

**HARDING TOWNSHIP PLANNING BOARD MINUTES
REGULAR MEETING
DECEMBER 20, 2021**

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Planning Board Chair, Mr. Clew called the in-person meeting to order at 7:00 and announced that adequate notice of this meeting had been made to the Daily Record and Observer Tribune. Notice was posted on the Township web page and on the bulletin board in the Township Hall on Blue Mill Road in Harding, New Jersey, and filed with the Township Clerk.

ROLL CALL

On a call of the roll, the following were present:

Mr. Clew	Present	Mr. dePoortere	Present
Ms. Walters	Excused	Mr. Yates	Present
Mr. Edgar	Excused	Mr. Platt	Present
Mr. Bjorkedal	Present (7:04)	Mr. Newlin	Excused
Mr. Chipperson	Present	Ms. Claytor	Excused

Also present was Mr. Hall, PB Attorney, via phone and Ms. Taglairino, Board Secretary.

RESOLUTION

<u>Application PB# 04-21</u>	The Environmental Approach
	1 Post House Road, B33.03/L1, R-1 and B-2 Zones

A motion was made by Mr. Yates to adopt Resolution PB# 04-21 the Environmental Approach. The motion was seconded by Mr. dePoortere. A roll call vote went as follows:

For: Mr. Clew, Mr. dePoortere, Mr. Yates, Mr. Bjorkedal and Mr. Chipperson

Against: None

MINUTES

Mr. Clew made a motion to table the September 27, 2021, October 25, 2021 and November 22, minutes to the January 24, 2022 meeting.

SUBCOMMITTEE UPDATES –NO REPORTS

Advisory Review Committee
Engineering and Environmental Committee

Development Review Committee

LIAISON REPORTS—NO REPORTS

Board of Adjustment

Environmental Commission

HOST

Historic Preservation Commission

Citizen Park Advisory Committee

Township Committee

OTHER BUSINESS
ADJOURNMENT

Lori Taglairino

ori Taglairino, Planning Board Secretary

HARDING TOWNSHIP PLANNING BOARD

RESOLUTION

**Preliminary & Final Site Plan Approval
Environmental Approach, Inc. - Application No. PB 04-21
1 Post House Road - Block 33.03, Lot 1
Adopted December 20, 2021**

WHEREAS, Environmental Approach, Inc., applied to the Harding Township Planning Board for preliminary and final major site plan approval and site plan exceptions for construction of a garden center on an undeveloped corner lot located at 1 Post House Road with frontage on Mt. Kemble Avenue as well in a B-2 Zone and a R-1 Zone, designated on the Township Tax Map as Block 33.03, Lot 1; and

WHEREAS, the application for site plan approval was the subject of a public hearing conducted by the Planning Board at meetings on October 25, 2021 and November 22, 2021 at the Harding Township Municipal Building, for which notice by applicant and public notice were given as provided by law; and

WHEREAS, a publicly noticed site inspection of the property was conducted on November 20, 2021; and

WHEREAS, the Planning Board considered the testimony, evidence and comments presented during the public hearing proceedings; and

WHEREAS, at the public meeting on November 22, 2021, the Planning Board adopted an oral resolution approving the application of Environmental Approach, Inc., subject certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Planning Board, this 20th day of December 2021, that the oral approval of the application of Environmental Approach, Inc., for preliminary and final major site plan approval and site plan exceptions is hereby memorialized as follows:

Findings of Fact and Statement of Reasons

1. Environmental Approach, Inc., seeks preliminary and final major site plan approval and site plan exceptions to authorize construction of a garden center and related improvements on a 3.03-acre corner lot located in the B-2 and R-1 Zones with frontage on both Post House Road and Mt. Kemble Avenue and with an address of 1 Post House Road. The applicant is a contract purchaser, and the owner of the property consented to the development application.

