

MANSFIELD TOWNSHIP  
ZONING BOARD  
REGULAR MEETING  
Tuesday, September 6, 2016

The regular meeting of the Mansfield Township Zoning Board was held on the above shown date with the following in attendance: Chairman William Tahirak, Robert Harrison, Ralph Wainwright, Marion Hay, John Beckes, Robert Gawron, Mark Clark, Jay Feldman, Attorney Charles Patrone, Planner Barbara Fegley, Traffic Consultant Al Litwornia, Engineer Mark Malinowski, and Secretary Ashley Jolly. Jim Soden was absent.

The meeting was called to order by **Chairman Tahirak** followed by the flag salute and the following opening statement.

The Notice requirements provided for in the Open Public meetings Act have been satisfied. Notice of this meeting was properly given in the annual notice which was adopted by the Mansfield Township Zoning Board on January 5, 2016. Said Resolution was published in the Burlington County Times, e-mailed to the Burlington County Times and Trenton Times, filed with the Clerk of the Township of Mansfield, posted on the official bulletin board at the Municipal Complex, filed with the members of this body, and mailed to each person who has requested copies of the regular meeting schedule and who has prepaid any charge fixed for such service. All the mailing, posting and filing having been accomplished on January 8, 2016.

**COMPLETENESS ZB16-01UV- 2180Columbus-Hedding Road**

**Chairman Tahirak** explained that this application is to be heard for completeness only and will be heard at the next zoning board meeting to be held on October 3, 2016. He then asked the professionals to present their reports. **Engineer Malinowski** explained that they would need to go over most of the things with the applicant, however there is no reason not to deem the application complete. They applicant will need to provide testimony on the points referenced in his letter. **Traffic Consultant Litwornia** said the same. Application is complete and the applicant will need to provide testimony. **Planner Fegley** said her report was not ready yet, however for the Use Variance this application is complete. **Attorney Petrone** said the applicant will need to provide the testimony to satisfy the criteria, for addressing positive and negative. **Chairman Tahirak** asked if there was anything on the administrative side and **Secretary Jolly** said no.

**Chairman Tahirak** reiterated that this application was for completeness only and the applicant will be attending the October 3<sup>rd</sup> meeting to provide testimony. **Attorney Petrone** said the applicant would not re-notice.

A motion to deem the above application complete was offered by **Mr. Wainwright** and was seconded by **Mr. Beckes**. Motion carried on a roll call vote recorded as follows:

**AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak**  
**NAY: None ABSTAIN: None ABSENT: Soden**

**COMPLETENESS ZB16-02UV- 2274 Old York Road**

**Chairman Tahirak**, said this is the second application for billboards that is also only on for completeness. **Engineer Malinowski** said these applications are very similar and although both applications are for Use Variances and Bulk any approvals should be subject to a site plan. **Traffic Consultant Litwornia** said the applicant may need to get DOT approval and that the board should keep

that in mind. **Planner Fegley** said the application is complete with the condition that they provide testimony on everything mentioned in the professional reports.

A motion to deem the above application complete was offered by **Mr. Beckes** and was seconded by **Mr. Wainwright**. Motion carried on a roll call vote recorded as follows:

**AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak**

**NAY: None      ABSTAIN: None      ABSENT: Soden**

**MEMORIALIZE RESOLUTION 2016-8-5 TRI-STATE PETRO EXTENSION OF APPROVAL:**

**ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF MANSFIELD  
RESOLUTION NO. 2016-8-5  
CONCERNING THE APPLICATION OF  
TRI-STATE PETRO, INC,  
EXTENSION OF PRELIMINARY AND FINAL SITE PLAN APPROVAL**

**WHEREAS**, Tri-State Petro, Inc., has applied to the Zoning Board of Adjustment of the Township of Mansfield for an Extension of Preliminary and Final Major Site Plan Approval for property located at 3372 Route 206, known as Block 1, Lots 1 and 2 (the "Property"); and

