

MANCHESTER TOWNSHIP PLANNING BOARD REGULAR MEETING MONDAY, APRIL 5, 2010,
1 COLONIAL DRIVE, MANCHESTER, NEW JERSEY

The Regular Meeting of the Manchester Township Planning Board was called to order by Chairman Vaccaro at 7:00 pm on Monday, April 5, 2010.

A Salute to the Flag and Pledge of Allegiance was repeated.

This meeting has been advertised as required by enactment of the Sunshine Law.

ROLL CALL:

James Vaccaro	Chairman	Present
William Barron	Vice Chairman	Present
Frederick Trutkoff	Councilman	Present
Donald Czekanski	Mayor's Designee	Present
Sanford Krasky	Member	Absent
Donald Somerset	Member	Present
David Borowski	Member	Present
Anthony Tepedino	Alternate Member	Absent
Christina Edwards	Alternate Member	Absent
Ed Liston	Attorney	Present
Al Yodakis	Engineer	Present

APPLICATIONS:

Administrative Approval ,Proposed Shade Cover over Bocci Courts
Block 52.01 Lot 1 Recreation Area

Applicant Leisure Knoll at Manchester Association

Karen Mesler, Leisure Knoll Manager, for applicant. Mr. Yodakis stated area off Route 70, 2 courts, cover to be full width of courts, no variances needed, also no set back problems. I have no problem with this application.

Mr. Liston, board can handle this as an Administrative Approval with no problem.

Mr. Vaccaro, are wind restrictions required, Mr. Yodakis, yes, all building permits required, cover must be built to code.

Motion to approve by Mr. Trutkoff, seconded by Mr. Borowski

Roll Call: Mr. Trutkoff-yes, Mr. Borowski-yes, Chairman Vaccaro-yes

Messrs.Barron-yes, Czekanski-yes, Somerset-yes.

Preliminary and Final Site Plan Approval

Minor Sub-Division/Variance Approval

Block 44 Lots 2,3,5 and part of 4 Hwy.37 & Northampton Blvd.

Proposed Wal-Mart Store and Garden Center

Applicant Jaylin Holdings, LLC c/o Grunin Properties

Carried from March 1, 2010 Regular Meeting

Mr. Shea for the applicant, a little housekeeping please, in reviewing the exhibit lists we discovered that there were two MA-21s marked, on a transcript they appeared to be accurate, so we have marked the WaWa New Jersey site plan as MA-22. We will have a new exhibit, Ms. Cofone will be testifying to, MA-25 which is a variance map, this will be my second witness tonight.

Mr. Liston, questioned what the exhibit was, Mr. Shea the Wa Wa site plan, Mr. Liston, diagonal across, Mr. Shea, yes.

Mr. Liston, that's all right.

Mr. Shea stated for the record he did receive a letter from Mr. Gasiorowski regarding his position relating to the NJDEP issue that is currently pending, our position has not changed, we will go thru the process and hopefully obtain a CAFRA permit for NJDEP.

Mr. Liston, Mr. Shea perhaps you can bring the board up to date with what has been happening.

Mr. Shea, yes, you all most likely know as much as we do, we did receive a 20 page letter from NJDEP outlining the reason they felt a CAFRA permit would not be able to be provided for this site. Some of the issues are very easy issues to resolved, such as not having water, we received a will serve letter from United Water, issued to be resolved. We are in discussions with representatives of the DEP to work out problems, we are confident that we can. Can't tell you approval is on its way, but we are confident we are going to get this issue behind us

Mr. Liston just so everyone is clear, application from DEP standpoint has been denied.

Mr. Shea, if DEP makes significant change, we would have to come back to discuss it with the board.

Mr. Liston, just another housekeeping matter, I don't see Mr. Gasiorowki here, have you spoken with him. Mr. Shea, I have not.

Mr. Arnold Garonzik, I sent here to pretty much take notes.

Mr. Liston, please come up and tell us who your are.

