



Township Of Mahwah

Municipal Offices: 475 Corporate Drive
P.O. Box 733 • Mahwah, NJ 07430
Tel 201-529-5757 • Fax 201-512-0537

Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

VIA ELECTRONIC AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

April 24, 2018

Chief Dwaine Perry
Ramapough Mountain Indians, Inc.
189 Stag Hill Road
Mahwah, New Jersey 07430

Re: 95 Halifax Road
Zoning & Site Plan Violations
Block 1, Lot 131
Township of Mahwah

Dear Chief Perry:

As per the Pending Action in the Superior Court of New Jersey, Bergen County, Law Division, the Township of Mahwah (Township) and Ramapough Mountain Indians, Inc. (RMI) were to enter into a Settlement Agreement to resolve disputes relative to the above referenced property by March 28, 2018.

While the Township of Mahwah has acted in good faith to review and approved the proposed Settlement Agreement, the RMI have refused to approve and sign the Agreement.

In my January 17, 2018 report, see copy attached, we noted numerous violations with respect to the Zoning and Site Plan requirements of the Township. In addition, we noted that until proper approval is received, all non-permitted uses must cease and structures and materials associated with the site's uses were to be removed. In the event all structures and materials associated with the non-permitted uses were not removed from the site by the end of business day (4:00 p.m.) on Friday, February 2, 2018 we would recommend that daily summonses be issued for each violation for non-permitted uses occurring on site and for each structure on site and all violations noted. This deadline was not met; however, Summonses were not issued as this matter was in litigation and we were hopeful of an amicable solution. Now since it is clear that this matter is not being resolved, we are recommending that Summonses be issued.

As of Friday, April 20, 2018, the following violations were found at the above referenced site:

Uses and Activities

Our site observations on various days, including Friday, April 20, 2018, indicate that the property and structures on site are being used for religious uses (house of worship and prayer groups) and public assembly uses. These uses at the site are being performed without obtaining the necessary Zoning approval from the Township. Article 24-11.2c of the Township Code states:

“Zoning Permits shall be secured from the Zoning Officer prior to construction, execution or alteration of any structure or use of a structure or land.

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Proper zoning approval has not been received for the uses and the structures utilized for these uses on site.

In addition, Article 24-4.2a of the Township Code states:

“No building or structure shall be erected and no existing building or structure shall be moved, altered, added or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses thereafter listed as permitted in which building or land is located.”

As you know, the property in question is located in the Township’s Conservation (C-200) Zone. As per the Township Code, the following are permitted principal uses in the C-200 Zone:

1. Public open space, including hiking, horseback riding, wildlife preserves, arboretums, botanical gardens, historical edifices, woodland areas, hunting and fishings facilities, other similar uses.
2. Agricultural uses, farms, subject to subsection 24-6.1, paragraph a.
3. Single-family detached residences, with 200,000 sq. ft. minimum lots.
4. Municipal facilities.

In addition to the permitted principal uses, a number of accessory and conditional uses are permitted in this zone, none of which would apply to the uses being performed at the site. The uses being performed at the site are clearly not listed as permitted uses in this zone and as per Article 24-1.3b of the Township Zoning Code.

“The Zoning Ordinance for the Township shall be viewed as a permissive ordinance. In no instance after the adoption of this Chapter shall any use be permitted in the Township which is not listed as a permitted, accessory or conditional use as specified herein. Any uses not permitted or specified shall be prohibited.”

Structures

Based on numerous site observations, we have found a number of structures on site. As per Article 24-2.2 of the Township Code and NJSA 40:55D-7, a structure is defined as:

“A combination of materials to form a construction for occupancy, use or ornamental whether installed on, above, or below the surface of a parcel of land.”

Based on our most recent site observation performed on Friday, April 20, 2018, we found the following structures on site:

- Prayer circle consisting of logs stuck in-ground (totem poles), former pieces of longhouse.
- Stone altar located at the south side of the site.

As per Article 24-11.2c of the Township Code, see above, Zoning Permits are required prior to construction, execution or alteration of any structure or use of a structure or land.

Site Plan Approval

Site plan approval has not been obtained for uses of the property, for the installation of structures or for the driveway and access points at the site.

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Article 22-3.2d of the Township Code states:

“Except as provided in paragraphs b., 1. and 2. herein, all construction, alteration or enlargement of a building, structure or use or change of use or occupancy on or in a nonconforming structure, use or lot shall require site plan approval.”

Township Floodplain and Flood Hazard Areas

The structures on site are used for religious uses and public activity and are located within the floodplain and flood hazard area of the Ramapo River and are not developed above the maximum flood elevation.