1. All proposed improvements would be located on the portion of the property in the B-2 Zone, which applies to the area within 200 feet of the sideline of Mt. Kemble Avenue that has total area of 2.592 acres or 112,902 square feet. The portion of the property in the R-1 Zone has an area of 0.438 acres or 19,084 square feet. It would remain undeveloped.
2. The southwestern portion of the property in the B-2 Zone is subject to regulated freshwater wetlands and wetlands transition areas. This portion of the property has an area of 1.193 acres. A letter issued by Environmental Technology Inc., dated September 17, 2021, presented the professional opinion that the prior delineation approved by NJDEP had not changed. The wetlands and associated transition area would remain undeveloped and would be subject to a conservation easement consistent with applicable Ordinance requirements.
3. The proposed improvements would include an 1,800 square foot building (containing 600 square feet of retail, 300 square feet of office, and 900 square feet of garage), outdoor landscape plants and products storage and display areas, parking and driveway areas, and related site improvements as shown on site plans consisting of 12 sheets, prepared by Yannaccone Villa & Aldrich, LLC, dated September 15, 2021.
4. The proposed garden center represents a retail sales use, and retail sales is an expressly permitted use in the B-2 Zone under Section 225-145(A)(4).
5. The applicant was represented in proceedings before the Planning Board by Nicole Magdziak, Esq. of Day Pitney LLP.
6. The Morris County Planning Board issued an approval exemption notice dated October 27, 2021.
7. Representatives of the Township Police Department and volunteer fire department provided email responses indicating the absence of any public safety comments concerning the proposed development.
8. Paul Fox, P.E., Township Engineer, commented on application completeness in a memorandum dated October 21, 2021 that identified limited completeness deficiencies that were considered by the Planning Board at the meeting on October 25, 2021. The application was deemed to be conditionally complete, subject to compliance with recommendations in the Fox memorandum.
9. The public hearing was started at the meeting on October 25, 2021, a public site inspection was conducted on November 20, 2021, and a continued public hearing was held at the meeting on November 22, 2021.
10. Township Engineer Paul Fox commented on the substance of the application in a memorandum dated November 20, 2021. He attended the site inspection and public hearing sessions, at which he asked questions and provided additional comments. Engineer Fox recommended approval of a requested site plan exception to permit use of LED lighting fixtures. He also noted compliance with fire protection requirements in the Ordinance, and presented various recommendations. The applicant's representatives agreed to comply with and/or work cooperatively to address all written and oral recommendations by Township Engineer Fox.
11. Township Planner McKinley Mertz commented on the application in a memorandum dated October 22, 2021 that described the development proposal and presented various recommendations. She attended the

site inspection and participated in the public hearing proceedings, at which she asked questions and provided additional comments.

