



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Coastal and Land Use Planning
Mail Code 401-07C
P.O. Box 420, 401 East State Street
Trenton, New Jersey 08625-0420
Telephone: (609) 984-6888
Fax: (609) 292-0687
http://www.nj.gov/dep/lum/

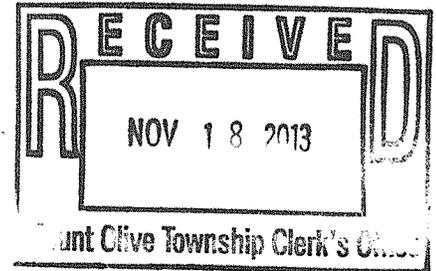
CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

Handwritten notes: 11-18-13 cc: Admin Plan

Mazouz and Tomasa Jallad
159 Mount Olive Road
Flanders, New Jersey 07836



Re: Jallad - Single Family Home
Block: 7100, Lot: 66
134 Flanders-Drakestown Road
Mount Olive Township, Morris County
Northeast Water Quality Management Plan (WQMP)
Program Interest No.: 435442
Activity No.: CSD120022

NOV 13 2013 stamp

Agency Determination: Highlands Act - Not Exempt
Exemption # 4
Water Quality Management Plan - Consistent

Dear Mr. and Mrs. Jallad:

This letter is forwarded in reply to your request for a Highlands Applicability Determination and Water Quality Management Plan Consistency Determination. Based on the information submitted, it has been determined that your proposed project/activity is located within the Highlands Preservation Area. Therefore, your project/activity has been reviewed to determine the applicability of the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38 (Highlands Rule) as well as the requirements defined in the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15 (WQMP rules).

The project/activity subject of this review includes a proposal to convert a previous nursery school building into a three bedroom single family dwelling on a 3.57 acre property. The reconstruction would encompass expanding the existing building and constructing a new driveway and garage. The current conditions on the site and the proposed project is depicted on the certified site plan prepared by James G. Glasson, N.J.P.E., and Robert H. Jordan Jr., N.J.P.L.S., with Civil Engineering, Inc., dated July 13, 2012 and revised October 19, 2012, is titled "HIGHLANDS EXEMPTION PLANS FOR: LOT 66 BLOCK 7100 TOWNSHIP OF MOUNT OLIVE MORRIS COUNTY, NEW JERSEY," sheets 1 through 3.

During the application review process, items of information appeared to be missing and/or inaccurate and, therefore, were requested in a Notice of Technical Incompleteness dated September 27, 2012. Those requested items of information as well as additional items that required clarification/revision (requested by phone or requested by a Letter dated February 6, 2013 to the Township Planning Board) were received on October 16, 2012, October 23, 2012, and March 20, 2013.

The Department of Environmental Protection (Department) reviewed the materials submitted to determine the applicability of the provisions of the Highlands Rules. As a result of this review, the Department has determined that your project/activity is not exempt because it meets the definition of "Major Highlands Development," at N.J.A.C. 7:38-1.4 since the proposal results in the ultimate disturbance of 1 acre or more of land, and does not meet the requirements for any of the exemptions in the Highlands Rules at N.J.A.C. 7:38-2.3. Therefore, your project/activity is subject to the requirement of obtaining a Highlands Preservation Area Approval and the applicable provisions of the Highlands Rules.

This determination is based on the following reason(s):

The exemption applied for is the reconstruction of a building or structure for any reason. This exemption requires that the reconstructed building or structure be located within 125% of the lawfully ~~existing impervious surface on the site provided that the impervious surface is not increased by one-~~ quarter acre or more. The proposed reconstruction exceeds 125% of the footprint of the lawfully existing impervious surfaces. Please be advised that the "existing gravel driveway," as indicated on the site plan mentioned above, are not considered lawfully existing impervious surfaces and, therefore, credit towards the total existing impervious surface cannot be given for them. There was no official documentation submitted indicating the "existing gravel driveway" areas lawfully exist. The letter dated October 11, 2012 from Eugene F. Buczynski, P.E., the Mount Olive Township Engineer with Van Cleef Engineering Associates, confirms that in 1984-1985 the Township reconstructed and widened Flanders-Drakestown Road and installed the depressed curbing for the existing "wood road" at that time. It however, does not indicate that there was lawfully existing gravel on this access road on August 10, 2004. Furthermore, photographs of the site and aerials taken in 2004 and 2007 indicate that the driveway appears to be dirt. Please note that in addition the Department received a letter dated February 12, 2013 from Eugene F. Buczynski, P.E., the Mount Olive Township Engineer with Van Cleef Engineering Associates, which confirms the portion of Flanders-Drakestown Road on the subject property is currently owned by the Jallad's. This area, therefore, can be considered lawfully existing impervious surfaces and, therefore, be credit towards the total existing impervious surface. Also note that whether the existing general store structure (shown as a "two story barn" on the site plan) is lawfully existing impervious surface cannot be determined by the Department since the decision is currently pending before the Superior Court of New Jersey. Regardless, without any official documentation indicating the "existing gravel driveway" areas lawfully exist, the proposal exceeds 125% of the footprint of the lawfully existing impervious surfaces whether the grocery store is counted or not.

Should you decide to revise the proposed project to be considered for an exemption to the Highlands Act, you must resubmit a complete application for a new Highlands Applicability and Water Quality Management Plan Consistency Determination. Additionally, please include a copy of this determination letter as part of your new application.

