Mr. Ingram said those parking spaces have not been needed. However, the Applicant would agree to remove them from that area and store them on the gravel instead.

Mr. Maski asked if the dumpsters were still there.

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Mr. Magee said he did not realize that was an issue but would fork-lift them out.

Mr. Maski said he was not certain the Applicant has approval for outside storage, but that when visiting the site, the dumpsters were stacked three high on the pavement and grass.

Mr. Magee said these containers have been stored on the property inside of a large fenced area that cannot be seen from the street. The dumpsters are used to collect the waste cooking oil from the back of restaurants.

Chairman Lipani asked if the oil inside is waste or if it will be used.

Mr. Magee said the containers are all empty. They are refurbished as needed.

Mr. Maski said if those spaces are not available, you may be looking at a parking variance for not having enough parking.

Mr. Magee said he will have it taken care of ASAP.

Mr. Ingram said five additional trees are proposed to be planted along the subdivision line at the north end of the site, closer to Roycefield Road as a screen to the gravel area. Details for the installation of those trees can be provided on the plan.

Mr. Ingram said Item 4.2 discusses the upper post sign easement which is one of the variances being requested, but not noted initially. There is an existing sign closer to Roycefield Road. The proposal is to have both lots still use the existing sign and not have to install a second sign on Lot 11.01. The sign is there to be an indicator to the facility where the property is. Access to both lots would still be off Vincent Lane.

Mr. Maski asked if the Applicant is also seeking a variance for having a sign off-premises.

Mr. Ingram confirmed the request for the variance and said the Applicant would agree to not have an additional sign on the property.



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Mr. Ingram said the need for many of the variances is due to the fact that there is an existing building on the current lot. The building is functioning and in good shape. He said the amount of variances was reduced to the maximum extent possible and that the layout proposed does no detriment to the neighboring properties and the plan presented represents good planning.

Mr. Ingram briefly reviewed the variances requested: a variance for .lot area, deficit by .06 acres for Proposed Lot 11.04; variance for lot width for both lots on Vincent Lane; variance for front yard setback for the existing building, an existing condition which appears to be an error in construction since no prior variance was found as being granted; variance for rear yard setback for the existing building which now shows up as a rear yard instead of a side yard due to the subdivision; variance for side yard setback of 25 ft. for Proposed Lot 11.04; and variance for impervious coverage, as discussed.

Mr. Ingram said one advantage to the subdivision is that by separating the lots, it breaks up the mass of what could otherwise be built and keeps the buildings to a more manageable size. He said the Applicant is looking to run his recycling business and not be a landlord.

Mr. Ingram reviewed some of the surrounding buildings as a comparison to the existing and proposed. Mr. Ingram said the Applicant is looking to do minimal landscaping at this time. Any future site plan application would include additional landscaping.

Vice Chairman Marulli asked for further review of the proposed impervious coverage.

Mr. Ingram said a balance was made on the variances. He stated the 51% impervious coverage for Proposed Lot 11.04 is sizable enough to allow it to be a viable property.

Mr. Conard asked if there are any wetlands on the property.

Mr. Ingram said he is certifying that no wetlands will be affected by this project. There is a potential wetlands area well off property to the west, not in proximity to anything that would be built. Only Lot 11.01 could be affected but since this lot is already developed, there is no possibility of affecting the wetlands.

Mr. Ingram said there is a potential isolated wetlands in an unoccupied area which is well inside the 150 ft. of disturbance buffer.

Chairman Lipani said the more complicated matter is the shared driveway easement.

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Mr. Bernstein advised that the Board could refuse to grant the concept of the cross-access easement and let the developer of the subdivided undeveloped lot come before the Board with the matter at the time of the development application. There are currently 45 parking spaces on the existing lot. Any issue with those spaces on the subdivided lot, the owner or subsequent owner should come in at the time of the application with a cross-access easement.

Mr. Conard asked how many of the existing spaces are currently being used.

Mr. Magee replied approximately half.

Mayor DelCore asked how many employees there are.

Mr. Magee said there are six or seven off-site, for a total of twelve or thirteen.

#### Open to the Public

No questions

Close Public

A motion to approve was made by Mr. Conard.

Mr. Bernstein initiated the clarification with the Board that the approval would need to be with all conditions as to the impervious coverage; no consideration given to a cross-access easement at this time; submission of a letter be provided prior to the Resolution, attesting that the dumpsters have been removed from the site, allowing the impervious coverage to maintain as it currently exists; a better delineation of the gravel area on plan; all conditions in the reports of the professionals and that discussed at the time of the hearing; and contingent upon any conditions from the Fire Marshal; a deed; and details provided to Mr. White on the details of the trees. Should any changes be necessary as per the comments of the Fire Marshal, the Applicant would need to come back before the Board, prior to the adoption of the Resolution.

The motion was seconded by Mr. Wagner.

**Roll Call:** Mr. Peason - yes; Mr. Julian - yes; Mr. Conard - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Vice Chairman Dr. Marulli - yes; Deputy Mayor Suraci - yes; Mayor DelCore - yes; Chairman Lipani - yes.

Motion carries

Mr. Bernstein noted that resolutions are provided to the Board once the transcript has been provided and the draft is reviewed by Mr. Maski and perhaps Mr. White, and then provided to the Applicant's attorney for review. The resolution will not come before the Board until all parties have agreed it is a "clean resolution."

#### CORRESPONDENCE

- 2015 Board of Adjustment Annual Report (Approved 01-06-16)
- Somerset County Planning Board - Public Comment Deadline for Proposed New WQMP Rules Extended

Mr. Bernstein informed the Board that there was no business scheduled to the agendas of January 14<sup>th</sup> or 28<sup>th</sup>.

A motion to cancel the meeting of January 14 and January 28 was made by Mr. Conard, seconded by Vice Chairman Dr. Marulli.

**Roll Call:** Mr. Peason - yes; Mr. Julian - yes; Mr. Conard - yes; Mr. Wagner - yes; Mr. Hesthag - yes; Vice Chairman Dr. Marulli - yes; Deputy Mayor Suraci - yes; Mayor DelCore - yes; Chairman Lipani - yes.

Motion carries

Mr. Bernstein noted the next meeting is scheduled for February 4<sup>th</sup>, weather permitting.

#### ADJOURNMENT

A motion to adjourn was made and seconded. All were in favor, none opposed. Motion carries.

The meeting adjourned at 8:27 p.m.

*Submitted by:  
Debora Padgett  
Administrative Assistant*

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*Planning Board Clerk*

APPROVED