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**IN THE MATTER OF
APPLICATION OF VILLAGE OF
RIDGEWOOD, HISTORIC
PRESERVATION OFFICE (HPO)
PROJECT #20-0608-35**

ADMINISTRATIVE ACTION

FINAL DECISION AND ORDER

DKT NO.: A-000542-25; BER-L6864-25

AGENCY REF. NO.:
HPO Project #20-0608-35
Doc ID HPO-H2025-273 PROD

This matter comes before the New Jersey Department of Environmental Protection (Department or DEP) on an emergent application by Linda Marticek and Vincent Marticek (Appellants) seeking a stay, pursuant to R. 2:9-7, of the Department’s August 27, 2025 Conditional Approval authorizing the Village of Ridgewood’s application for Project Authorization under the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128, et seq., and its implementing regulations, N.J.A.C. 7:4-7.1, et seq., for development at the Zabriskie-Schedler property in Ridgewood, New Jersey. The Village of Ridgewood (Village) opposes the requested relief. Following issuance of the Conditional Approval, Appellants challenged the decision in both the Law Division and Appellate Division seeking emergent injunctive relief in both venues. In both instances, injunctive relief was denied, and Appellants dismissed the Law Division action.

Having reviewed the submissions of the parties and the administrative record, and applying the standards governing emergent stays pending appeal, the Department finds that Appellants have

not satisfied the criteria for a stay. For the reasons set forth below, the emergent application for a stay is DENIED.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

The Village submitted an application to the Department's Historic Preservation Office (HPO) seeking authorization under the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128, and its implementing regulations, N.J.A.C. 7:4-7.1, et seq., for development of a village park and athletic facilities at 460 West Saddle River Road in Ridgewood (the Property). The Property includes the Zabriskie-Schedler House, which is listed on the New Jersey and National Registers of Historic Places.

On May 29, 2025, HPO determined that the proposed undertaking constituted an encroachment upon a registered historic site and referred the application to the New Jersey Historic Sites Council (HSC) for review and recommendation pursuant to N.J.A.C. 7:4-7.2. The HSC conducted public meetings on July 21, 2025 and August 21, 2025, received public comment, and reviewed submissions related to the proposed project. Following its review, the HSC adopted a resolution unanimously recommending temporary denial of the application, identifying concerns regarding historic impacts, alternatives, and mitigation, as well as requesting additional information. HSC's resolution also contained conditions that would need to be addressed. That recommendation was transmitted to the Department for final agency action in accordance with the governing regulations.

On August 27, 2025, after the Village submitted project revisions to the Department, the Assistant Commissioner for Community Investment and Economic Revitalization issued a Final Decision approving the application subject to conditions. The conditional approval addressed the criteria set forth in N.J.A.C. 7:4-7.4 and imposed several mitigating requirements to ensure



preservation of the property's historic features, including requiring the Village to use an Architectural Historian to document the existing conditions of the house prior to the alteration of any components of the Zabriskie House property; requiring the Village to develop and implement an archaeological avoidance and protection plan and an archaeological monitoring plan prior to the start of construction; and requiring the Village to develop a landscape plan for HPO approval, incorporating a buffer between the Zabriskie House and the athletic field, parking lot, and associated amenities. The Final Decision required that “[f]inal plans and specifications shall be submitted to the HPO for review and approval of the proposed park plans to ensure their compatibility with the Zabriskie House. The plans and specifications shall be submitted prior to construction bidding for the project.” The Final Decision incorporated several conditions addressing the concerns that were raised in HSC’s decision. The Village thereafter adopted a municipal resolution accepting the conditional approval.