Mr. Arnold Garonzik, of Litwornia Associates, traffic engineer, planner retained by Mr. Gasiorowki.

Mr. Liston, you're here to take notes, Mr. Garonzik, yes, Mr. Liston, your not an attorney, Mr. Garonzik, no.

Mr. Shea, problem with Mr. Gasiorowki not being here, Mr. Wolfe flew in from California to attend tonight's hearing and hopefully be cross examined, will hold until evening is finished.

Mr. Liston, okay

Mr. Robert Lacher, Manager of Wal-Mart, sworn in and accepted by board.

Mr. Lacher stated his years of service with Wal- Mart and his responsibilities in operating the stores.

Mr. Liston, stated Mr. Lacher is a fact witness.

Mr. Shea, he is a fact witness regarding the operations of the store.

Mr. Shea, go thru general uses of store.

Mr. Lacher, two main uses, general merchandise, goods, automotive, domestics, apparel and full grocery component (deli, produce, bakery). 20-25 percent of the store is grocery the rest is general merchandise.

Mr. Shea, will there be additional ancillary uses with the store as well.

Mr. Lacher, yes, what we call leased areas, which will be fast food tenant, may be hair and nail salon, pharmacy, vision and hearing centers,

Mr. Shea, service area, Mr. Lacher, 10- 12 miles.

Mr. Shea number of employees, Mr. Lacher, average 400 associates, during peak time bring up to 450, 60 percent full time 40 per cent part time.

Mr. Shea, how many shifts, Mr. Lacher, three shifts open 24 hours. He explained several layers of managers per shifts. Shifts are well covered.

Mr. Shea, parking, exhibit MA-2, showed area for employees to park is that correct, Mr. Lacher, yes.

Mr. Shea, how many spaces, Mr. Lacher, believe 203 more than adequate. No problems in other stores, enforced by managers on duty. Managers drive around grounds to make sure everything is neat and clean and organized, see where employees are parking. Cart corrals, designated areas on site, workers collect stray carts, place back in corrals.

Mr. Shea, discuss deliveries, Mr. Lacher, approx. 3-5 Wal-Mart trucks per day, Monday – Friday, decreases Saturday and Sunday. Trucks take few hours to unload. Grocery trucks, loaded on to pallets, takes 45 minutes to unload.

Next DSD direct store delivery, Fed Ex, Coke, Fritos, etc. approx. ten tractor trailers and 20-25 panel trucks.

Mr. Liston, per day, Mr. Lacher, yes

Mr. Lacher, there are enough loading bays to accommodate this. We have enough staff on duty and deliveries are staggered.

Mr. Shea, will storage of any other type of truck on site be allowed, Mr. Lacher, no

Mr. Shea, out door sales, Mr. Lacher, garden center, whole inside of the storage is pretty much the garden center.

Mr. Shea, maintenance on the site, Mr. Lacher, we're responsible for maintaining the whole site, we use Shawn Environmental meeting all codes. Employees are trained regarding spills of certain materials.

Mr. Shea, regarding site lights, Mr. Lacher, exterior lights go on and off based on light outside, interior lights are all energy conservation protocols.

Mr. Yodakis, regarding carts, just going to have standard cart corrals at the store, not the quarter needed, this was an issue last time.

Mr. Lacher, no quarter is not needed.

Mr. Yodakis, what store did you mention had three bays, Mr. Lachner, Lanoka Harbor

Mr. Yodakis, square footage wise, how does that compare to this store.

Mr. Lacher, that is 145,000, this is 190,000 or little over.

Mr. Yodakis, delivery trucks, same, Mr. Lachner, yes, difference is how full truck is.

Mr. Yodakis, do you have a plan for outdoor displalys, sidewalk sales, tent sales, Mr. Lachner, no if we ever did, we would come back to the board.

Mr. Yodakis, no plans to have lawn mowers or seasonal items out front as you see at other box stores.

Mr. Lacher, no

Mr. Vaccaro, garden center, how high will the material be above the screened fence?

Mr. Lacher, we can make sure it is not at all above the screened fence, stacked in a rack system.