12. Testimony concerning the planned operation of the garden center was provided by the applicant's principal Peter Finkle. He stated that he currently operates a landscaping business at a facility in Chatham that would continue to be operated at that location. The proposed garden center would supplement that business by providing for retail sales and permitting prospective landscaping customers to view landscaping plants and materials. The anticipated hours of operation would be 8 a.m. to 5 p.m., Monday through Saturday. Aside from vehicles or equipment stored in a garage, a maximum of 4 vehicles licensed for use on public roads (not including tractor trailers) would be parked outside overnight on the property. These vehicles might include up to 2 attached licensed trailers.
13. The proposed building design was shown on a plan sheet labelled Conestoga, prepared by CB Structures, Inc., dated September 15, 2021. The applicant agreed to enhance the exterior appearance in response to questions and comments.
14. Engineer Candice Davis testified concerning the improvements shown on site plans, and she presented a Limited Environmental Impact Statement, dated September 20, 2021, which was prepared by her office and submitted with the application.
15. Engineer Davis also addressed stormwater management as set forth in a Stormwater Management Report, dated September 15, 2021, and as shown on the site plans. The stormwater management proposal was discussed, and Township Engineer Fox indicated that compliance with applicable stormwater management requirements would be a condition of any approval.
16. Gary Dean, P.E., was accepted as an expert witness as to traffic, and he testified concerning a Traffic Impact Analysis for Proposed Retail Garden Center, dated September 22, 2021, that had been submitted with the application. He described a traffic analysis that had been performed that indicated only a minor increase in vehicle volume at the intersection of Post House Road and Mt. Kemble Avenue. In response to questioning, he testified that it would not be practical or appropriate to relocate the site access driveway from Post House Road to Mt. Kemble Avenue due to State DOT highway access permit restrictions against additional direct connection to State highway where alternate access was available, the steep slope of the property frontage along Mt. Kemble Avenue that would impact on the slope of a new driveway, sight distance considerations, and potential conflict with subsurface septic and drywell facilities required to be located on the downhill side of the property between the proposed building and Mt. Kemble Avenue.
17. Jim Mazzucco of Bosenberg Landscape Design testified concerning the proposed lighting, landscaping and signage, as set forth on a 3 sheet plan set issued by his firm, dated September 15, 2021. Sheet 3 was revised as of November 3, 2021, to include a sign detail. The applicant agreed that the site lighting would be connected to a timer to turn off lighting not required for security/safety purposes after 6:00 p.m. The applicant also agreed to adjust the lighting to add shields to fixtures to prevent visibility of the light source, if requested, subject to approval by the Township Engineer.
18. There was discussion of the avoidance of excessive illumination consistent with the Township's "dark sky" objectives. The applicant agreed that all outdoor lighting will be appropriately shielded to avoid any adverse impacts. Minimization of lighting levels consistent with that objective resulted in the need for site plan exceptions from two criteria in Section 225-85(C) concerning maximum average to minimum illumination ratios, but the applicant revised its lighting plan to eliminate the need for this relief.
19. The Planning Board concludes that a site plan exception should be granted from Section 225-85(F) consistent with N.J.S.A. 40:55D-51(b) to allow the use of LED fixtures for the following reasons:
 - a. The proposed use of LED lighting fixtures is reasonable and would advance the general purpose and intent of the site plan lighting criteria.

- b. LED fixtures will be more energy efficient.
 - c. Literal enforcement of the referenced site plan lighting requirement would result in undue hardship due to peculiar conditions pertaining to the subject property.
 - d. There will be no adverse impact on public health or safety.
- 20. There was a discussion of a proposed sign adjacent to the intersection of the proposed site driveway and Post House Road that would conform with the applicable maximum size limit of 16 square feet and a potential alternate location adjacent to Mt. Kemble Avenue, along with substitution of a permitted small directional/identification sign not to exceed 5 square feet in area near the site driveway entrance, which would not require variance relief. The Planning Board concluded that either alternative could be used at the discretion of the applicant.
 - 21. Several residents of the Post House Road neighborhood appeared and the hearing and raised questions and concerns as to potential negative impacts on the neighborhood related to increased traffic, including trucks, and safety.
 - 22. Subject to compliance with all conditions in this Resolution, the application involves a permitted use that does not require any zoning variance relief and complies with the requirements for preliminary and final major site plan approval.

Description of Site Plan Approval

Approval is hereby granted for the application of Environmental Approach, Inc., for preliminary and final major site plan approval in accordance with site plans consisting of 12 sheets, prepared by Yannaccone Villa & Aldrich, LLC, dated September 15, 2021, and a 3 sheet plan set prepared by Bosenberg Landscape Design, initially dated September 15, 2021, both subject to any further revisions required by the approval conditions in this resolution.

Description of Site Plan Exception

- 1. A site plan exception is granted hereby consistent with N.J.S.A. 40:55D-51(b) from the lighting requirement in Section 225-85(F) to permit use of LED lighting fixtures as shown on the plans.

Development Approval Conditions

These approvals are granted subject to the following conditions:

- 1. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.
- 2. The applicant shall obtain a building permit, Health Department approval and any other necessary approvals.
- 3. These approvals are based on and authorize only the specific improvements proposed by the applicant as set forth in the testimony, application and plans. New or amended approval may be required for any materially different improvements.
- 4. The applicant shall comply with all recommendations by Township Engineer Fox, in his comment memorandum dated November 20, 2021, as supplemented by testimony during the public hearing process, specifically including but not limited to the stormwater management recommendations.
- 5. The applicant shall submit a stormwater management maintenance plan in compliance with the requirements of the Township's Stormwater Control Ordinance, subject to approval by the Township Engineer prior to issuance of any construction permit. Any future revisions to the maintenance plan shall not become effective absent approval by the Township Engineer. The initial maintenance plan and any future approved revisions shall be recorded.

