

# GREEN TOWNSHIP LAND USE BOARD MINUTES

## REGULAR MEETING, July 13, 2023

**CALL TO ORDER:** The July 13, 2023 Regular (virtual) meeting of the Land Use Board was called to order by the Chairman, Mr. Scott Holzauer at 7:02pm. He then led everyone in the PLEDGE OF ALLIGIANCE.

Recitation of the OPEN PUBLIC MEETING STATEMENT by Mr. Holzauer.

**ROLL CALL:** Present: Mr. Joseph Cercone, Mr. Sam Diaz, Ms. Kate Douglass, Mr. Scott Holzauer, Mrs. Jenny Kobilinski, Mr. John Lynch, Mrs. Sharon Mullen and Mr. Rick Wilson

Also present: Mr. Cory Stoner, Board Engineer, Mr. David Brady, Board Attorney and Ms. Kim Mantz, Board Secretary

Members Absent: Mr. Robert Cahill, Mr. Jim DeYoung, Mr. Jason Miller and Mrs. Margaret Phillips

A motion was made by Mr. Cercone to excuse the absent members and seconded by Ms. Douglass.

All Ayes. No Discussion. Motion Carried. Abstentions: none

### **RESOLUTIONS:**

Application: LU#2305

Owner/Applicant: Robert Cahill

Block 24 Lot 6 – 311 Pequest Road, Andover, NJ 08721

Action: Memorialize approval

Mr. Brady briefly went over the conditions of the resolution, specifically numbers 15-23.

A motion was made by Mr. Cercone and seconded by Mr. Douglass.

Roll call: Eligible to vote: Mr. Cercone, Mr. Diaz, Ms. Douglass, Mrs. Kobilinski, Mr. Lynch, Mrs. Mullen, Mr. Wilson and Mr. Holzauer

All Ayes. No Discussion. Motion Carried

**OLD BUSINESS:** None

**NEW BUSINESS:** None

Mr. Holzauer opened and closed the public comment portion of the meeting as no public was in attendance.

A few other brief discussions took place about the Train Station in Greendell, the paving of roads at Lake Tranquility, and updating the Master Plan.

• **ATTORNEY'S REPORT** – Mr. Brady explained his memo dated July 12, 2023 titled SADC Ruling Regarding Cannabis which is attached to and made part of these minutes.

There was a discussion by the Board and it was determined that Mr. Brady will send a letter to suggest updating the current ordinance regarding cannabis to the Township Committee.

He went on to explain a second memo dated July 13, 2023 titled Farmland Preservation/Special Events which is attached to and made part of these minutes. After a discussion by the Board, it was determined that Mr. Brady will reach out to the Township Committee about preserved farmland events in town.

Mr. Cercone made a motion for Mr. Brady to send letters to the Township Committee regarding the items above. It was seconded by Ms. Douglass. All Ayes. No Discussion. Motion Carried

Mr. Brady went on to explain the MLUL's protection of approvals stating there are no expiration dates for some of those approvals. He suggested there be expiration language in our ordinance and would like to approach the Township Committee regarding this issue.

- **CHAIRMAN'S REPORT** – None
- **SECRETARY'S REPORT** – None
- **PROFESSIONALS REPORT** – None

A Motion was made by Mr. Lynch to adjourn the meeting at 7:53pm and seconded by Mr. Wilson. All Ayes. No Discussion. Motion Carried. Abstentions: none

Respectfully Submitted:



Kim Mantz, Land Use Board Secretary

Date approved: October 12, 2023

# BRADY & CORREALE, L.L.P.

ATTORNEYS AT LAW

P. O. BOX 2136

MORRISTOWN, NEW JERSEY 07962

DAVID BURTON BRADY  
ROBERT D. CORREALE

\_\_\_\_\_  
MICHAEL P. BROWN

Telephone 973-267-3500  
Facsimile 973-267-5326

[lawman.brady@gmail.com](mailto:lawman.brady@gmail.com)  
[lawman.correale@gmail.com](mailto:lawman.correale@gmail.com)  
[lawman.mbrown@gmail.com](mailto:lawman.mbrown@gmail.com)

**Located At:**  
100 East Hanover Avenue, Suite 201  
Cedar Knolls, New Jersey 07927

## MEMORANDUM

TO: Green TWP Land Use Board Chairman and Members

FROM: David Burton Brady, Esq.

