

WASHINGTON TOWNSHIP LAND USE BOARD

PUBLIC MEETING MINUTES

June 24, 2009, 7:30 p.m.

CALL TO ORDER and PUBLIC NOTICE

Chairman Leonard Artigliere called the meeting to order at 7:35 p.m. Mr. Artigliere 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: Leonard Artigliere, Robert Klingel, Samir Elbassiouny, James Vergos, Mark Rossi, Robert Christine, Efrem Zaret, Gordon Wallace

Absent: Erich Sodtalbers, Evan Howell, Barry Mueller

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

APPROVAL OF MINUTES

Motion to approve the minutes of May 27, 2009 was made by James Vergos and seconded by Robert Klingel.

Members in favor: Leonard Artigliere, Robert Klingel, Samir Elbassiouny, James Vergos, Gordon Wallace

Members abstaining: Mark Rossi, Robert Christine, Efrem Zaret

Motion to approve the minutes of June 17, 2009, was made by James Vergos and seconded by Samir Elbassiouny.

Members in favor: Robert Klingel, Samir Elbassiouny, James Vergos

Members abstaining: Leonard Artigliere, Mark Rossi, Robert Christine, Efrem Zaret, Gordon Wallace

RESOLUTION

Memorializing resolution of adoption of 2009 Master Plan Amendment, Volumes I & II

Members eligible to vote: Erich Sodtalbers, James Vergos, Robert Klingel, Samir Elbassiouny, Barry Mueller, Evan Howell

Mr. Klingel took the chair

Motion to adopt the 2009 Master Plan Amendment, Volumes I & II was made by James Vergos and seconded by Samir Elbassiouny
Members in favor: James Vergos, Robert Klingel, Samir Elbassiouny

EXTENSION REQUESTS

Apgar, Block 17, Lot 6.01
Meadow Breeze Road

Applicant requests additional extension through September 30, 2009, to file deeds and perfect subdivision of the referenced property.

Richard Keiling, Esq., appeared on behalf of the applicant. He noted an extension had been granted to 5/31/09. Mr. Keiling observed that additional engineering issues have arisen, and the engineers have been working to resolve the differences.

According to Mr. Keiling, the primary issue is flood plain area. NJDEP approval may be involved. Mr. Keiling has requested language for deeds from Mr. Gleba. Mr. Keiling relies on NJSA 40:55D-47F.

Mr. Artigliere asked about any concerns relating to the extension.

Mr. Gleba has indicated he is in a position to make a report with punch list items. He confirmed applicant has been diligent in pursuing the application.

Applicant has posted escrow to facilitate reviews. Applicant must keep escrow current as a condition of an extension.

Mr. Keiling represents that applicant agrees to keep the escrow account current.

Motion to grant the extension to 9/30/09 was made by Efrem Zaret and seconded by Mark Rossi.

Members in favor: Leonard Artigliere, Robert Klingel, Samir Elbassiouny, James Vergos, Mark Rossi, Robert Christine, Efrem Zaret, Gordon Wallace

Regency at Hawk Pointe, Block 65, Lots 2 & 4 and Block 65.02, Lot 1

Applicant requests a one year extension of Final Major Subdivision and Final Major Site Plan approval to construct a residential development of 75 market rate townhouse units as well as an affordable housing component of 6 townhouse units and one group home.

Mr. Klingel handled the chair because Mr. Artigliere is recused.

Mark Peck, Esq., introduced himself on behalf of Regency. He said applicant is requesting a one-year extension. Mr. Peck contended applicant has complied with most conditions. Work has not yet begun. This had been tied up in litigation, and at the present time new construction is not warranted.

Mr. Peck confirmed all documentation had been submitted.

Mr. Gruenberg read from the statute. An extension may be granted for the time deemed reasonable by the Board. Mr. Gleba noted the project is more than 50 acres. Ms. Doyle asked whether the permit extension act would apply. Mr. Peck confirmed they were requesting an extension under the statute 40:55-B.

Ms. Doyle asked the status of the developer's agreement. Mr. Peck indicated the agreement had not been finalized.

Mayor Elbassiouny noted the real estate market is not conducive to a build-out at this time.

