

**TOWNSHIP OF PEQUANNOCK
BOARD OF ADJUSTMENT
May 3, 2018
REGULAR MEETING**

MEETING CONVENED: 7:00 PM

MEMBERS PRESENT: Aikey, Hebert, Imfeld, Driesse, Melleno, Shuttlesworth and Dolengo. Also present, Clifford Gibbons, Esquire, Board Attorney.

MEMBERS ABSENT:

MEMBERS EXCUSED: Skvarca

NOTICE: Chairman Dolengo stated that the Sunshine Law had been complied with by posting the notice of date, time and proposed meeting on the bulletin board of the Municipal Building on April 27th, 2018 and sending it to six area newspapers, including the legal paper on April 27, 2018.

MINUTES: **April 5, 2018 - Regular Meeting**
Motion by Hebert second by Imfeld to approve the minutes as submitted. All in favor. Motion Carried.

RESOLUTION:

Mistrette, 4 Michael Court, Block 2603, Lot 13
Motion by Imfeld, second by Shuttlesworth to memorialize the resolution as submitted. Yes votes from Melleno, Hebert, Imfeld and Shuttlesworth. Motion Carried.

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DISCUSSION:

Global Lift Trucks, d/b/a Minimax Cement, 10 Irving Street, Block 4401, Lot 14
Extension of Approved Use Variance 5/4/17

Peter McArthur, Esquire, represented the applicant.

Mr. McArthur stated that Global Trucks d/b/a Minimax Cement was granted approval one year ago and at that time the application was bifurcated for site approval. At this time the applicant is requesting an extension of approval. The applicant came before the Board in October of 2017 for their site plan and at that time there was a large list of requirements generated at that meeting. Mr. McArthur stated he sent a letter to the Planning Office extending the time for the Board to Act to September 30th. Mr. Imfeld asked Mr. McArthur if he established any date as to when the applicant would submit plans to the Board. Mr. McArthur stated he established the date of September 30th and he was sure that the applicant would appear before the Board by that date. Mr. Imfeld was concerned about the fact that the Board consists of new Board members and was wondering if the applicant was prepared to start from scratch on the site plan part of the application. Mr. Hebert asked if Mr. Darmofalski the applicant's engineer had any idea as to when he would be ready to present the Board with the revised site plan. Mr. McArthur stated that Mr. Darmofalski informed him that he was 90 percent done with the site plan. Mr. Hebert inquired as to how much of an extension the applicant was requesting. Mr. McArthur asked the Board to extend the time until the end of September. Mr. Gibbons asked Mr. McArthur if his engineer and the Board's engineer have gotten together to discuss the issues presented at the October meeting concerning the site approval. Mr. McArthur stated that Mr. Darmofalski has been in contact with the Board's alternate engineer. Mr. Gibbons stated that given the fact that so much time has elapsed since the Board heard the application that they would have to start from the beginning. Mr. McArthur agreed that it would almost be like a new application especially given the fact that so much had to be amended from the original application.

MOTION by Driesse, second by Aikey to extend the time for approval to the September meeting. Yes votes from Hebert, Imfeld, Driesse, Dolengo. Motion Carried.

PUBLIC HEARING:

TOCA COFFEE, 101 Alexander Avenue, Block 2705, Lot 1
Amendment to the Resolution dated 1/21/16

Glenn Kienz, Esquire, represented the applicant.

Robert J. McLean, applicant, sworn.

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Mr. Kienz stated that Mr. Mclean sent a letter to Ms. Hartmann on April 11, 2018 asking for consideration to amend the resolution to remove the limitation imposed on the applicant that said no cups of coffee are to be sold to customers or the public in the premises leased to TOCA Coffee. Mr. Kienz stated that the applicant wishes to sell coffee to anyone who happens to come in to purchase their coffee beans or to the general public.

Mr. McLean stated that currently they sell coffee retail for consumption off premises and that he wishes to do that by the cup. Mr. McLean stated they would not have tables or chairs, there will be no coffee house environment. Mr. McLean stated that people come in to buy coffee beans from them and on occasion will ask if they can purchase a cup of coffee. Mr. Mclean stated the building he leases from has many occupants who occasionally would like to purchase a cup of coffee from them. Mr. Imfeld wanted to know how you control someone who buys a cup of coffee and drinks it on premises since it is not allowed. Mr. Imfeld was concerned that the applicant was asking for an amendment to his approval which would change their use. Mr. McLean stated by Township Code they were allowed to sell retail products for consumption offsite. Mr. Imfeld stated that the zone the applicant leases is industrial and they basically allow warehousing. Mr. Kienz stated that people will not sit around and drink coffee at this facility. Mr. McLean stated that coffee would be sold only in a to-go situation. Mr. Imfeld asked if the applicant planned on putting up a sign for sales of coffee. Mr. McLean stated there will be no additional signs placed on the building.

Mr. Driesse asked Mr. Gibbons if the Board could amend the resolution. Mr. Gibbons stated the Board can remove the condition or modify it. Mr. Gibbons stated the Board could put a condition on the amendment that the applicant cannot have any seating. Mr. Gibbons asked how many varieties of coffee would be served. Mr. McLean stated they would have a couple different coffees and decaf and they would be kept warm in pods. Mr. Kienz stated that they are not proposing to have people congregate on the premises therefore they will not have any counters or tables. Mr. McLean stated that he advertises through social media for the sale of his coffee. Mr. Keinz read into record Township Code 189.06.010 that Industrial zones permits clearly as an accessory use retail sales of products manufactured, assembled or warehoused on the premises. Mr. Kienz also referenced Township Code 189.01.050 which defines retail food establishments as a building for which food or drink is offered for retail sale for consumption off premises. Mr. Aikey stated that he thought you would need a site plan for approval by the Board. Mr. Gibbons stated that it is an administrative issue when you excise a condition of approve and that testimony is given by the applicant as to why he wishes to amend his approval. Mr. Gibbons stated the applicant is not asking for anything unusual and the use is evolving like other issues such as wineries and breweries. Mr. McLean once again stated he is not wishing to turn his establishment into a restaurant but just wishes to sell a cup of coffee.

Motion to open the meeting to the public. All in favor. Motion Carried.

No one came forward from the public.

Motion to close the meeting to the public. All in favor. Motion Carried.

Summation by Mr. Keinz

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The Board deliberated.

Mr. McLean said that on the premises would mean in his 2000 sq. ft. leased area and that once a customer left the leased area they would be off the premises. Mr. Imfeld wanted a definition for on the property and leased area. Mr. Imfeld felt that the Board did not get proper testimony to change the use from a warehouse selling packaged good to a place where you could consume. Mr. Gibbons stated that if a person purchased a cup of coffee all they would have to do is leave the premises of Tocca Coffee. Mr. Gibbons stated that the applicant is asking to remove one aspect of their approval. The Board asked for a report from Ms. Hartmann.

MOTION by Driesse, second by Hebert to delete the condition which does not permit sale of coffee on site for consumption off the premises, with the condition of no seats, no tables, no signage changes, no food and customers cannot drink coffee on the premises, which is the leased area. Memo by Jill Hartmann to be submitted. Yes votes from Hebert, Driesse and Dolengo. No vote from Imfeld. Motion Carried.

There being no further business motion by Driesse, second by Hebert to adjourn the meeting at 8:36 PM. All in favor. Motion Carried.

Respectfully submitted,



Linda Zacharenko
Recording Secretary