

WASHINGTON TOWNSHIP LAND USE BOARD

PUBLIC MEETING MINUTES

October 29, 2008, 7:30 p.m.

CALL TO ORDER and PUBLIC NOTICE

Chairperson Kerry Pflugh called the meeting to order at 7:45 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: Robert Klingel, Jim Vergos, Kerry Pflugh, Leonard Artigliere, Mayor Dempksi, Jon Grdovic, Erich Sodtalbers, Efrem Zaret

Absent: Mark Rossi, Evan Howell, R. J. Strunk

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

MINUTES

Motion to approve the minutes of the meeting of October 8, 2008, was made by Jim Vergos and seconded by Robert Klingel

Members in favor: Robert Klingel, Jim Vergos, Kerry Pflugh, Leonard Artigliere, Mayor Dempksi, Jon Grdovic, Erich Sodtalbers

Abstain: Efrem Zaret

RESOLUTIONS

Pietras, #2008-18
Block 85, Lot 40

Variance to build an addition on the existing dwelling.

Motion to approve was made by Robert Klingel and seconded by Jim Vergos.

Mr. Gleba noted front yard setback variance relief required, 22.5'. The property is located in the R-20 zone.

Members in favor: Robert Klingel, Jim Vergos, Kerry Pflugh, Leonard Artigliere, Mayor Dempksi, Jon Grdovic, Erich Sodtalbers.

PUBLIC HEARING ITEMS

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

Public hearing for a use variance application.

Members eligible to vote: Robert Klingel, Kerry Pflugh, Efrem Zaret, Mark Rossi, James Vergos, Evan Howell, Jon Grdovic (w/certification), Leonard Artigliere (w/certification)

Mr. Gruenberg confirmed notice requirements had been met.
Requisite fees having been paid and jurisdiction established, Robert J. Benbrook introduced himself on behalf of the applicant.

Mr. Benbrook noted testimony had been completed, and members of the public had overwhelmingly come out in favor of the application.

Applicant seeks a “contractor’s storage yard”, which Mr. Benbrook contends is of the nature of light industrial, which is the previous non-conforming use. Although this property is located in the R-20, it has been in commercial/industrial uses since the turn of the century. This is a 2-acre parcel with minimal frontage on Morris Canal Trail and abuts the railroad to the rear. The building was originally built by the railroad. Eventually, it was utilized as a 7-Up Bottling and Distribution plant. There were as many as 18-20 trucks parked on the site.

In the late ‘80’s the building was used for warehousing and recycling plastic.

In the first hearing, Mr. Benbrook observed the Board found the use had never been abandoned.

Motion to re-open the public hearing was made by Leonard Artigliere and seconded by Robert Klingel. All Board members concurred.

Questioned as to the maximum number of trucks on the property, Mr. Benbrook said applicant was not looking for a limit. Mr. Hackett testified equipment, trucks and construction materials were to be stored on the site. Mr. Hackett noted he would like the benefit of the numbers as previously granted. Mr. Benbrook confirmed applicant’s intention to limit the area where equipment could be stored. Storage and equipment service would be within the building. Outside, the building materials would be stored within storage bins.

Frank Milletto, Planner, described the storage areas. He confirmed the limitations of the size of the site.

Mr. Hackett explained there is no effluent from road millings. He noted road millings are

“old”, and there is no residual waste.

Mr. Benbrook confirmed applicant would tarp any materials that could be subject to blowing.

Mr. Gruenberg pointed out that an approval would be conditioned upon outside agency approvals, as necessary.

Members of the public were invited to comment.

Brian T. Brown, 2 Morris Canal Trail, neighbor, addressed the noise of the traffic from the site. A narrative of truck activity was marked Brown 1 and distributed to the Board. Mr. Brown indicated his life was disrupted by the truck traffic. Further, he noted there was an odor from the millings. He emphasized that his home is in a residential zone.

Mr. Brown indicated he knew there was a garage on the site, and he understood there was one dump truck on the property.