Motion to extend to grant a one-year extension to 12/12/10 was made by James Vergos and seconded by Gordon Wallace.

Members in favor: Samir Elbassiouny, Robert Klingel, James Vergos, Robert Christine, Gordon Wallace.

COMPLETENESS

Bryant, Kathy, Application #2009-06
Block 40.03, Lot 8, 41 Elizabeth Avenue

Applicant seeks variance relief to construct a two-story addition to an existing single family home, including front yard encroachment for a chimney and side yard encroachment for a below grade basement stairwell.

Ms. Bryant appeared to answer questions of the Board.

Mr. Gruenberg referenced the completeness review.

Motion to deem the application complete was made by Samir Elbassiouny and seconded by Efrem Zaret.

Members in favor: Leonard Artigliere, Robert Klingel, Samir Elbassiouny, James Vergos, Mark Rossi, Robert Christine, Efrem Zaret, Gordon Wallace

Scheduled for public hearing July 8.

PUBLIC HEARING

Grodkiewicz, Jeffrey, Application #2008-09
Block 64, Lot 8, Route 31 South

Applicant seeks preliminary site plan approval + variance relief to construct a one-story addition to the existing building. In addition, applicant proposes to connect that building with a one-story building currently on the premises.

This matter was deemed complete on 3/11/09.

Members recused: Evan Howell, Robert Klingel, Samir Elbaissouny.

Committeeman ineligible to vote: Barry Mueller

Eligible: James Vergos, Mark Rossi, Efrem Zaret, Robert Christine, Gordon Wallace

Waive conflict of interest: Leonard Artigliere

Requisite fees having been paid and jurisdiction established, Alan Lowcher, Esq., introduced himself on behalf of the applicant. He said applicant seeks preliminary major site plan approval with use and bulk variance relief.

The veterinary practice is located in the HC zone and has operated more than 20 years. There are pre-existing buildings, parking, well and septic on the site. A one-story addition is proposed. Bulk area requirements cannot be met. The addition requires variance relief. New signage is also proposed. Sign size has been reduced. Applicant intends to continue use of residence for certain employees. A D-1 variance is sought.

No changes are proposed to the parking and ingress and egress. Fencing has been added as advised by Ms. Doyle. Hospital and accessory structure are separate. Applicant has met with Bill Gleba to tweak the plan. Report of traffic engineer has been submitted. Phase I of geological study has been prepared.

Dr. Jeffrey Grodkiewicz and Jess Symonds, P.E., were duly sworn. Mr. Symonds' credentials were accepted by the Board.

Mr. Lowcher referenced letters of Ms. Doyle dated May 22, 2009, and Mr. Gleba dated June 23, 2009. Those letters have been attached.

Mr. Lowcher addressed the waivers for completeness only and indicated several had been provided and the others will be provided. Mr. Gleba noted these items are covered in his report. Applicant will submit additional information.

As to variance relief, D-1 variance is required for the residential use, C variances for front yard setback and for accessory structure within 30 feet of principal structure. In addition, variance for the new fencing is required. A second handicapped parking space is requested. Signage is pre-existing and permit received, so that applicant contends no variance is required. Mr. Gruenberg confirmed this position.

Jess Symonds referenced sheet 4 of 14 of plans dated 5/12/09. He testified that an addition is proposed to the existing structure with minimal site improvements. Mr. Symonds indicated the existing handicapped space was moved to the south and therefore, the parking lot was extended 4' to 5'. Lighting has been improved. New disposal system

is being added. Entrance to the dwelling has been improved. A covered kennel area and fenced area are proposed. Public water service is being provided for the site.

Ms. Symonds brought color photographs for the site, which were marked: photo location sheet, list of photos A-1; A-2 front of site looking toward clinic; A-3 front looking south toward sign; A-4 front looking north; A-5 front looking toward existing parking area; A-6 front looking toward the clinic; A-7 looking out exit driveway; A-8 pump lines for drainage; A-9 looking toward dwelling; A-10 rear looking toward preserved farmland; A-11 S. Lincoln looking toward back; A-12 looking toward preserved farmland; A-13 from rear toward auto body shop; A-14 rear toward residential; A-15 from the site facing south.

