

**WASHINGTON TOWNSHIP LAND USE BOARD**

***PUBLIC MEETING MINUTES***

**August 13, 2008, 7:30 p.m.**

***CALL TO ORDER and PUBLIC NOTICE***

Chairperson Kerry Pflugh called the meeting to order at 7:40 p.m. Ms. Pflugh said this is a regular meeting of the Land Use Board of the Township of Washington. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in *The Star Gazette* and *Express Times*. Notice was posted on the municipal bulletin board in the Township Administration Building in Washington Township, New Jersey, and notice was filed with the Township Clerk.

***ROLL CALL***

Present: Evan Howell, Mayor Dempski, Jim Vergos, Committeeman Strunk, Kerry Pflugh, Efrem Zaret, Robert Klingel, Jon Grdovic

Absent: Leonard Artigliere, Mark Rossi

Professionals: Steven Gruenberg, Esq.; William Gleba, P.E., Scarlett Doyle, P.P.

***APPROVAL OF MINUTES***

Motion to approve the minutes of July 9 as corrected was made by Dave Dempski and seconded by Robert Klingel.

Members in favor: Evan Howell, Mayor Dempski, Jim Vergos

Abstaining: R. J. Strunk, Kerry Pflugh, Efrem Zaret, Robert Klingel, Jon Grdovic

Motion to approve the minutes of July 30 was made by Jim Vergos and seconded by Robert Klingel.

Members in favor: Evan Howell, Mayor Dempski, Jim Vergos, Committeeman Strunk, Efrem Zaret

Abstaining: Kerry Pflugh, Robert Klingel, Jon Grdovic

***ANNOUNCEMENT***

***J. Hackett*** – # 2004-26, Block 43, Lot 23  
8 Morris Canal Trail

Public hearing for a use variance application

This hearing has been continued from January 9, 2008 and March 26, 2008.

Members eligible to vote: Bob Klingel, Kerry Pflugh, Efrem Zaret, Mark Rossi, Chris Cavazzini, Jim Vergos and Evan Howell

This hearing will be continued to 8/27 at 7:30 p.m.

### ***RESOLUTIONS***

#### **Joe Justo Realty, #2005-33**

Members eligible to vote: Efrem Zaret, Robert Klingel, Chris Cavazzini, Mark Rossi, James Vergos, Evan Howell

#### **Kendra, #2007-01**

Members eligible to vote: Leonard Artigliere, Robert Klingel, Mark Rossi, James Vergos, Efrem Zaret

#### **DeLuca, #2007-04, Block 22, Lots 3, 17 and 2**

Minor subdivision/lot line adjustment approval.

Members eligible to vote: Evan Howell, Jim Vergos, Efrem Zaret, Kerry Kirk Pflugh, Robert Klingel, Mark Rossi, Leonard Artigliere, Chris Cavazzini, R. J. Strunk

#### **Washington Twp. Fire Dept., #2008-15, Block 19, Lot 9**

Approval for a storage shed currently on the property.

Members eligible to vote: Efrem Zaret, Mark Rossi, Leonard Artigliere, Dave Dempski, R. J. Strunk.

#### **Warren Properties -- #2008-02, Block 46, Lot 13**

Minor site plan approval with a variance.

Members eligible to vote: Evan Howell, Mark Rossi, Leonard Artigliere, R. J. Strunk

Resolutions were tabled until the next meeting.