Article 24-6.1h(1) of the Township Code states:

“No permanent structure or building or any enlargement of same which is used or designated to be used for housing, commerce, industry or public activity shall be located in a floodplain or flood hazard area. Exceptions to this restriction shall include uses which are developed above the maximum flood elevation with appropriate access provided or as provided in Chapter XVIII of the Code, as may be amended”.

In addition, Article 24-6.1h(3) lists the uses permitted within a floodplain or flood hazard area. These uses are:

- (a) Agriculture and horticultural uses as defined in this Chapter, except for a farmhouse.
- (b) Outdoor recreational facilities, including golf course, ice-skating rinks, swimming pools, parks, playfields and other similar facilities.
- (c) Essential services.
- (d) In addition, all requirements of Chapter XVIII of the Code, as may be amended, shall be complied with. In the event that any of these subsections are inconsistent with the Chapter, the more restrictive provisions shall apply.

The uses at the site do not meet these requirements.

Our office is seeking compliance for the continued violations that are present at the site.

Since the uses occurring on site are not permitted uses, to obtain proper approval, a complete Board of Adjustment Application is required to be submitted to the Township's Department of Land Use for Use Variance Approval. Also, Site Plan Approval will be required as noted above.

Since proper approval has not been received for the items noted above and since the RMI have not entered into the Settlement Agreement to amicably resolve these issues, we are issuing Summonses for

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the violations occurring at the site. These Summonses are retroactive to Thursday, March 29, 2018, the day after the deadline to enter into a Settlement Agreement. The Summonses are for each weekday up to, and including, Friday April 20, 2018 for a total of 17 days. We will continue to issue daily Summonses for each violation until this matter is resolved. Summonses for each of the following violations will be issued by the Municipal Court:

Article 24-11.2c	Failure to Obtain Zoning Permit for Use – Religious Use
Article 24-11.2c	Failure to Obtain Zoning Permit for Use – Public Assembly
Article 24-11.2c	Failure to Obtain Zoning Permit for Structure – Prayer Circle
Article 24-11.2c	Failure to Obtain Zoning Permit for Structure – Stone Altar
Article 22-3.2d	Failure to Obtain Site Plan Approval for Use – Religious Use
Article 22-3.2d	Failure to Obtain Site Plan Approval for Use – Public Assembly
Article 22-3.2d	Failure to Obtain Site Plan Approval for Structure – Prayer Circle
Article 22-3.2d	Failure to Obtain Site Plan Approval for Structure – Stone Altar
Article 24-6.1h(1)	Location of Structure Within Floodplain and Flood Hazard Area Without Proper Approval – Prayer Circle
Article 24-6.1h(1)	Location of Structure Within Floodplain and Flood Hazard Area Without Proper Approval – Stone Altar

Thank you for your kind attention to this matter. Should you have any questions or comments, please do not hesitate to contact me.

Very truly yours,



Geraldine Entrup
Administrative Officer

GE/jg

Enclosure

cc: The Honorable Mayor and Council
Township of Mahwah Board of Adjustment
Quentin Wiest, Township Business Administrator
Kathrine G. Coviello, Township Clerk
Tom Mulvey, Property Maintenance
James N. Batelli, Chief, Mahwah Police Department
Brian M. Chewcaskie, Esq.
Michael J. Kelly, P.E., Boswell Engineering
Thomas W. Williams, Esq.



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January 17, 2018

Chief Dwaine Perry
Ramapo Mountain Indians, Inc.
189 Stag Hill Road
Mahwah, New Jersey 07430

Re: 95 Halifax Road
Zoning & Site Plan Violations
Block 1, Lot 131
Township of Mahwah
Our File No. MA-40-47

Dear Chief Perry:

The Township continues to find and experience numerous violations at the above referenced site with respect to uses of the site, structures at the site, failure to obtain site plan approval and Township floodplain and flood hazard areas requirements. Please see our findings below.

Uses and Activities

Our site observations on various days, including yesterday, indicate that the property and structures on site are being used for religious uses (house of worship and prayer groups), public assembly uses and as a campground. These uses at the site are being performed without obtaining the necessary Zoning approval from the Township. Please note that Article 24-11.2c Township Code states:

“Zoning Permits shall be secured from the Zoning Officer prior to construction, execution or alteration of any structure or use of a structure or land.”

Proper zoning approval has not been received for the uses and the structures utilized for these uses on site.

In addition, Article 24-4.2a of the Township Code states:

“No building or structure shall be erected and no existing building or structure shall be moved, altered, added or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses thereafter listed as permitted in which building or land is located.”

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As you know, the property in question is located in the Township's Conservation (C-200) Zone. As per the Township Code, the following are permitted principal uses in the C-200 Zone:

1. Public open space, including hiking, horseback riding, wildlife preserves, arboretums, botanical gardens, historical edifices, woodland areas, hunting and fishing facilities, other similar uses.
2. Agricultural uses, farms, subject to subsection 24-6.1, paragraph a.
3. Single-family detached residences, with 200,000 sq. ft. minimum lots.
4. Municipal facilities.