6. The applicant shall prepare a conservation easement instrument applicable to the wetlands and wetlands transition area in a form consistent with Ordinance requirements, subject to approval by the Board Attorney and/or Township Attorney. Metes and bounds descriptions for the conservation easement areas and the location of proposed easement boundary markers shall be shown on the site plans. The applicant shall submit an existing conditions reports for the conservation easement area, subject to approval by the Township Engineer. Following approval and acceptance by the Township, the conservation easement shall be recorded and markers shall be installed consistent with applicable requirements.
7. The applicant shall comply with all recommendations in a memorandum prepared by Township Planner McKinley Mertz in her comment memorandum dated October 22, 2021, as supplemented by testimony during the public hearing process.
8. This approval is limited to permitted retail sales use for the specific garden center and related site improvements shown on the final approved plans.
9. In accordance with Section 225-147(C), there shall be no outside storage or display of any equipment other than a maximum of 4 vehicles licensed for use on public roads (not including any tractor trailers) that also may be parked outside overnight on the property. These vehicles may include up to 2 attached licensed trailers. This condition shall not restrict vehicles or equipment stored in a garage, and nursery and agricultural products may be displayed outside.
10. The applicant and any successor owner shall be responsible for future reasonable maintenance, retention and replacement, if necessary, of all required improvements. No additional improvements shall be installed on the property that increases the amount of lot coverage, except that the alternate signage proposal described above may be used as the applicant's discretion.
11. The approval of this application is subject to posting with terms acceptable to the Township Engineer of any and all required performance guarantee, safety and stabilization guarantee, deposit for inspections, and any other requirements of Township ordinances prior to the issuance of any permits for commencement of site preparation or construction.
12. This approval is also conditioned on the applicant providing prior to issuance of the first certificate of occupancy a performance guarantee acceptable to the Township Engineer for any of the approved landscaping that has not been completed by the time of issuance of such certificate.
13. The applicant shall comply with all applicable Federal, State and local laws and regulations and obtain any other governmental approvals required for implementation of this application as approved. If any other governmental agency or authority grants a waiver of or variance from any law, rule or regulation, or imposes any condition or requirement, that affects this approval or any of the conditions contained herein, then the Planning Board will have the right to review such action as it relates to this approval and/or conditions and to modify, amend or revoke its approval and/or conditions.
14. Prior to the start of any site work or issuance of any building permits, representatives of the applicant shall attend a pre-construction meeting with the Township Construction Official, Township Engineer and/or other Township officials to discuss and specify requirements as to construction procedures, including but not limited to restriction against any construction activity on Sundays and limiting construction activity on other days to the standard time limitation of between 8 a.m. and 5 p.m. The meeting will also address noise limits, removal of construction debris, construction vehicle traffic safety management, and prevention of off-site impacts.
15. If during performance of site work or construction activity field conditions indicate the need for change(s), such need shall be brought to the attention of both the Construction Official and Township Engineer for approval of any requested change before it is undertaken. If any such change is determined to be significant, permission to amend the Site Plan may have to be sought from the Planning Board.
16. A final certificate of occupancy shall not be issued until the applicant has submitted to the Construction Official four (4) properly signed and sealed copies each of as-built site plans, surveys and building elevations.
17. In the event of any disagreement between the applicant or any representative of the applicant and the Township Engineer or other Township representative, the Planning Board may be asked to resolve the disagreement.

Vote on Resolutions

For the Oral Approval Resolution: Bjorkedel, Chipperson, DePoortere, Edgar, Newlin, Yates & Clew.

Against the Oral Approval Resolution: None.

For the Form of the Written Resolution: Bjorkedel, Chipperson, DePoortere, Yates & Clew.

Against the Form of the Written Resolution: None.