### ***COMPLETENESS and PUBLIC HEARING ITEMS***

#### **Asbury Farms, 2008-16**

(1) GDP amendment #2 - Block 65, Lots 2, 3, 4, 4.01-4.05. 18-67; Block 65.01, Lot 1; Block 65.02, Lots 1-5; Block 65.03, Lots 1-7; Block 65.04, Lots 1-6; Block 65.05, Lots 1-13; Block 65.06, Lots 1-18

(2) amended preliminary site plan application and variances – Block 65, portions of Lots 2 and 4; Block 65.01, Lot 1

(3) new final site plan application – Block 65, portions of Lots 2 and 4; Block 65.01, Lot 1

Members eligible to vote: Mayor Dempksi (w/certification), Evan Howell (w/certification), Robert Klingel, Kerry Kirk Pflugh, James Vergos

Recused: Efrem Zaret, Leonard Artigliere, Mark Rossi

Mr. Gruenberg indicated it would be appropriate to deem the application for final site plan complete. Ms. Tubman referenced Mr. Gleba's letter of 7/21 indicating the application could be deemed complete with waivers for size of plan sheets and escrow sufficiency.

Ms. Tubman indicated this is a large application and consequently, the size of the plan sheets is large.

Mr. Gleba noted as to escrow that applicant had replenished on an on-going basis.

Motion to deem the final site plan application complete was made by Robert Klingel and seconded by James Vergos.

Members in favor: Mayor Dempksi, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

Ms. Tubman said the Court has ordered that the applications for GDP Amendment #2 and preliminary site plan be remanded to the Board. Final site plan had been overturned by the Court.

Members eligible to vote: Mayor Dempksi, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

Recused: Efrem Zaret, Leonard Artigliere, Mark Rossi  
Mr. Gruenberg confirmed there is a quorum to act.

Witnesses were called and duly sworn:

Enzo Pavese, Architect  
Robert Moschello, P.E.  
Ronald Kennedy, Engineer and Planner

Credentials were accepted by the Board.

Mr. Kennedy was called first. He addressed the amendment to the GDP, which provides for a building of 70,000 sq. ft. He pointed out that supermarkets are allowed in the village core commercial area and not in the non-village commercial area.

Ordinance #08-12 permits supermarket in both areas.  
Therefore, the General Development Plan is not inconsistent with the zone plan.

There being no questions or testimony motion to close the public hearing was made by James Vergos and seconded by Robert Klingel. All members concurred.

Motion to re-approve the GDP was made by Robert Klingel and seconded by James Vergos.

There is a Court order to re-open the public hearing to supplement the testimony.

Mr. Kennedy was called as a planner. He offered testimony as to the drive through window for the pharmacy. Mr. Kennedy testified the drive through window is customary and incidental to the pharmacy use. The zoning allows drive through use for a bank or restaurant in the non-village commercial zone. Ms. Tubman contends there is no variance needed.

Mr. Kennedy explained the zoning is broken into 2 areas, the non-village and village core area. The drive through is located entirely in the non-village area. Drive through pharmacy is silent in the ordinance according to Mr. Kennedy, who confirms this is customary for a pharmacy use. No other services are available through the window. It is strictly for the pharmacy use.

Ms. Tubman asked whether pharmacies customarily had drive through windows when the ordinance was adopted more than a decade ago. Mr. Kennedy confirmed it was not usual at that time. There is current case law providing that drive through pharmacy is usual and customary.

Mr. Gruenberg explained the referenced court decision to the Board.

No one from the public posing questions or testimony, nor further discussion by the Board, Mr. Kennedy was dismissed.

Ms. Tubman called Robert Moschello, P.E., to discuss parking. Mr. Moschello clarified calculations for the parking spaces required. According to Mr. Moschello, parking is required for every 150 sq. ft. of gross floor area. Calculations are made on the basis of building dimensions of 69,730 sq. ft. Therefore, 465 spaces are required. The design provides for 437 spaces. The original plan provided for 50 banked parking spaces.

Ms. Tubman said the Board questioned the deficit of 28 spaces, and therefore, the plan provided for banked spaces. This provided for more open area and less impervious service. The spaces would be constructed if the supermarket needed the spaces or the Township required the spaces. As a result there is no need for a parking variance. Mr. Moschello referenced Exhibit A-13.

Members of the public were invited to question Mr. Moschello's testimony.