Mr. Brown has been in touch with the Police, who indicated he could file a Nuisance complaint.

There was discussion as to the intensity of the trucking business. It was noted that on the site there was on the site a pre-existing, non-conforming warehouse/ distribution business.

As to hours of operation, applicant had indicated it would be generally daylight, 6 a.m. – 4 p.m. although there could be night-time hours in case of snow removal duties.

Mr. Benbrook contended this is a less-intense use than what is currently permitted. He noted this is a practical problem with an 11,000 sq. ft. garage on site built in 1906. Mr. Hackett commented on the Brown truck activity exhibit. Mr. Hackett explained that he had spoken to Mr. Brown personally and asked that he let him know if there was any problem. To date Mr. Brown has not done so. Mr. Hackett denied that there is odor from the pile of road millings. Mr. Hackett contended that he is a respectful neighbor. The speed limit is 25 mph, and drivers are instructed to keep the speed to 15 mph. Mr. Hackett indicated he is planning to re-pave 500' to eliminate bumps, which will help to control the noise of the traffic. Mr. Hackett would be willing to have these items as conditions of approval.

Other conditions: site plan approval must be filed; outside storage to designated area; outside storage in bins; outside government approvals; re-pave 500' of road; 15 mph; no use of jake brakes.

Reasonable restrictions on hours of operation are appropriate. Mr. Hackett said 4 a.m. to 6 p.m. are ordinarily the hours of operation. Mr. Hackett confirmed there is no outside work conducted from 8 p.m. to 6 a.m.

Observation was made that granting this variance may be an abandonment of the prior use.

Mr. Benbrook requested a two-minute break to consult with his client.

Mr. Benbrook indicated his client would be willing to abandon the warehouse use.

Mr. Benbrook pointed out that the business would need to be signed. Ms. Doyle noted the sign would be related to a non-conforming use. She also noted the triangular piece of land was not really associated with the lot.

Location and size of the sign would be subject to site plan approval.

Contractor's storage yard with sign is subject to site plan approval.

Brian Brown commented that industrial noise is bothersome to him.

Motion to close the public hearing was made by James Vergos and seconded by Efrem Zaret.

Mr. Gruenberg summarized the conditions and indicated applicant must demonstrate special reasons and negative criteria, i.e., no substantial detriment to the public good.

When a use is abandoned, permitted use should be returned. The Board has determined that the pre-existing use was not abandoned, but the use desired by the applicant is different.

The Board noted even the activity log submitted by Mr. Brown showed very little early morning activity. The Board confirmed the conditions of operation. There was discussion as to the road handling the load of the trucks.

As to special reasons, the Board commented the use is appropriate and less intense than previous uses. Therefore, with the conditions cited, this is a benefit to the community.

Motion to grant a contractor's storage yard with signage was made by Robert Klingel and seconded by Jon Grdovic.

Members in favor: Robert Klingel, James Vergos, Kerry Pflugh, Leonard Artigliere, Jon Grdovic

Members opposed: Efrem Zaret

Hodges Melrose LLC, #2008-17
Block 23, Lot 12

Preliminary Site Plan with variance relief for a Walgreen's Pharmacy.

Members eligible to vote: Robert Klingel, Jim Vergos, Kerry Pflugh, Efrem Zaret, Leonard Artigliere, Mark Rossi, Jon Grdovic, Erich Sodtalbers

Requisite fees having been paid and jurisdiction established, Alan Lowcher, Esq., and Josh Mann, Esq., introduced themselves on behalf of the applicant.

This is an application for site plan approval on the site of the former Township Administrative Offices.

Mr. Lowcher addressed the questions referenced in the briefs. Mr. Gruenberg indicated positions had been well documented. Mr. Gruenberg confirmed that no subdivision approval is required, having been subdivided in 1974. As to notice, counsel for applicants provided extensively detailed notice of hearing.

The pharmacy drive-through use is presented to the Board for interpretation or alternatively a use variance.