Appellants filed an appeal of the August 27, 2025 Final Decision with the Superior Court of New Jersey, Appellate Division, Docket No. A-000542-25. Appellants also commenced an action in the Superior Court, Law Division, Bergen County, and sought to enjoin the project. By order dated October 27, 2025, the Law Division denied Appellants’ request for temporary injunctive relief, concluding that the matter challenged a State agency decision and that Appellants had not demonstrated entitlement to emergent relief. Appellants subsequently dismissed the Law Division case. On December 29, 2025, Appellants filed an emergent motion for temporary injunctive relief with the Appellate Division. On that same date, the Appellate Division denied Appellants’ emergent relief request, concluding that the Applicants failed to show sufficient explanation for the more than three-month delay between the final agency decision of August 27, 2025 and the December 29, 2025 motion for an emergent stay and indicated that “[t]he record



shows that the Commissioner has neither granted nor denied the application as of the date of this order.”

On December 8, 2025, Appellants submitted an application to the Department seeking a stay of the August 27, 2025 decision pending appeal. The Department granted Respondents time to file opposition until January 12, 2026, which was timely filed on that same date. The Department now considers whether issuance of a stay is warranted pending resolution of the appeal.

LEGAL ANALYSIS

A request for emergent relief, including a stay pending appeal, is governed by the four factors set forth in Crowe v. De Gioia, 90 N.J. 126, 132–34 (1982): (1) the prospect of irreparable harm if relief is denied; (2) the likelihood of success on the merits; (3) whether the balance of hardships favors the applicant; and (4) whether the public interest would be disserved by the requested relief. These factors are not applied mechanically but are weighed together in light of the particular circumstances presented. Garden State Equal. v. Dow, 216 N.J. 314, 320 (2013).

While the factors may be applied with some flexibility where the requested relief would preserve the status quo pending appellate review, the applicant must nonetheless satisfy all four Crowe factors. Waste Mgmt. of N.J., Inc. v. Morris Cty. Mun. Utils. Auth., 433 N.J. Super. 445, 453–54 (App. Div. 2013). A strong showing for one or more factors cannot substitute for the absence of another. McNeil v. Legislative Apportionment Comm’n, 176 N.J. 484, 486–88 (2003). The movant must demonstrate each factor “by clear and convincing evidence.” Garden State Equal., 90 N.J. at 320 (internal citation omitted).

In the context of an emergent application, the showing of irreparable harm is often of central importance. The asserted harm must be actual and imminent, not speculative, and must be of a nature that cannot be adequately remedied by monetary damages or subsequent corrective



action. Crowe, 90 N.J. at 132–33; Subcarrier Commc’ns, Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997). While a strong showing on one factor may offset a weaker showing on another, the applicant must nonetheless demonstrate a compelling need for immediate intervention to prevent harm likely to occur before meaningful appellate review can be completed. McNeil, 176 N.J. at 486–88.

Ultimately, whether to grant emergent relief requires a careful balancing of all four Crowe factors, with due regard for preserving the effectiveness of appellate review and protecting significant public interests. I now turn to an analysis of each of the Crowe factors.

A. Irreparable Harm

Irreparable harm exists where an injury cannot be adequately remedied by monetary damages or by corrective action after the fact. Crowe, 90 N.J. at 132–33. Where the subject matter of an appeal would be destroyed or substantially impaired absent interim relief, courts apply a less rigid application of the Crowe factors and grant relief to preserve the status quo. Waste Mgmt. of N.J., Inc., 433 N.J. Super. at 453–54.

New Jersey courts recognize that real property is unique, and that injury to land particularly of historic or environmental significance constitutes irreparable harm. Pruitt v. Graziano, 215 N.J. Super. 330, 331 (App. Div. 2017). A stay is therefore appropriate where continued activity would render an appeal moot or largely ineffectual by permitting irreversible change before appellate review. Christiansen v. Local 680, 127 N.J. Eq. 215, 219–20 (E. & A. 1940).

Here, Appellants have not met that burden. The record does not demonstrate that denial of a stay will result in imminent irreparable harm to the property, to historic resources, or to the integrity of the Department’s review process.