Efrem Zaret, 37 Falcon Way, asked whether any part of the parking lot would be used for golf overflow parking. Applicant said no. Mr. Zaret requested a restriction on the use of the spaces. Applicant concurred with providing the restriction. Mr. Gruenberg believed signage was the only way to impose a restriction. The Board concurred it would be difficult to enforce a restriction.

The final item was how to fill the wet ponds should it be necessary. Proposal for filling was for re-used water from the treatment plant. It was noted that NJDEP would not approve re-used water. Therefore, water would need to be trucked in to replenish. Should the level drop more than 6", water would have to be trucked in for replenishment.

Mr. Gleba confirmed that this would be an appropriate method to replenish the water. Further, he pointed out reports must be filed with the Township detailing the condition of the ponds. Typically, water is trucked in a tanker truck. Mr. Moscello noted it would be approximately 15,000 gallons, which is a typical load for a truck. During the summer the ponds could evaporate approximately 2 inches per month if the weather is extremely dry. Ponds are typically 4' to 7' deep.

No additional questions were raised.

Ms. Tubman indicated lighting was an issue as part of the remand order. Ms. Tubman said that she would not offer additional testimony.

Ms. Tubman called Enzo Pavese, registered architect licensed in NJ. His qualifications were accepted by the Board.

Mr. Pavese is to address the number of construction trailers on the site.

Mr. Pavese noted 6 trailers are proposed on the site. One is a sales trailer. There are 5 trailers for the construction of the supermarket to keep the site safe and the materials secure. Trailers are phased according to Mr. Pavese. Prior to the supermarket opening and issuance of a c.o, all 5 construction trailers will be gone from the site.

Trailers are for security purposes and to allow construction in a safe manner. Trailers will be phased out. Trailers are on site for a limited time. Therefore, there is no detriment to the zone plan. There would be no substantial detriment to the public good. It would promote public safety.

Question was raised as to the location, and Mr. Pavese noted they are to be located on the southeast side of the property. Trailers are depicted on Exhibit A-13. Mr. Gleba asked about the size of the trailers, and Mr. Pavese responded the trailers are 8' wide by 35' long, 1800 sq. ft.

There being no questions or testimony, Ms. Tubman noted there would be testimony as to signage.

She observed applicant had used the wrong ordinance initially. Mr. Pavese referenced AA-3, a duplicate of Exhibit A-3, originally submitted. The exhibit represents exterior elevations. Mr. Pavese described the signage. He said there are 9 signs on the building.

See exhibit introduced by applicant, which is attached.

Mr. Pavese explained this sign package is appropriate and similar to other projects previously done. Further, it is in keeping with other buildings in the area. He said the signs are proportionate to the size of the building. He noted the signage identifies the entrances and activity in the building for the public.

Mr. Pavese compared what is proposed to what is allowed identified in a separate drawing, marked AA-2. He noted the signage allowed would be too small to guide the public. Mr. Pavese opined there would be no detriment to the zone plan or public good. Signage is proportionate to the size of the building. He noted no negative impact. Further, the signage appropriately identifies the site.

Mr. Pavese noted the signs are interally illuminated because applicant believes it is a softer, more even lighting, which allows the public to identify the building after dark.

Ordinance requirement is 10%, and the package is 1.5%, which is well within what is permitted by ordinance.

Mayor recommended that the ordinance be up-dated.

There being no questions or testimony from members of the public, Ms. Tubman noted she had no more witnesses nor testimony.

Ms. Tubman said previous approval provided that applicant comply with professionals' guidelines.

She indicated a developer's agreement was approved in December, 2007.

The sign schedule will be incorporated within the resolution.

Frank Cregan, 62 Merlin Drive, asked whether this is for a final vote on preliminary site plan and variances.

No further testimony was offered by the public, and it was noted that the Board will vote:

Motion for drive up window  
Motion for sign variances  
Motion to amend preliminary approval

Motion to close the public hearing was made by Robert Klingel and seconded by James Vergos with all members in favor.