Mr. Vaccaro, I want it be covered in the record.

Mr. Liston, what is the maximum height of the racks?

Mr. Lacher, I can give you an estimate, 10 feet, bagged goods 12-14 feet and nothing will be above racking system for safety concern also.

Mr. Liston, this is a concern the board has as a result of the conduct of another box store in town, and we are concerned it does not happen here.

Mr. Lacher, we can make sure it stays within the racking system height.

Mr. Borowski, employee parking is far from building, what about handi-cap parking.

Mr. Lacher, I don't think legally we can stop them from using handi-cap spaces.

Mr. Borowski, how many handi cap spaces are there, Mr. Shea, 26, there about we added a few extra because of the board's concern with senior population.

Mr. Borowski, some times at the Toms River store, there is a Wal-Mart or Sam's truck parked all night, taking up spaces is that normal.

Mr. Lacher, Sam's truck not allowed, store had it moved, Wal-Mart are allowed, but on this site that will not be allowed.

Mr. Trutkoff, truck route on to site, Mr. Lacher, they will be using Northampton.

Christine Cofone, Professional Planner, sworn and accepted by board.

Mr. Shea, for the record, marked two exhibits, MA-25 MA-26, relative to Ms. Cofone's testimony tonight.

Mr. Liston, do you have a copy of the CV for the board, Mr. Shea, I'll give you this one for now.

Mr. Shea, please describe extent of you investigation.

Mr. Liston, just to be clear, she will be talking about the variances in Manchester Township.

Mr. Shea, Manchester only, yes. Ms. Cofone, yes I will limit myself to Manchester only tonight.

Ms. Cofone, stated she visited the site, several times and reviewed the application. I am going to refer to MA-2, we have a unique situation property straddles both Manchester and Toms River, 60 percent Manchester, 40 percent Toms River, all proposed improvements relating to building are in Toms River. To the west of subject property is a small retail strip mall, so it is commercially zoned, permitted use, but we are seeking 16 variances for bulk variances, about half of which relate to existing conditions. The other important item to note is three acre pine snake habitat on the western portion of the property. The snake barrier encompasses almost the entirety of the western portion of the property.

The portion of property in Manchester, will contain approx. 142 parking spaces(10 by20), Lot 4 frontage on Hwy.37, currently gas station, not operational. There are seven variances associated with the property that exist today.

Mr. Shea, referred to the small triangular piece of property carved out of Lot 4, the southern portion of lot four will be subdivided off and it will have the access road on it. Lot 4 gains its access from Hwy 37 now, if subdivision approved will gain its access from the access road to our site. Approximately a half an acre of property is going to be consolidated with the new Wal Mart site.

The access will come off of Hwy 37 and in future if Lot 4 is redeveloped the access for the Lot 4 will be off of the internal road.

Mr. Liston, how do you envision Lot 4 being developed where it's undersized now and your going to make it more undersized, why isn't this lot being consolidated with the overall tract and isn't that a way to eliminate all of the variances?

Ms. Cofone, not all of them, Mr. Liston, which ones not eliminated, Ms. Cofone, the first seven , but to back up and answer your question, when we looked at this with our engineer, the remainder of the lot is approx. 33,015 sq.ft. 1.14 acre parcel for development, which include building footprint and parking set backs.

Mr. Liston, is that the existing building footprint? Ms. Cofone, talking about if you took down existing building.

Mr. Liston, this is a concern of the board, if subdivision was granted and variance needed to develop it, my lead question was what do you think is going to happen on this site.

Ms. Cofone, I understand your question it is a fair question, if I could continue my testimony and put all of my answers on record, I have a good deal of testimony to get thru to answer that question.

Mr. Liston, so we don't waste a lot of time, first question, how do you envision this out parcel being developed, seconded question is why not consolidate it with the entire parcel and eliminate variances and what we don't want to hear is ownership issues because we have co-applicants here. Ownership issues are not our issues.

I don't want to hear owners of parcel do not want to consolidate, not our problem.