First, the record does not support Appellants' assertion that project-related construction or ground-disturbing activity authorized by the August 27, 2025 Conditional Approval is scheduled to commence imminently. The evidence submitted by the Village establishes that no development associated with the approved undertaking is presently underway or authorized to proceed absent satisfaction of additional conditions. The only activities identified as occurring, or anticipated to occur, in the near term relate to environmental remediation obligations imposed independently of the historic preservation approval. Those activities are independently required by law and are not undertaken pursuant to, or as a consequence of, the Conditional Approval under review.

Second, Appellants' reliance on tree removal as evidence of imminent harm is not adequately supported by the record. The Village's certification, submitted with its January 12, 2026 opposition, states that such activities were undertaken either to address environmental remediation requirements or to remove dead or hazardous vegetation, and not as part of the approved undertaking. The Department's Final Decision, through its incorporation of HSC's findings, did not include the trees as part of the contributing elements of the historic resource. Their removal does not affect the historic significance of the property. While environmental concerns may be addressed under other regulatory programs, they do not constitute irreparable harm within the scope of review applicable to an authorization issued under the New Jersey Register of Historic Places Act.

Third, many of the harms alleged by Appellants (including impacts to wetlands, groundwater, environmental justice communities, artificial turf, and conservation easements) fall outside of the scope of the historic preservation review and the Conditional Approval being appealed. They are instead governed by separate statutory and regulatory requirements. See, e.g. N.J.S.A. 13:8B-1 (New Jersey Conservation Restriction and Historic Preservation Restriction



Act); N.J.S.A. 13:9B-1, et seq. (Freshwater Wetlands Protection Act) and N.J.A.C. 7:7A-1.1, et seq. (Freshwater Wetlands Protection Act Rules). As such, they cannot support a finding of irreparable harm warranting a stay of the unrelated approval. A stay is not a mechanism for halting activity based on alleged harms that are speculative, unrelated to the decision under appeal, or subject to separate regulatory oversight.

Finally, Appellants' assertions that archaeological resources or historic context will be irretrievably lost are not borne out by the record. The Conditional Approval expressly incorporates mitigation measures addressing additional archaeological investigation and historic planning that must occur before construction, followed by documentation, recovery, and public interpretation. Appellants have not demonstrated that these measures are inadequate, nor have they shown that any imminent activity would permanently foreclose meaningful relief should they ultimately prevail on appeal.

In sum, Appellants have not shown that denial of a stay will result in immediate, non-speculative, and irreparable injury. Where, as here, the alleged harms are either unsupported by the record, unrelated to the approval under review, or dependent on future contingencies, the extraordinary remedy of a stay is not warranted. Failure to satisfy this element alone is sufficient to deny the application for interim relief. For the sake of completeness, I will, however, address the remaining Crowe factors.

B. Likelihood of Success on the Merits / Settled Legal Rights

In considering a request for a stay, an applicant must demonstrate a sufficient likelihood of success on the merits of the appeal. Crowe, 90 N.J. at 132-134. This requires more than the identification of disputed issues or policy concerns. See McNeil, 176 N.J. at 486. The applicant must show a reasonable probability that the challenged agency action will be found arbitrary,



capricious, unreasonable, or unsupported by the record under the applicable standard of review. Ibid; Allstars Auto Group, Inc. v. N.J. Motor Vehicle Comm'n, 234 N.J. 150, 157 (2018).

In reviewing final agency action, appellate courts afford substantial deference to an agency's expertise, technical judgment, and fact finding within its area of statutory responsibility. In re Freshwater Wetlands Prot. Act Rules, 180 N.J. 478, 488–89 (2004). An agency decision will be upheld where it is supported by sufficient credible evidence in the record and reflects reasoned decision-making, even where reasonable minds could differ as to the outcome. In re Carter, 191 N.J. 474, 482–83 (2007). Although this factor may be applied with some flexibility where interim relief is sought to preserve the status quo, the applicant must nonetheless demonstrate a colorable likelihood of prevailing on the ultimate appeal. Waste Mgmt. of N.J., Inc., 433 N.J. Super. at 453–54 (App. Div. 2013); McNeil, 176 N.J. at 486–88 (2003).