Otherwise, in order to apply for your Highlands Approval you should submit the required information for the applicable review components to the New Jersey Department of Environmental Protection, Land Use Regulation Program, P. O. Box 439, Trenton, New Jersey 08625-0439. The information requirements and forms for each component can be found and downloaded at www.state.nj.us/dep/highlands.

The Department also reviewed your project/activity for consistency with the WQMP rules and the provisions and recommendations of the Northeast WQMP. Based on our review, the proposed project/activity appears to be consistent with the applicable WQMP and is in accordance with the WQMP rules. This determination is made based on the following:

The project/activity will be served by an individual subsurface sewage disposal system with a discharge to ground water 2,000 gallons per day or less.

This Highlands Applicability and Consistency Determination is subject to the following limitations:

- (1) This determination does not eliminate the need for any permits, approvals, or certifications required by any other Federal, State, County or municipal review agency with jurisdiction over this project/activity.

- (2) This determination shall be considered null and void if changes are made to the project that would increase the scope or area disturbed by the project, or result in a change in the use or change the method of wastewater treatment; or if the information submitted to obtain this determination from the Department is later determined to be inaccurate.

A copy of this determination letter must be enclosed with any future permit application(s) filed with the Department.

Let it be noted that this project, Jallad - Single Family Home, was published in the August 1, 2012 DEP Bulletin and comments were received and then withdrawn in a July 29, 2013 letter from Anthony M. Gruppuso, Esq. with Brach Eichler, LLC.

If the applicant disputes the Department's factual findings or any of its conditions or if anyone is aggrieved by this determination, that person may request an adjudicatory hearing. A request for an adjudicatory hearing shall be submitted in writing by certified mail, or by other means which provides verification of the date of delivery to the Department, within 30 days of notice of this decision published in the DEP Bulletin in accordance with N.J.A.C. 7:38-1.5. The adjudicatory hearing request must be accompanied by a completed Adjudicatory Hearing Request Checklist and Tracking Form (form enclosed).

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Division of Coastal and Land Use Planning. If you have any questions or require further assistance, please call Laura Eudell at (609) 984-6888.

Sincerely,



Elizabeth Semple, Manager
Division of Coastal and Land Use Planning

Enclosure

c: James Glasson, P.E., Civil Engineering, Inc.
Michael Selvaggi, Esq., Law Offices Courter, Kobert & Cohen
Anthony M. Gruppuso, Esq., Brach Eichler L.L.C.
Mount Olive Township Clerk
Mount Olive Township Construction Official
Mount Olive Environmental Commission
Mount Olive Planning Board
Morris County Planning Board
Morris County Environmental Commission
Gene Feyl, New Jersey Highlands Council
Division of Coastal and Land Use Planning - File

Copy via Email:

Barbara Baus, NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (w/o encl.)
Armand Perez, NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (w/o encl.)
Lou Cattuna, NJDEP, Bureau of Inland Regulation (w/o encl.)
Laura Eudell, NJDEP, Division of Coastal and Land Use Planning (w/o encl.)

Adjudicatory Hearing Request Checklist
and Tracking Form

I. Highlands Applicability and Water Quality Management Plan Consistency Determination Decision (Applicability Determination) Being Appealed:

Issuance Date of Document

Document Number (if any)

II.

Name of Person Requesting Hearing

Name of Attorney (if applicable)

Address

Address

Telephone #

Telephone #

III. If you are the applicant, please include the following information with your hearing request:

- A. ~~The date you received the applicability determination which you are appealing;~~
- B. A copy of the decision document;
- C. The findings of fact and conclusions of law you are appealing;
- D. A statement as to whether or not you raised each legal and factual issue during the applicability determination process;
- E. Suggested revised or alternative applicability determination conditions;
- F. An estimate of the time required for the hearing;
- G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
- I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
P.O. Box 402, 401 East State Street, 4th Floor
Trenton, New Jersey 08625-0402

with a copy to:

2. New Jersey Department of Environmental Protection
Division of Coastal and Land Use Planning
Attention: Manager
Mail Code 401-07C
P.O. Box 420, 401 E. State Street
Trenton, NJ 08625-0420

Signature: _____

Date: _____

IV. If you are a person other than the applicant, please include the following information with your hearing request:

- A. The date you or your agent received notice of the applicability determination (include a copy of that determination with your hearing request);
- B. Evidence that a copy of your hearing request has been delivered to the applicant for the determination which is the subject of your hearing request (e.g., certified mail receipt);
- C. A detailed statement of which findings of fact and/or conclusion of law you are challenging;
- D. A description of your participation in any public hearings held in connection with the application and copies of any written comments you submitted;
- E. Whether you claim a statutory or constitutional right to a hearing, and, if you claim such a right, a reference to the applicable statute or explanation of how your interests are affected by the applicability determination decision;
- F. Suggested revised or alternative applicability determination conditions;
- G. An estimate of the time required for the hearing;
- H. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- I. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of the hearing request to the Office of Administrative Law; and
- J. This form, completed, signed and dated with all the information listed above, including attachments to:

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Attention: Adjudicatory Hearing Requests
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Trenton, New Jersey 08625-0402

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Division of Coastal and Land Use Planning
Attention: Manager
Mail Code 401-07C
P.O. Box 420, 401 E. State Street
Trenton, NJ 08625-0420

V. Signature: _____ Dated: _____