Ms. Cofone, understood. Remaining 33,015 sq ft. improvable area, 6000sq ft building and 40-50 parking spaces that's reasonable.

Mr. Liston, why not consolidate it with the rest of the tract, that would eliminate variances and would not foreclose in any way the fact that it is developable.

Mr. Shea, problem, board does not want to hear ownership issues. Varelli Estate wants to retain ownership.

Mr. Liston, that's reality that the board need not help you overcome.

Mr. Shea, ownership not the only issue, we have Ms. Cofone here to testify the rationale for the variances, this is a preexisting condition. Ms. Cofone, right.

Mr. Shea, hypothetically redesign the entire sight with out that piece

Mr. Liston, difference is your client and the Varelli estate are co-applicants.

Mr. Liston, that gives this board the jurisdiction to say consolidate or we are not giving the variances.

Mr. Shea, board, I respectfully disagree that the board can't mandate two owners to consolidate to one ownership

Mr. Liston, if they're in the same application, its' one application.

Mr. Shea, but you have two separate distinct lot and block numbers as part of the application

Mr. Liston, you can't have it both ways, co-applicants on the same tract, but going to separate out the tracts, give us variances for what we have, the out parcel, I don't buy that as a matter of law.

Mr. Shea, it's a matter of fact it's been done before, check our last resolution approval. It's the same application that's before the board at this point.

Mr. Liston, it is not the same application and there were access issues that did not exist before, but do now.

Mr. Shea, the exact same size lot as before, if we could be allowed to finish testimony, as to reasons and rationale under land us statute as to why the board should be inclined to grant these variances.

Mr. Shea, Mr. Mauder executor of the Varelli estate, understands, that parcel of property is intended to be used he must come before the board for approval.

Mr. Liston, if the board was to grant the lot size variance, would the Varelli estate accept as a condition that whatever they developed on site, they would not be and it would waive any right to apply for any additional variances and in terms of setbacks.

Mr. Shea, I can certainly discuss that with Mr. Mauder, he is not here.

Mr. Liston, this board is not going to be inclined to grant variances to create a one third undersized lot and then listen to well you did that, so now you have to give us setbacks, parking and you have to give us a lot of things, that is not going to happen.

Ms. Cofone, present testimony indicated that there is approx. 33,000 sq ft of space to be developed with out any type of variance.

Ms. Cofone, Lot 4 seven variances needed, relate to the existing conditions of parcel

Mr. Liston, if they were not co-applicants on this application, we would not be having this conversation, agree

Ms. Cofone, yes

Ms. Cofone, minimum lot frontage, 300 ft required, 207.75 ft existing, 207.75 proposed, existing condition, C1 hardship variance, minimum lot width required, 300 feet, 208.87 ft existing, 207.87 proposed, minimum front yard setback requested, this is for existing building on lot 4

Mr. Liston, why not just say not asking for it because we are going to demolish the building.

Ms. Cofone, tried to be conservative.

Mr. Liston, why waste our time.

Ms. Cofone, certainly I don't want to waste your time, we have several interested parties in the case.

Mr. Shea, those variances were called out in the engineering report.

Mr. Shea, if the board is so inclined, we will represent on the record the structure will be taken down at the time of application, if the board say no we want the structure up, we would have to call those variances out.

Mr. Liston, you know the board does not want the structure up, they want the site cleaned up, it might be prudent to indicate if the necessary bulk variances are granted, your applicant will agree to demolish every building on the site.

Mr. Shea, that's a representation we certainly can make.

Mr. Shea, we will remove those variances and remove structures and make that part of any condition of approval

Mr. Liston, if the other variances are granted they are going to be demolished, Mr. Shea, and if you notice on

Mr. Liston, do we all understand that.

Ms. Cofone, don't need to talk about four, six or seven, Mr. Liston, yes

Ms. Cofone, lets talk about five, minimum improvable lot area 40,000 sq ft, where 21,100 is existing and 9700 is proposed, building footprint, reasonable development.