**WHEREAS**, the Zoning Board granted Use Variance, Bulk Variance, Conditional Use and Preliminary and Final Site Plan Approvals to the Applicant on November 4, 2013, memorialized by Resolution No. 2013-10-15, adopted on December 2, 2013, for the construction of a convenience store with gasoline and diesel dispensing islands and the fencing in of a parking lot use; and

**WHEREAS**, *N.J.S.A. 40:55D-52* provides a two year period of protection for final site plans, commencing on the date the Resolution approving the subdivision is adopted; and

**WHEREAS**, *N.J.S.A. 40:55D-52* further provides a zoning board with the discretion to grant up to three (3) one year extensions to the period of protection for final site plan approvals, upon application made by an applicant and subject to current design standards; and

**WHEREAS**, the Permit Extension Act of the State of New Jersey, *N.J.S.A. 40:55D-130 et seq.*, has tolled the running of the period of protection for certain approvals until December 31, 2015; and

**WHEREAS**, the Permit Extension Act is applicable to the Final Site Plan Approval granted to the Applicant and extended the period of protection until June 30, 2016; and

**WHEREAS**, the Applicant has requested that the Zoning Board grant three (3) one year extensions in accordance with *N.J.S.A. 40:55D-52* to commence on June 30, 2016; and

**WHEREAS**, the Board after carefully considering the Applicant's request for an extension to the period of protection for the Final Site Plan Approval granted by the Board on November 4, 2013, has made the following findings of fact:

1. The Applicant is the owner of the Property located at 3372 Route 206, known as Block 1, Lots 1 and 2, located in the Township's C-2 Highway Commercial Zoning District. The total area of the Property is 7.21 acres. The Property is currently improved with a gasoline service station.

2. The taxes on the Property are current or exempt.

3. The Applicant's escrow account is current.

4. The Applicant received Use Variance, Bulk Variance, Conditional Use and Preliminary and Final Site Plan Approvals to construct a convenience store with gasoline and diesel dispensing islands and the fencing in of a parking lot use, as memorialized by Resolution No. 2013-10-15, on December 2, 2013.

5. The period of protection applicable to the Applicant's Final Site Plan Approval in accordance with *N.J.S.A. 40:55D-52* and *N.J.S.A. 40:55D-130* expired on June 30, 2016 and the Applicant has requested the three (3) one year extensions of the period of protection in accordance with *N.J.S.A. 40:55D-52*.

6. The granting of one-year extensions is discretionary on the part of the Zoning Board.

**AND WHEREAS**, based upon the above factual findings, the Zoning Board has come to the following conclusions:

1. It is within the Board's discretion, in accordance with the Municipal Land Use Law of the State of New Jersey, to grant up to three (3) one year extensions to a final site plan approval.

2. One (1) one year extension to the Applicant's final site plan approval is appropriate at the current time and any further extension request will require the Applicant to appear before the Board to identify the action taken to satisfy Resolution No. 2013-10-15.

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Township of Mansfield, on the 1<sup>st</sup> day of August, 2016, that this Board hereby grants to the Applicant a one (1) one year extension to the period of protection for the Variances and Final Site Plan Approvals granted to the Applicant, subject to the following:

1. Subject to the Applicant complying with Resolution No. 2013-10-15.

2. Subject to the Applicant complying with the current design standards of the Ordinance, excluding changes relating to the permitted uses and bulk requirements in the Zoning District where the Property is located.
3. Subject to the period of protection for the Final Site Plan Approval now expires on June 30, 2017.
4. Subject that any additional extension requests submitted by the Applicant shall require the Applicant to appear before the Board and identify the action taken to satisfy the conditions of approval as contained in Resolution No. 2013-10-15.

**Attorney Petrone**, said the applicant's attorney had requested some changes to the original resolution that was done for the extension. They wanted to make sure the prior approval included a conditional use approval, so conditional use wording was added. The date of the actual approval was referenced and the only substance to the change was that they wanted to make sure that they were only subject to change in design standards. If there were any changes to the zoning or bulk requirements they were not subject to those new requirements. Which is the normal process in respect to an approval of the site plan or subdivision. The MLUL provides a period of protection for a final site plan or subdivision of two years plus up to three one year extensions. Once an approval is granted it does not expire; what does expire if three years from now they didn't get the extension and there's a zoning change that makes those uses now not permitted or changes the bulk requirements, their approval would lapse at that point in time.