Applying these principles, I find that the Appellants have not demonstrated a likelihood of success on the merits sufficient to satisfy this Crowe factor. The August 27, 2025 approval constitutes final agency action issued by the Assistant Commissioner following a multi-step review process that included staff analysis, public meetings, and consideration of the Historic Sites Council's recommendation. While the Council unanimously recommended denial, neither the governing statute nor the implementing regulations bind the Commissioner or the Assistant Commissioner to adopt that recommendation. The final decision expressly acknowledged the Council's concerns and imposed multiple conditions addressing historic preservation, archaeological review, and mitigation. A reasoned departure from an advisory recommendation, supported by additional information, conditions and findings in the record, does not constitute arbitrary or capricious action.



Appellants raise concerns regarding the completeness of the administrative record and the regularity of the decision-making process. These issues warrant careful consideration on appeal. However, at this stage, they remain disputed. The approval reflects that the Department considered the information before it and exercised discretion within the scope of its statutory and regulatory authority. Whether additional materials should have been considered, or whether different conclusions should have been drawn, are matters more appropriate for the Appellate Court to review with a full record.

Appellants also point to environmental concerns, including wetlands and soil conditions, as grounds for reversal. To the extent additional environmental approvals are required under separate Department regulatory programs, those requirements are independent and distinct from review under the New Jersey Register of Historic Places Act. The existence of future environmental permitting obligations does not establish a likelihood that the challenged approval itself will be set aside. Similarly, Appellants' environmental justice and public participation arguments do not demonstrate that the approval was issued in violation of any statutory or regulatory requirement governing the decision at issue, which concerns avoidance, minimization, and mitigation of encroachments upon certain historic resources that may diminish the historic integrity of the resource as prescribed by governing law. N.J.S.A. 13:1B-15.131; N.J.A.C. 7:4-7.2(c)(6); N.J.A.C. 7:4-7.4(a). Public concern or controversy, without a showing of legal or regulatory noncompliance, does not render a final agency action arbitrary or unreasonable.

In sum, the applicable standard at this stage is not whether the appeal is substantial or non-frivolous, but whether success is reasonably probable. Given the deferential standard of review, the discretionary nature of the agency determination, and the presence of articulated findings and conditions supporting the approval, Appellants have not demonstrated that reversal or remand is



likely. Accordingly, the Appellants have not satisfied their burden on the likelihood-of-success prong. This factor therefore weighs against granting a stay.

C. Balance of Hardships

When evaluating a request for a stay, the relative balance of hardships between the parties must be considered. A stay may be warranted where the moving party will suffer greater harm if interim relief is denied than the opposing party will suffer if relief is granted. Crowe, 90 N.J. at 133–34. In weighing hardships, courts consider not only the magnitude of the potential harms, but their nature and reversibility. Ibid. Where denial of relief risks irreversible injury and the requested relief would merely preserve existing conditions pending appellate review, this factor may be applied with some flexibility. Waste Mgmt. of N.J., Inc., 399 N.J. Super. at 520 (App. Div. 2008).

Here, the balance of hardships does not favor granting a stay. As discussed above, Appellants have not demonstrated that denial of a stay will expose them to imminent or irreparable harm. Their asserted injuries rest largely on the assumption that construction authorized by the Conditional Approval will proceed immediately and result in irreversible alteration of the historic site and surrounding environment. The record does not support that premise. Project-related development is not authorized to commence absent satisfaction of conditions to ensure preservation of the property's significant historic features, and several prerequisites remain outstanding. Denial of a stay therefore does not subject Appellants to a concrete or near-term harm sufficient to outweigh competing considerations.