The site is fairly well landscaped according to Mr. Symonds. Mr. Symonds described the additional landscaping and street trees. Parking and directional signs are included on the plan.

The site is accessed from Rt. 31 toward the north of the clinic. South driveway provides exit. There is one way traffic on the site.

Mr. Symonds referenced sheet 4A as it relates to Mr. Gleba's letter of 6/23. He described the proposed changes, primarily bollard lighting. Existing lighting on the building will be relocated. Mr. Symonds proposes a night light test when the new lighting has been installed and revisions made as necessary.

Mr. Gleba recommends point by point lighting for today's existing lighting. Then a diagram for the proposed lighting should be submitted. Night light test is done as a condition of issuance of a certificate of occupancy, and the Board maintains jurisdiction.

Lighting for the signage should also be described as well as lighting existing for the residential.

Mr. Symonds noted this site is impacted by the lighting from an adjoining site.

Ms. Doyle expressed concern regarding the wall packs, which are currently pointing toward S. Lincoln. Ms. Doyle said that light could potentially cause complaints. Mr. Symonds said it could be changed to soffit lighting.

Regarding the proposed handicapped space, Mr. Symonds confirmed it would be ADA compliant.

Mr. Artigliere announced a 5-minutes break.

The meeting re-convened at 9:15 p.m.

Mr. Lowcher called Dr. Grodkiewicz. Dr. Grodkiewicz has been practicing veterinary medicine for 29 years. The current location was established in 1983. There is one other

veterinarian in Washington Township. Dr. Grodkiewicz proposes additional space to provide additional services and a better work environment for staff. The utility of the space will be much improved. Dr. Grodkiewicz confirmed the practice is limited to small animals. In-patient and out-patient treatments are offered. Appointments are made. Pets must come in on a leash or in a carrier. One full-time veterinarian covers patients. In addition, there are 5 staff members. Animal waste is disposed of with solid waste.

Cars enter from the north and exit from the southern exit.

The ordinance provides for 2 handicapped spaces. Dr. Grodkiewicz said there is limited need for handicapped parking. Hours are by appointment only. One handicapped space is adequate for the practice.

As to deliveries, Dr. Grodkiewicz noted supplies, equipment, medications are typically delivered by UPS or Fed Ex. Delivery accesses the same as cars. The waste hauler comes outside of hours.

The residence was occupied when the site was acquired. Dr. Grodkiewicz resided there initially. It has been used by employees for more than 20 years. Dr. Grodkiewicz believes this allows for a better standard of care as well as security on the site. Application is to continue the residential use. The house has 3 bedrooms.

Two principal uses are allowed in the HC zone although not residential use.

Biohazard wastes are removed weekly.

Two variances are required: D1 for the residential use. Special reasons: care of animals and security on site. Property has become particularly suited. The veterinary hospital is a permitted use. Veterinary use promotes health and safety.

C 1 variance. There is frontage on 2 roads which makes it impossible to construct without violation of the setback.

C 2 variance. As to fencing, property is bounded by two roads so that it is impossible to locate the fence in an area that conforms to the ordinance. Dr. Grodkiewicz has located the fencing so there will be with minimal impact. It is impossible to meet the distance between buildings. Again, location will minimize impact.

As to handicapped parking, one space serves the needs of the practice and meets ADA requirements.

Zone plan and ordinance are not negatively impacted. There is no need for an additional handicapped space.

The proposals support the purposes of the MLUL. The benefit outweighs any detriment. Changes are modest.

As to Ms. Doyle's letter

Page 2 #3, 4, 5, 6, 7, 8 – applicant will comply.

Page 3 E -- applicant will work with Ms. Doyle to comply.

Page 4 K – applicant will supply the information.

As to Mr. Gleba's letter, applicant needs some clarification

Page 6 – input from the Fire Dept. Structures must be identified separately for emergency purposes. If fire lane is required, what happens to the parallel parking space. Mr. Lowcher noted no change in parking is proposed. Fire code official and Fire Dept. will consult.