Ms. Cofone, discussed technical subdivision or economical subdivision, Mr. Liston, I am very familiar with that.

Mr. Liston, a concern of the board is the proximity of the entrance to the entrance to the adjoining property to the west.

If this parcel were to be part of the overall, it would be easier to slide the entrance off 37, eastbound to the east and perhaps ameliorate a possible traffic conflict.

Mr. Shea, we have been down the road before, we have tried to come up with a solution, it should be noted that we now have DOT access permit in hand, passed muster on a location of the access on 37.

Mr. Liston, when did that happen.

Mr. Shea, about two weeks ago and I will make part of record.

Mr. Liston, I was unaware of it and the board has not been provided with it to my knowledge.

Mr. Shea, I apologize came in same day as application pending in Toms River

Mr. Liston, so its marked in Toms River, but we are unaware until now, right!

Mr. Shea, that is correct.

Mr. Liston, you and I have been talking about this the last two weeks, and this is the first I am hearing of it.

Mr. Shea, again I apologize not intentional.

Mr. Liston, Mr. Yodakis have you seen this, Mr. Yodakis, no

Mr. Liston, lets leave the portion of discussion for the next time, we have not seen it we don't know what the conditions are.

Marked as MA-27.

Ms. Cofone, variances for Lot 4 can be C1 hardship variances, granting variance would be consistent with the criteria G of land use law. Any variances granted, any detriments would be outweighed by the development of the site for use in accordance with HD-3 zone.

Variances 12 through 16, sign variances, first 50 ft is required, 20 feet is proposed for both Wal Mart and Northampton Square signs for visibility. Ground sign greater than 60 sq ft located on site frontage of 500 feet proposed Wal Mart sign only 150 feet of frontage. Proposed decorative wall and statue with front setback of 20 feet where our front yard setback is 50 feet required, interpret statue to be a sign. Approval of plan will have no detriment on either public good, properties or the zone plan

Mr. Shea, summarized

Mr. Yodakis, we are looking at three ground signs considering the statue as a ground sign, effort to reduce variances would there be a way to combine Northampton Square with the statue, make one entity, eliminate variance 16

Ms. Cofone, make the statue stand on top of the sign, it's a decorative statue with four flag poles nicely landscaped, can't see combining.

Mr. Yodakis, board has serious concerns with signs.

Mr. Yodakis, is the DEP impetus for not having or not meeting the requirements of the trees of the parking lot, (having not seen letter yet), this is going to be a vast parking lot with very few trees and very high lights, might be viewed very industrial type parking area.

Ms. Cofone, we did that to keep it a more condensed type development.

Mr. Yodakis, that was not a strict push from the DEP?

Ms. Cofone, a result of discussion with the DEP

Mr. Czekanski, sign variance 13 why do we need two signs, Ms. Cofone, one pylon is for Wal Mart and the other is Northampton Square, Mr. Czekanski, the only thing on the site today will be Wal Mart? Ms. Cofone, until Lot 4 is developed.

Mr. Czekanski, but it is a Wal Mart

Mr. Liston, what is Northampton Square but Wal Mart, when something else comes in they would have to go before the board for their sign. So we could do away with the Northampton sign if we had to.

Mr. Czekanski, I think we should consider it.

Mr. Somerset, in number ten we have the second part of that which relates to the driveway of Lot 4 being off of 37

Ms. Cofone, yes

Mr. Somerset, I thought earlier testimony said that was being closed. Ms Cofone, it would be yes

Mr. Somerset, so this doesn't need to be here anymore, correct.

Ms. Cofone, yes I agree

Mr. Czekanski, so ten is out, Ms. Cofone, half of ten is out 25 ft proposed to the driveway on lot 4 which is the last phrase of ten would be out.

Mr. Liston, noted time

Mr. Shea, Mr. Gasiorowski is not in audience, I do have Mr. Wolfe here

Mr. Reilly, I appearing for Mr. Gasiorowski

Mr. Liston, you are

Mr. Shea, we have Mr. Wolfe here to be cross-examined

Mr. Liston, okay if that's what we want to do.