A motion to memorialize the above resolution was offered by **Miss Hay** and was seconded by **Mr. Wainwright**. Motion carried on a roll call vote recorded as follows:

**AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak**  
**NAY: None ABSTAIN: None ABSENT: Soden**

**APPROVAL OF MINUTES- August 1, 2016:**

A motion to approve the minutes was offered by **Mr. Wainwright** and was seconded by **Mr. Beckes**. Motion carried on a roll call vote recorded as follows:

**AYE: Wainwright, Beckes, Clark, Harrison, Gawron, Hay, Tahirak**  
**NAY: None ABSTAIN: None ABSENT: Soden**

**PUBLIC COMMENT:**

**Bob Tallon 2454 Axe Factory Road-** He wanted to clarify if there was a contention between the community and the applicant and studies show different things, is that were you guys will make would make the decision. **Attorney Petrone**, said with guidance of the boards professionals, then yes. **Chairman Tahirak** said he hopes that the public would come out for the meeting in October. That the board would like to have the public's opinion.

**Shane Oliver 25291 Mt. Pleasant Road-** He said he was here to inform the board of some changes in regards to solar arrays/fields. He said he is the base energy manager for McGuire Air Force Base. He put in an application with the zoning officer, which was denied. He said he spoke with Glenn and he told him to come to the board and speak with them about changes within the BPU because how the Ordinance reads currently is starting to disperse from where the BPU is going. The way the ordinance is right now he could do a solar array if I have more than an acre, but can only do twenty percent of the total acreage and cannot be commercial use. He said Glenn denied his application because he was looking out for his best interest and my denial says it would be more than 110%. Even though our ordinance does not state 110%. The BPU through subsection R, has opened up another mode, which would allow you to produce more than 110% electricity. He said he meets the requirements, but when he met with Glenn; Glenn told him

he wasn't sure what to do besides an informal variance. However he said I could speak to the board and give them this information to review. So if the board could review and then provide Glenn with some guidance because he is confused. **Chairman Tahirak** said when it comes to a technical issue like this he was not sure who Mr. Oliver would need to go too. **Attorney Petrone** said if he submitted an application that was denied because it did not comply with the Ordinance, his options are to drop it or to apply for a variance from whatever board would have jurisdiction. He said it complies with state reg's and an argument an applicant can have is that it complies with the state regs and your ordinance is deficient for the various reasons. He asked that Mr. Oliver provides Ashley with all the information and she can forward to the attorneys office for review. He asked that Mr. Oliver also include the denial letter from the zoning officer. **Mr. Oliver** said that he really does comply with the ordinance because there is nothing in there stating that you cannot produce more than 110%. **Mr. Oliver** asked if the board could give the zoning officer direction. **Chairman Tahirak** said that it would need to go to Township Committee and get reviewed by Township Solicitor. **Attorney Petrone** advised Mr. Oliver to give Miss Jolly all his information and that his office would review it. He also advised that Mr. Oliver go to the Township Committee for direction.

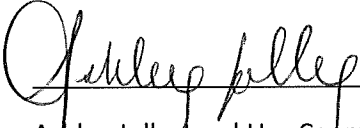
**Mike Boshill 2280 Old York Road**- He wanted to know if the zoning board had any authority on the widening of Old York Road for a bicycle path to Hedding. **Chairman Tahirak** said no this is a County project and advised him to go there for more information.

**MOTION FOR ADJOURNMENT:**

A motion to adjourn was offered by **Mr. Beckes** and was seconded by **Mr. Wainwright**. All eyes. Motion carried.

Respectfully Submitted:

Date Approved:

  
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Ashley Jolly, Land Use Coordinator

10-3-16