RE: SADC Ruling Regarding Cannabis

DATE: 7/12/23

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The purpose of this memo is to apprise the Board of issues that have arisen from an application regarding cannabis cultivation before another Board we represent which issues this Board may want to address. The application involved a use variance to permit cannabis cultivation on a lot used for agriculture purposes, but was not located in a Zone where cannabis cultivation is permitted. As opposed to conventional cannabis cultivation, the Applicant was proposing to grow and harvest cannabis outdoors, except for seedlings which were to be propagated in a traditional greenhouse.

During the course of the application, there was a discussion whether cannabis may be grown and cultivated on farmland preserved property. The State Agricultural Development Commission's (SADC) website provided that the same is not permitted, however, the Applicant's counsel raised the question with the SADC and included a memorandum from our office with our opinion after reviewing the statute that the use is permitted on farmland preserved properties.

Following an appearance by the Applicant's counsel, the SADC reviewed the question presented and arguments submitted before ultimately determining that cannabis can be grown on farmland preserved land. Additionally, and perhaps more importantly, the SADC also found that cannabis is a crop and cannabis cultivation is an agricultural use.

The State Agricultural Board's determination could have an implication on cannabis cultivation throughout the State. Applicants may now argue that cannabis may be grown and cultivated on any lot where agricultural uses are permitted under the Ordinance. Although agriculture is permitted throughout much of the Township, the Township's land use ordinance does not contain a definition of "agriculture". As cannabis is a crop pursuant to the State Agricultural Board's determination, this

**BRADY & CORREALE, L.L.P.**

October 24, 2023

Page 2

would effectively allow any applicant to argue they may cultivate cannabis on any property where agriculture uses are permitted.

We suggest that a definition for agriculture be drafted to provide that cannabis is not included as crops. This would ensure that the intent of the Ordinance is not undercut by the State Agricultural Board's determination and provide an additional provision to protect against any owner of land in an agricultural zone from growing cannabis.

# BRADY & CORREALE, L.L.P.

ATTORNEYS AT LAW

P. O. BOX 2136

MORRISTOWN, NEW JERSEY 07962

DAVID BURTON BRADY  
ROBERT D. CORREALE

\_\_\_\_\_  
MICHAEL P. BROWN

Telephone 973-267-3500  
Facsimile 973-267-5326

[lawman.brady@gmail.com](mailto:lawman.brady@gmail.com)  
[lawman.correale@gmail.com](mailto:lawman.correale@gmail.com)  
[lawman.mbrown@gmail.com](mailto:lawman.mbrown@gmail.com)

**Located At:**  
100 East Hanover Avenue, Suite 201  
Cedar Knolls, New Jersey 07927

## MEMORANDUM

TO: Green TWP Land Use Board

FROM: David Burton Brady, Esq.

RE: Farmland Preservation/Special Events

DATE: July 13, 2023

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This memo follows our review of the newly revised State statutes regarding special events on Preserved Farms. The new law, the “Special Occasion Events Law”, was signed on February 3, 2023 and is now in effect. The law permits owners and operators of Commercial Farms on Preserved Farmland to hold Special Occasion Events (“SOEs”).

The statutes utilize definitions in the NJ Right to Farm Act. Preserved Farmland is land that is subject to a deed of easement that has been conveyed to or retained by the State Agricultural Board, County Board, municipality or non-profit organization. The deed provides restrictions for the property to be used for farmland purposes. Commercial farms are defined under the statute as “a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500.00 or more annually. Under the revised statutes Commercial farms must also satisfy the other criteria for farmland tax assessment. SOEs are broadly defined to include “weddings, milestone events or other cultural or social events.”

The new revised statutes now override or re-define the restrictive covenants by which farmland is preserved. However, the statutes do not preempt local municipal laws. Thus, in municipalities that have ordinances that restrict the use of Preserved Farmland or the activities which may be conducted on those property, the revised statutes do not override that control.

The revised statutes also provide that municipalities can provide for a permitting process for SOEs if the same are allowed. However, there is an administrative component that would have to be implemented that would be required for implementation of that process.

**BRADY & CORREALE, L.L.P.**

August 29, 2023

Page 2

If the Township is concerned with certain events occurring on Preserved Farmland, or the frequency in which the SOEs may take place then a new ordinance should be drafted limiting those activities. The ordinance should be relatively simple to draft and implement as it could utilize the definitions of the new statutes and either not permit, regulate, or impose certain requirements for SOEs on Preserved Farmland. Although the new statutes only address Preserved Farmland consideration should be given to making any ordinance apply to both Preserved Farmland and non-preserved farms. In our opinion this change is indicative of a trend in the agricultural community towards non-traditional, semi-commercial activities on farms, which trend is being supported by the State. While the new statutes may be limited to Preserved Farms, we expect there could be a move towards this “agro-tourism” across the board. Thus, it would be prudent to take proactive measures now.