By contrast, granting a stay would impose tangible burdens on the Village, as well as the public interest. Granting a stay would inevitably delay environmental remediation efforts on the property, which are legally required and independent of the historic preservation approval under appeal. The Department considers these activities as the broader public consequences of interim



relief when balancing the hardships. The approved project's resolution contains several conditions that must be met prior to initiating construction, which conditions are intended to resolve ongoing environmental contamination on the property. As such, postponement of those remediation efforts, absent a showing of imminent harm, constitutes an additional hardship that must be weighed in the analysis. A stay that delays or complicates compliance with those obligations would not avert the harms alleged by Appellants but could indeed further the environmental harm to the property and interfere with fulfillment of separate regulatory requirements if the remediation efforts are held in abeyance during the appeal. While public benefit alone does not control the outcome, it reinforces the conclusion that the equities do not favor suspension of the Conditional Approval on the present record.

Finally, although Appellants characterize the requested relief as preservation of the status quo, the Village indicates that it has undertaken planning, procurement, and compliance efforts in reliance on the Department's Conditional Approval. Imposition of a stay would disrupt bid review, contract sequencing, coordination with consultants, and implementation of required conditions. These impacts are not speculative and would be borne by the Village if interim relief were granted.

On balance, Appellants have not shown that they would suffer greater harm from denial of a stay than the Village would suffer if a stay were imposed.

D. Public Interest

In evaluating a request for a stay pending appeal, the Department may consider the public interest in addition to the traditional Crowe factors, particularly where issues of environmental protection or historic preservation are implicated. Garden State Equality, 216 N.J. at 320–21 (2013). The public-interest inquiry, however, does not operate independently and does not relieve



the applicant of the burden to establish irreparable harm, likelihood of success, and a favorable balance of hardships. Crowe, 90 N.J. at 132–34.

The public interest may support interim relief where denial of a stay would result in imminent and irreversible injury to resources of exceptional public value or would effectively moot appellate review. Waste Mgmt. of N.J., Inc., 399 N.J. Super. at 520. Conversely, where alleged harms are speculative, disputed, or subject to mitigation through existing regulatory mechanisms, the public interest does not favor suspending an agency decision pending appeal. Crowe, 90 N.J. at 176–77.

Here, although Appellants raise issues of public concern, the record does not support a finding that immediate suspension of the Conditional Approval is necessary to protect the public interest. The approval was issued following an extensive administrative process, including public hearings, consideration of public comment, and a reasoned written decision imposing enforceable conditions to avoid, minimize, or mitigate impacts to historic resources. Furthermore, as set forth in the Conditional Approval, the Village has demonstrated the clear public benefit of this undertaking to create a multi-use public space that meets the growing recreational and environmental needs of the community. Allowing the approval to remain in effect pending appellate review does not, on this record, undermine the public interest in historic preservation or the integrity of the administrative process.

Accordingly, the public-interest factor does not support granting a stay pending appeal and does not overcome Appellants’ failure to satisfy the remaining Crowe elements.

CONCLUSION

A stay pending appeal is an extraordinary form of relief, available only where the applicant satisfies all four Crowe factors. Crowe v. De Gioia, 90 N.J. 126, 132–34 (1982). After careful



consideration of the record and the parties' submissions, Appellants have not met that burden for any of the factors. The Conditional Approval was issued following an extensive administrative process and includes numerous conditions designed to ensure preservation of the Property's historic features. Allowing that approval to remain in effect pending appellate review does not render the appeal moot, undermine the integrity of the administrative process, or pose a demonstrated risk of irreversible harm. By contrast, granting a stay would impose concrete burdens on the Village and disrupt the orderly implementation of a duly issued agency decision.

Accordingly, because Appellants have failed to satisfy the requirements for emergent relief under Crowe, the request for a stay pending appeal is DENIED.

IT IS SO ORDERED.

Dated: January 16, 2026



Shawn M. LaTourette, Commissioner
Department of Environmental Protection

