

Diana McGovern

From: Micaela Bennett <micaela.p.bennett@gmail.com>
Sent: Tuesday, December 10, 2024 4:15 PM
To: Diana McGovern
Cc: West Orange Township - Planning Board; John-Basta, Lisa A.
Subject: Tomorrow's Meeting

Ms. McGovern,

I've not heard back. What is the status of tomorrow's meeting. Specifically, ECCC's application. I will also point out that, once again, Ms. John-Basta's letter brief had been included in the record. A letter brief that references my letter to you but was not made available to the Planning Board.

You've, once again, cultivated a more favorable record for the applicant at the detriment of the objector. How can you possibly permit this matter to go forward when what I wrote was not included in the record, but Ms. John-Basta's long letter brief that fails to address the issues I raise is presented with no context?

You should correct that at once. Even though it is late and as such prejudices my position, you should make every effort to avoid your mistakes from the last application where I raised objections to your use of this tactic and avoid repeating the same errors.

My letter should be included for the Board to read. Especially since, the applicant seeks to build an outdoor bar. A bar which is explicitly stated in my writing which she avoids in hers.

Additionally, it's incredulous that she doesn't understand that her notice is deficient. She should review the court's reasoning in Lakewood Asociation. Sufficient specificity is required regarding notice of alcohol sales such that the public will understand that this applicant seeks to build a structure and it's intent is to serve alcohol. John-Basta's notice does the exact opposite.

If this matter will remain on tomorrow's agenda, I'll ask that you add my prior and current objections into the record and provide me the opportunity to be heard in advance of the hearing to affirmatively state them.

This applicant has not provided sufficient notice and is before the improper board.

Thank you,

Diana McGovern

From: Micaela Bennett <micaela.p.bennett@gmail.com>
Sent: Monday, November 25, 2024 10:50 PM
To: Diana McGovern
Cc: Jamilet Baquerizo Vite; John-Basta, Lisa A.
Subject: Re: ECCC Planning Board Application PB 24-15

Thank you, Ms. McGovern.

If the applicant needs to return to the ABC Board for an expansion of the existing liquor license or with a new application, then her characterization is misleading. She stated, "intendes to continue to sell alcohol." That would imply that alcohol is currently being sold at the location proposed for the pavilion. We established previously that Ms. John-Basta misspoke when she testified to the Board that alcohol may be sold anywhere on the 177 acres. That was false. The liquor license permits alcohol in the specific location included in the sketch attached to the application that the ABC board approved. If they're expanding locations to sell alcohol, then they'll need to apply for permission to do so. The caselaw is clear, the applicant needs to articulate the details of the sale of alcohol with sufficient specificity that the public would be able to understand. She implies nothing will be different. If Counsel will certify that there will be no expansion of the sale of alcohol in the proposed new pavilion building then I would agree with you, her notice is sufficient.

But, I suspect her client is seeking to expand the number of places where alcohol may be sold and that's not sufficiently specific.

Also, I've not received notice. I will check with the neighbors.

But, you've not addressed the issue of venue. This applicant is before the wrong Board. The applicant belongs before the Zoning Board and the application should be transferred there.

Thank you,
Micaela

On Mon, Nov 25, 2024, 12:37 PM Diana McGovern <dmcgovern@gpmlegal.com> wrote:

Ms. Bennett:

I have reviewed your email and the notice sent by the Applicant for Essex County Country Club. The notice not only includes the fact that "Applicant intends to continue to sell alcoholic beverages from the premises" but also makes reference to the fact that their application is for an expansion of the already existing bar area.

In my opinion the notice is sufficient to alert recipients as to the nature of the matters to be considered.

Regards,

Diana P. McGovern, Esq.

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From: Micaela Bennett <micaela.p.bennett@gmail.com>

Sent: Sunday, November 24, 2024 2:23 AM

To: Jamilet Baquerizo Vite <jvite@westorange.org>; Diana McGovern <dmcgovern@gpmlegal.com>

Cc: John-Basta, Lisa A. <ljohn-basta@csglaw.com>

Subject: ECCC Planning Board Application PB 24-15

Good Day,

I write regarding the above referenced PB application scheduled for December 4, 2024.

The applicant's notice, which a neighbor shared with me, is deficient. See attached. Until the deficiencies within the notice are cured, this application should not be heard by the Board.

Additionally, this application should be before the Zoning Board. A golf course and a golf club or private club are separate and distinct uses under the zoning ordinance. Given these principal uses that share the ECCC Property, this Application should have been for either a d(1) variance with the two uses or d(2) variance to increase the intensification of a use. Either variance required the matter to have been heard by the Township Zoning Board of Adjustment and not the Planning Board. N.J.S.A. 40:55D-70.

By now, this applicant should be well aware that it must notify the public, with sufficient specificity, if it intends to include the sale of alcohol at the proposed location. See *Pond Run Watershed Ass'n v. Twp. of Hamilton Zoning Bd. of Adjustment*, 397 N.J. Super. 335, 339 (App. Div. 2008) citing *Perlmart of Lacey, Inc. v. Lacey Twp. Planning Bd.*, 295 N.J. Super. 234, 241 (App. Div. 1996) wherein the Court found the notice deficient where it failed to indicate the applicant was seeking to sell alcohol as part of the approval. In accordance with *Perlmart*, the notice should have specifically alerted neighbors and the public at large that the variances ECCC seeks including approval for a large pavilion with a potential liquor license expansion, going beyond the notice's vague, misleading reference that the project "intends to continue to sell alcohol beverages."

Please have the Applicant correct these errors before scheduling the matter for a hearing. Please refer this application to the Zoning Board. Then, the notice defect should be cured. This application should not proceed until it's before the correct body and proper notice has been effectuated.

Lastly, this is to notify the Board Secretary that at this point, if this application proceeds before this body, it is my intention to participate as an objector and, I may call experts of my own. Furthermore, I believe the Board's attorney has an obligation to correct her guidance and advice regarding applications that include the intention to sell alcohol within the structure they are selling permission to build. It will be my position that at this applicant's most recent prior application, the Board's attorney tainted the proceedings when she announced that the Board couldn't consider the impact of alcohol sales on the land use matter before them. That practice should not be perpetuated and requires correction. It is obvious, when MLUL requires that notice of alcohol sales **MUST** be included, it is for Board consideration and the public should not be prohibited from inquiring, developing facts and discussing the impacts.

Thank you,

Micaela Bennett