

Pohatcong Township grass-roots group sues township over proposed farm stand, barn

By Sarah Peters / *The Express-Times*
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A grass-roots group of Pohatcong Township residents has filed a lawsuit to stop construction of a barn and two-story farm stand in a flood-prone area of the municipality.

Backed by the [New Jersey Highlands Coalition](#), a nonprofit group dedicated to enforcement of New Jersey's 2004 Highlands Act, Eco Action Initiatives of Warren County sued Enrique Hernandez, the township and the municipal land use board in July.

The group alleges the board erred when it approved the barn and farm stand on the River Road property belonging to Hernandez, who is a member of the land use board, according to the lawsuit.

The board approved Hernandez's minor site plans at its Feb. 25 meeting. Hernandez and Gertrude Frey abstained from the vote, and board member Wayne Willever was absent.

Laura Oltman, who is both director of Eco Action Initiatives and Hernandez's neighbor, asserts the township isn't making Hernandez work within the confines of the law. The municipal code permits a farm stand building with an area up to 1,000 square feet, but whether the second floor counts against the limitation is at issue. The proposed stand is 1,760 square feet accounting for both floors, according to the meeting minutes.

The board also made an "ethical lapse" by allowing Hernandez to present his own project after he recused himself, Oltman said.

The land use board waived requirements for Hernandez to show the topography within 200 feet of the property and to assess storm water runoff, which Oltman said was a mistake. Flooding from the Pohatcong Creek and Musconetcong River has caused disaster in the township in the past, she said.

"The township really needs to be much more serious about this for the sake of residents who lose their property," Oltman said. "Residents could lose their lives."

Township's defense

Land use board attorney Lyn Aaroe said the law isn't specific on how square footage is determined, and the board recognized Hernandez will likely have limited use of the first floor due to the floodplain. Hernandez testified some volume will be compromised because the building is designed to allow floodwater to pass through. The footprint of the proposed building is similar to that of the crumbling, existing building on the property.

Municipal officials don't give up their right to submit development applications for their own property, Aaroe said.

"There's absolutely nothing wrong with it, and there's no alternative to him doing it," Aaroe said.

Township officials could make an informed decision without the topographical information, because they already knew the area is subject to flooding, Aaroe said. It's common for municipalities to waive the topography requirement for small-development applications due to the high expense to applicants, he said.

Willever Excavating, the company of land use board member Wayne Willever, brought in gravel for the barn. Hernandez, Willever and Aaroe said they did not see it as a conflict of interest. Hernandez pointed out Willever's absence and said he employs several local contractors on the project.

Pohatcong Township Mayor James Kern III and members of the land use board said they could not comment due to the litigation.

Sources of funding

Hernandez claims that beyond Oltman, Eco Action Initiatives is really a group of his neighbors who oppose the project. Two of the group's officers have River Road addresses, and a third has a Creek Road address, according to state business records. **The Boonton, N.J.-based Highlands Coalition awarded the group a \$3,500 grant in June "to hire a lawyer and engineer to set precedent in Warren County for municipal responsibility for storm water management" in connection to the project.**

Hernandez identified two other groups -- the Phillipsburg Riverview Organization and Citizens for Better Planning in Morris Township, N.J. -- that both received grants and employed Daniel Somers, the husband of coalition Executive Director Julia Somers, as their attorney. Hernandez presented the information during public comment at a council meeting recently.

Julia Somers said she doesn't vote on which groups get the grants, nor does she participate in discussions when her husband represents the coalition's member organizations. Daniel Somers has done a substantial amount of work in Warren County and northern New Jersey, she said. The deciding committee selects all recipients on their merits, she said.

RELATED LAWSUITS

Eco Action Initiatives of Warren County's lawsuit is only the latest salvo between its director, Laura Oltman, and neighbor Enrique Hernandez, of Pohatcong Township.

In April, Hernandez sued Oltman and her husband, Michael Newman, for allegedly trespassing on his property and harassing him. The couple countersued in July, alleging Hernandez harassed them, created nuisances and trespassed on their property. They also allege in the suit he defamed them to a joint neighbor, the township's zoning officer and the New Jersey Department of Environmental Protection.