In addition to the permitted principal uses, a number of accessory and conditional uses are permitted in this zone, none of which would apply to the uses being performed at the site. The uses being performed at the site are clearly not listed as permitted uses in this zone. Article 24-1.3b of the Township Zoning Code states:

"The Zoning Ordinance for the Township shall be viewed as a permissive ordinance. In no instance after the adoption of this Chapter shall any use be permitted in the Township which is not listed as a permitted, accessory or conditional use as specified herein. Any uses not permitted or specified shall be prohibited."

Structures

Based on numerous site observations, we have found many structures on site. As per Article 24-2.2 of the Township Code and NJSA 40:55D-7, a structure is defined as:

"A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land."

Based on our most recent site observation, performed yesterday, we found the following nine (9) structures on-site:

- Storage shed located in the woods at the west side of the site.
- A canvas cabin located at the north side of the site, to the east of the driveway from Bridal Path Lane.
- Prayer circle consisting of logs stuck in-ground (totem poles), former pieces of longhouse.
- Portable toilet at the north side of the site, to the west of the driveway from Bridal Path Lane.
- Yurt at the north side of the site, to the east of the driveway from Bridal Path Lane.
- Pop-up shed located at the east side of the site.
- A structure made of lumber with roof and floor (known as kitchen structure).
- Sweat lodge at the west side of the site.
- Stone altar located at the south side of the site.

As per Article 24-11.2c of the Township Code, see above, Zoning Permits are required prior to construction, execution or alteration of any structure or use of a structure or land.

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It should be noted that in the decision made in Municipal Court by Judge McGeady on November 17, 2017, the structures placed on site were installed without obtaining prior zoning approval.

Site Plan Approval

Site plan approval is required and has not been obtained for uses of the property or for the installation of structures.

Article 22-3.2d of the Township Code states:

“Except as provided in paragraphs b., 1. and 2. herein, all construction, alteration or enlargement of a building, structure or use or change of use or occupancy on or in a nonconforming structure, use or lot shall require site plan approval.”

Township Floodplain and Flood Hazard Areas

The structures used on site for religion uses and public activity are located within the floodplain and flood hazard area of the Ramapo River and are not developed above the maximum flood elevation.

Article 24-6.1h(1) of the Township Code states:

“No permanent structure or building or any enlargement of same which is used or designated to be used for housing, commerce, industry or public activity shall be located in a floodplain or flood hazard area. Exceptions to this restriction shall include uses which are developed above the maximum flood elevation with appropriate access provided or as provided in Chapter XVIII of the Code, as may be amended.”

In addition, Article 24-6.1h(3) of the Township Code lists the uses permitted within a floodplain or flood hazard area. These uses are:

- (a) Agriculture and horticultural uses as defined in this Chapter, except for a farmhouse.
- (b) Outdoor recreational facilities, including golf course, ice-skating rinks, swimming pools, parks, playfields and other similar facilities.
- (c) Essential services.

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- (d) In addition, all requirements of Chapter XVIII of the Code, as may be amended, shall be complied with. In the event that any of these subsections are inconsistent with the Chapter, the more restrictive provisions shall apply.

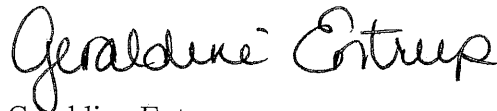
The uses at the site do not meet these requirements.

Our office is seeking compliance for the continued violations that are present at the site.

Until proper approval is received, all non-permitted uses must cease and structures and materials associated with the site's uses must be removed. Should you fail to have all structures and materials associated with the non-permitted uses removed from the site by the end of business day (4:00 p.m.) on Friday, February 2, 2018, we will recommend that a daily summons be issued for each violation for non-permitted uses occurring on site, for each structure on site and all violations noted above. Since the uses occurring on site are not permitted uses, to obtain proper approval, a completed Board of Adjustment Application will be required to be submitted to the Township's Department of Land Use for Use Variance approval. Also, site plan approval will be required as noted above.

Thank you for your kind attention to this matter. Should you have any questions or comments, please do not hesitate to contact me.

Very truly yours,



Geraldine Entrup
Administrative Officer

GE/jg

cc: The Honorable Mayor and Council
Township of Mahwah Board of Adjustment
Quentin Wiest, Township Business Administrator
Kathrine G. Coviello, Township Clerk
Tom Mulvey, Property Maintenance
James N. Batelli, Chief, Mahwah Police Department
Brian M. Chewcaskie, Esq.
Michael J. Kelly, P.E., Township Engineer
Thomas W. Williams, Esq.

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