Mr. Bernard Reilly appearing for Ron Gasiorowski on behalf of Mr. Perlmutter and ShopRite, frankly I really hadn't prepared a questioning of this witness, so you know I'll waive the questioning, I don't know whether he came for this.

Mr. Liston, we agreed ground rules, complete all of direct testimony before any cross examination.

Mr. Liston, Mr. Shea you now have completed all testimony, Mr. Shea, yes, in addition, I'm sure you received a copy of our letter dated April 1, 2010 specifically indicated the witnesses that we intended to call. Mr. Gasiorowski does have a phone, he could have let your office or mine know he could not be here.

Mr. Liston, Mr. Wolfe is the architect, Mr. Shea, yes, Mr. Reilly, I am not prepared.

Mr. Liston, we all know, this is going to end up in litigation, don't want a setback because of a procedural error. Can Mr. Wolfe come back again between now and June.

Mr. Shea, perhaps Mr. Liston you and I can get on the phone with Mr. Gasiorowski and see if he needs to question the architect. Mr. Liston, that's fair.

Mr. Shea, I'm sure he will question, Rodgers and Moonan, Mr. Liston, he will want to question Ms. Cofone.

Mr. Shea, clear as part of record, we put Mr. Gasiorowski on notice that Mr. Wolfe would be showing up for today's meeting.

Mr. Liston, that's fine.

Mr. Shea, MA-28 consisting of a letter dated April 1, 2010 was received and marked.)

Mr. Liston, just give that to the secretary. Mr. Shea, marked MA-28 letter to Mr. Liston and copied to Mr. Gasiorowski.

Mr. Liston, all right.

Mr. Shea rested its case.

Mr. Liston, next hearing, cross examination, Mr. Shea, with understanding, to bring some rebuttal testimony back after Mr. Gasiorowski's witnesses, we certainly will.

Mr. Liston, of course., you are going to have Mr. Rodgers at the next meeting., confirmed Rodgers, Cofone

Mr. Shea, four witness, will confirm by letter.

Mr. Reilly, Mr. Gasiorowski would then pick up cross exam. of those witness, Mr. Liston, yes

Mr. Liston, we are going to carry this application to May 3, 2010, at 7:00 P.M., there will be no further public notice.

Motion to approve by Mr. Somerset, seconded by Mr. Borowski

Roll Call: Mr. Somerset-yes, Mr. Borowski-yes, Chairman Vaccaro-yes

Messrs. Barron-yes, Trutkoff-yes, Czekanski-yes

ADMINISTRATIVE SESSION:

Motion to approve April 5, 2010 Regular Meeting Minutes by, Mr.Barron, seconded by Mr. Czekanski
Roll Call: Mr. Barron-yes, Trutkoff-yes, Chairperson Vaccaro-yes
Messrs. Somerset-yes, Borowski-yes

PAYMENT OF BILLS:

From April 2010

Mr. Borowski, submitted bill report.

	Escrow	General Matters	Hov/Stav	Perlmutter
T & M Assoc.				
166615	5,662.99			
166619	1,742.50			
166874		441.00		
Liston				
86137	1,343.25	175.50		222.75
Total	\$8,748.74	\$616.50		\$ 222.75

Motion made to pay bills by Mr. Czekanski seconded by Mr. Somerset
Roll Call: Mr. Czekanski-yes, Mr. Somerset-yes, Chairperson Vaccaro-yes
Messrs. Barron-yes, Trutkoffi-yes, Borowski-yes

PROFESSIONAL REPORTS:

None

PUBLIC PORTION

Open hearing none, public portion closed

MOTION TO ADJOURN by Mr. Trutkoff, seconded by Mr. Barron

ALL IN FAVOR
NONE OPPOSED

ADJOURNMENT:

Meeting Adjourned 9:15 P.M.

Respectfully Submitted

Marianne Borthwick
Secretary to the Board