Page 7 item #2 – acceptable;

#3 – clarification is sought;

#4 – provided;

#5 – applicant will provide;

#6 – will be provided;

#7 – As to 50' buffer area (photo A16) Mr. Symonds contends S. Lincoln Ave. will serve as a buffer. Photo A17 shows the business being oriented toward Rt. 31 rather than S. Lincoln Ave. Mr. Gleba agrees with applicant's engineer although ordinance for VR zone requires a 50' buffer. Ms. Doyle noted she did not believe a buffer is required because of the location of the road. Ordinance does not distinguish between lot and roadway.

Items #8 and 9 – applicant will comply.

Page 8, item #10 – applicant will comply;

#11 and #12 – applicant wants to use the standards as done by Unity Bank.

NJDOT considers this improvement minor. MUTCD signs are recommended.

Applicant proposes larger signs MUTCD and smaller signs like Unity Bank. This can be handled as a condition of approval. Applicant will meet MUTCD standards for stop sign and do not enter signage as well as handicapped parking, and all other signs will meet MUTCD standards unless otherwise approved by the Board engineer.

#13 – applicant agrees;

#14 – testimony;

#15 – applicant will accept;

#16 – applicant will comply;

Page 9, items #18, 19 – applicant will comply

#20, 21 – will clarify note

#22 – will be provided

#23 – plans will be supplied

#24 – operation and maintenance manual will be submitted

#25 – Phase I study has been supplied. There is no evidence of sinkholes according to Mulhall. If sinkholes were to form, it would have been occurred previously. Phase II is recommended for areas of construction. Mr. Gleba will review.

Page 10, item #26 – information will be supplied

#27 – acceptable

#28 – applicant is compliant

#29, 30, 31 – applicant will comply.
#32 – acceptable.

The veterinary practice use on this site is less intense than the use could be in the Highway Commercial zone. Attempt was made to integrate the non-permitted with the permitted use on the site.

It was noted that there are no residences to be impacted.

Motion to close the public hearing was made by James Vergos and seconded by Mark Rossi with all members in concurrence.

Members eligible to vote: James Vergos, Leonard Artigliere, Mark Rossi, Robert Christine, Efre Zaret, Gordon Wallace

D1 variance – Applicant must demonstrate special reasons to grant the residential use and no substantial detriment to the public good nor substantial impairment of the zone plan and purpose.

Residential use is a pre-existing, non-conforming use. Discussion ensued as to whether a site plan would be triggered should there be a change in the residential use. Further discussion was undertaken whether there would be a change if there were no employees living in the house. The Board concurred that having the residence occupied is beneficial. Mr. Zaret believed the applicant had made the case.

Motion to grant the use variance to use the residence conditioned upon any change in use other than for the veterinary hospital use to require a site plan was made by Efre Zaret and seconded by Mark Rossi.

Members in favor: James Vergos, Leonard Artigliere, Mark Rossi, Robert Christine, Efre Zaret, Gordon Wallace

C variances: front yard setback, distance between 2 buildings, location of fence, 50' buffering from a residential district, sign, 1 handicapped parking space.

Mr. Artigliere articulated that he believed applicant had given testimony to support the application. The Board concurred.

Motion to approve the C variances was made by Mark Rossi and seconded by Efre Zaret.

Members in favor: James Vergos, Leonard Artigliere, Mark Rossi, Robert Christine, Efre Zaret, Gordon Wallace

Motion to approve the Preliminary site plan including provisions in Exhibit B-1 Gleba's letter and B-2 Doyle's letter with conditions previously discussed and scarce resource restraint condition was made by James Vergos and seconded by Gordon Wallace.

Members in favor: James Vergos, Leonard Artigliere, Mark Rossi, Robert Christine, Efrem Zaret, Gordon Wallace

OLD BUSINESS

Ms. Doyle said it is important to activate the COAH sub-committee.

EXECUTIVE SESSION

Motion to go to executive session to discuss litigation was made by Mark Rossi and seconded by Efrem Zaret with all members in concurrence.

The Board went into executive session at 10:55 p.m.

RETURN TO OPEN SESSION

Motion to return to open session was made by Efrem Zaret and seconded by Mark Rossi with all members in concurrence.

The Board returned to open session at 11:00 p.m.

NEW BUSINESS

PUBLIC COMMENT

ADJOURNMENT

The meeting was adjourned at 11 p.m.