The remaining issue is that applicant seeks preliminary and final site plan approval. Applicant requires a completeness determination on the final site plan.

Josh Mann requested rulings as to the interpretation.

James Gibbons, Esq., and Peter McArthur, Esq., from Azrak Associates introduced themselves. Mr. Gibbons asked whether subdivision and site plan application match.

Mr. Gruenberg explained to the Board he did not believe subdivision is necessary.

Mr. Gibbons noted the subdivisions are two different subdivisions, and therefore, a subdivision is required and there is no jurisdiction. Further, Mr. Gibbons pointed out that the Borough of Washington could not issue a subdivision certification, indicating it could not locate subdivision records.

Mr. Mann indicated the lots are each of sufficient size. Mr. Gibbons contended the Borough had no records. Mr. Gibbons notes ownership is in question.

Mr. Gibbons opined that one application must be withdrawn. Mr. Gruenberg explained he believed the hearing should be started as new. Mr. Gruenberg pointed out the application is amended and has been re-noticed. Mr. Gruenberg observed this is a joint Land Use Board with the Mayor and Committeeman recused.

Mr. Mann requested that interpretations be addressed prior to the hearing.

Mr. Lowcher requested clarification as to the drive through use. Mr. Gruenberg said testimony must be presented.

As to completeness determination for final site plan approval, Mr. Mann said applicant withdraws its application for final site plan.

Mr. Gleba said preliminary could be deemed complete with waivers for location of well and septic.

Motion to deem the application complete was made by Efrem Zaret and seconded by Leonard Artigliere

Members in favor: Robert Klingel, Jim Vergos, Kerry Pflugh, Leonard Artigliere, Jon Grdovic, Erich Sodtalbers, Efrem Zaret

According to Mr. Gleba the use variance application could be deemed complete.

Motion to deem the application for a use variance complete was made by Leonard Artigliere and seconded by Efrem Zaret.

Members in favor: Robert Klingel, Jim Vergos, Kerry Pflugh, Leonard Artigliere, Jon Grdovic, Erich Sodtalbers, Efrem Zaret

Requisite fees having been paid and jurisdiction established, Mr. Lowcher introduced his first witness, Lawrence G Murphy, P.E., who was duly sworn. Mr. Murphy's credentials were previously accepted.

Mr. Gruenberg indicated hearing must be re-started with testimony from Mr. Murphy. Mr. Murphy described existing conditions illustrating the site, marked A-1. The site is 2.09 acres and zoned GC, General Commercial. He demonstrated the adjacent uses. There are 3 driveways, one on Rt. 57 and two on Brass Castle Road. There are currently 13 parking spaces. There are a number of deficiencies on the existing property according to Mr. Murphy. There are three substantial trees along Rt. 57, which applicant plans to retain.

Site plan sheet 2 of 14, dated 8/25/08 and rendered 10/29/08 was marked A-4.

Mr. Murphy described the Walgreen's site proposal: 14, 175 sq. ft. building with 71 parking spaces and 2 driveways, including adequate landscaping. Two septic are proposed. A monument sign is proposed. The proposed parking spaces are 10' x 18'. Mr. Murphy explained the broad definition provides for 10' x 20' parking spaces. He described ingress and egress.

One loading space is provided. One compacter is proposed, to be emptied once or twice per week. One internal cardboard baler is proposed for the site. Adequate and safe lighting is proposed. Security lighting is proposed and compliant with the ordinance. Landscaping plan has been prepared. Mr. Murphy described a sophisticated storm water management plan.

Mr. Murphy contended Walgreen's is complying with all local and County regulations. He referenced Mr. Gleba's review letter, specifically No. 29 as to the berm requirement

for 10' minimum width. Mr. Murphy will investigate further and comply with requirements. As to No. 30, ground water recharge, Mr. Murphy indicated the plan complies. He said he would continue to work with Mr. Gleba to satisfy the Township. As to No. 31, proposal has been previously accepted by the DEP.