First, the Board considered the proposal for a drive up window for the pharmacy.

Ms. Pflugh observed that the case law made the testimony particularly compelling as well as the fact that the Township has an existing pharmacy with a drive up window. The Board concurred.

Motion to determine that a drive up window is customary and should be allowed on this site was made by James Vergos and seconded by Robert Klingel.

Members in favor: Mayor Dempski, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

Mayor Dempski indicated he thought the signs should be considered as a package. He pointed out that the proposal is consistent with the size of the building. He indicated he believed the Ordinances should be re-considered. Mayor Dempski observed the proposal seemed to be consistent with other signs in the Township.

Motion to grant the variance for the sign package was made by Evan Howell and seconded by Dave Dempski.

Members in favor: Mayor Dempski, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

Next, the Board gave consideration to allowing 5 construction trailers, which would be removed prior to issuance of a c.o. Mr. Klingel noted the 5 trailers were necessary for safety of the public and security of materials. Further, there should be an agreement to remove the trailers prior to issuance of a c.o.

Motion to permit 5 temporary construction trailers in addition to the sales trailer with the condition that construction trailers must be removed prior to issuance of a certificate of occupancy was made by Robert Klingel and seconded by James Vergos.

Members in favor: Mayor Dempski, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

The Board concurred that the approval was in the spirit of the original approval.

Motion for amended preliminary approval and re-approval with the signage chart included was made by Robert Klingel and seconded by Dave Dempski.

Members in favor: Mayor Dempski, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

Ms. Pflugh announced a break at 9:30 p.m.

The meeting reconvened at 9:45 p.m.

Proposal for a pylon sign was withdrawn according to Ms. Tubman.

The Board considered application for final site plan approval.

Ms. Tubman indicated the developer must provide testimony that conditions have been satisfied. Preliminary plans had been reviewed thoroughly and signed. Outside agency approvals and conditions are met. Letter dated 8/11/08 from engineer indicates that plans are consistent with the ordinance and bonds posted. The letter was marked A-4. Ms. Tubman referenced Finelli review letter of 7/21/08, which was marked B-1. Unconditional site plan approval has been granted by Warren County Planning Department, Warren County Soil Conservation. In addition, NJDOT, NJDEP, and Washington Township Fire Dept. have approved the plans.

New building permit applications have been submitted. Construction commencement is anticipated on Monday.

Regarding open space conservation easement, Ms. Tubman said it will be provided prior to issuance of the c.o. It is not related to this portion of the development.

Mr. Pflugh invited questions and testimony from the public. There being none, motion to close the public hearing was made by Robert Klingel and seconded by Evan Howell with all members in concurrence.

Motion to grant final site plan subject to conditions provided in the Finelli letter of 7/21/08 and conservation easement was made by Evan Howell and seconded by James Vergos.

Members in favor: Mayor Dempski, Evan Howell, Robert Klingel, Kerry Kirk Pflugh, James Vergos

The Board instructed its secretary to issue a letter to the Construction Official with a copy to Lloyd Tubman, Esq., indicating that the Board had granted final site plan approval.

***OLD BUSINESS***

***NEW BUSINESS***

Ordinance Review: 08-15 – Amending and supplementing Section 64-32 titled Fire Protection.

The Fire Dept. has proposed consideration of the ordinance to reduce the density of lots to be protected by underground tanks. Change: more than 5 lots rather 20 lots.

Motion that ordinance is not inconsistent with the master plan was made by Efrem Zaret and seconded by Jon Grdovic.

Members in favor: Evan Howell, Mayor Dempski, Jim Vergos, Committeeman Strunk, Kerry Pflugh, Efrem Zaret, Robert Klingel, Jon Grdovic

***ADJOURNMENT***

Meeting was adjourned at 10:15 p.m.

These minutes were approved 8/27/08.

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Alice Oldford, Secretary