Mr. Gleba's letter was marked in evidence B-2. Ms. Doyle's letter of 10/27/08 was marked B-3. Mr. Murphy referenced Item E, page 3, under Landscaping. He noted applicant would provide an additional tree in a different location.

Mr. Murphy marked an exhibit as to signage dated 6/6/08, A-5. He described the signage which is proposed. Total signage would be 98.0 sq. ft., which is less than provided by ordinance requirement of 100 sq. ft. Monument sign is 71 sq. ft.

Drive through reservoir provides 130' stacking space.

Mr. Murphy referenced Exhibit A-4 and described the wall. He confirmed that plans had been submitted to the Board of Health for approval. Maximum height of any wall in front or side yard is 3' according to ordinance, and applicant meets this requirement.

Board asked about the 3' fence, which is post and rail, on top of the wall. Fences are located on top of each wall for fall protection.

Reference was made to Health Days offered at the pharmacy. Ms. Doyle discussed a minute clinic provided daily and noted the Board must know about this and adequate parking would need to be provided.

Storm water management was addressed. The Board expressed concern as to the untreated storm water. Mr. Murphy explained BMP provisions.

The public was invited to ask questions.

James Gibbons, Esq., asked for a description of the driveway. He referenced the radii of the driveways. He expressed concern for the location of the driveway on Rt. 57 as it relates to the adjacent property. Mr. Gibbons asked which drawings Mr. Murphy had prepared. Mr. Murphy said he had overseen each drawing prepared by Bohler Engineering.

Mr. Murphy said the Bannick group prepared the signage elevations. Mr. Gibbons asked about the site plan preparation process, which Mr. Murphy explained. Mr. Murphy said they relied on the survey to prepare the plans. Mr. Gibbons asked Mr. Murphy to describe the storm water management system.

Asked about County review, Mr. Murphy said Bohler is addressing the comments from the Warren County Planning Department. Survey indicated Lot 12, Block 23 is owned by Washington Twp., and the property in the Borough is owned by the Township of Washington. On the cover sheet Mr. Murphy indicated he used the list provided by the

Assessors in each municipality. As to whether the names are in conflict, Mr. Murphy indicated the site plan reflects what the survey said. Mr. Murphy noted that ordering a title report constituted investigating the ownership of the property in response to Mr. Gibbons questioning.

Mr. Gibbons asked Mr. Murphy to review the deed he provided. Mr. Murphy confirmed that the deed reference matches that provided on the survey. Mr. Gibbons asked whether the lot conformed to the survey or the site plan. Mr. Murphy confirmed that the lot lines are different on the survey and the site plan.

Mr. Gibbons asked whether Bohler had prepared a site investigation report. Mr. Murphy said a formal report had not been prepared. Asked what information had been provided, Mr. Murphy said he did not have the information at hand.

Mr. Gibbons asked about Mr. Murphy's experience with Walgreen's. Mr. Murphy confirmed he has observed Walgreen's operations directly, questioned employees and received information.

This hearing is continued to 11/12/08.

OLD BUSINESS

NEW BUSINESS

1. Review of escrow fees.

Board secretary summarized her memo. Secretary and Professionals will review the fees and make recommendations to the Board at the next meeting.

2. Review of COAH and Highlands proposals.

COAH: Mayor Dempski offered a memo and some discussion for the Board's knowledge.

Motion to review regulations (No. 1 on memo) by Land Use Planner was made by Efreem Zaret and seconded by Leonard Artigliere with all members in concurrence.

Highlands (No. 3 on memo). The Mayor indicated an extension of time could be granted by providing a Letter of Intent. He contends it makes sense to study this and prepare a plan of action. The question is what Highlands Council will require for granting the extension of time. Mayor Dempski observed that COAH has not yet agreed to participate.

Motion to authorize Board Planner Scarlett Doyle to do some study so that the Board and Committee can make a well informed decision was made and seconded with all members in concurrence...

ADJOURNMENT

Meeting was adjourned at 11:50 p.m.

These minutes were approved November 12, 2008.

Alice Oldford
Secretary to the Board