

MANCHESTER TOWNSHIP PLANNING BOARD REGULAR MEETING MONDAY, MAY 3, 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, May 3, 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 | Present |
| Donald Somerset | Member | Present |
| David Borowski | Member | Present |
| Anthony Tepedino | Alternate Member | Absent |
| Christina Edwards | Alternate Member | Present |
| Ed Liston | Attorney | Present |
| Al Yodakis | Engineer | Present |

MEMORIALIZATIONS:

Memorialization of a resolution for an Administrative Approval, Proposed Shade Cover over Bocci Courts Block 52.01 Lot 1 Recreation Area

Applicant Leisure Knoll at Manchester Association

Approved April 5, 2010

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.

Mr. Krasky not voting absent April 5, 2010 meeting

APPLICATIONS:

1. Administrative Approval, Modification to an existing ground sign

Block 72.01 Lot 14.02 2420 Ridgeway Blvd.

Applicant Ridgeway Self Storage

Carmine Villiano for the applicant, also is one part of applicant.

Ken Schlatmann, engineer for applicant, sworn in and accepted by board.

Mr. Villiano explained last building complete, sign is ground level is a visibility issue, would like to raise pylon sign.

Mr. Schlatmann, exhibit A, photo of existing sign in front of managers' office, 6ft. elevate to 15ft., no other changes

Mr. Liston, any variance required, Mr. Schlatmann, no.

Mr. Yodakis, no problem, only changing height, staying with original approval other than that.

Mr. Villiano, better visibility, Mr. Liston, no problem

Open Public Portion

Hearing None,

Close Public Portion

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, Krasky-yes

2. 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, I believe we left off with completion of our affirmative presentation with Ms. Cofone's testimony. Tonight we going to be presenting witnesses for Mr. Gasiorowski's cross examination. Mr. Moonan, Engineer, Mr. Uzzo, Ms. Cofone. Mr. Lacher and Mr. Rodgers could not be here, they will be available for the next meeting.

Mr. Liston, Mr. Chairman, before we start, I received a call today from Mr. Somerset, he indicated a conflict may have arisen, his college age daughter applied for and was given a summer job with Wal-Mart, I wanted to put it on the record and see if counsel has an objection to him continuing to hear this matter. I indicated to him if either counsel has an objection with him continuing that he recuse himself.

Did I state that accurately Mr. Somerset, Mr. Somerset, yes.

Mr. Liston, I like to hear from counsel for applicant first.

Mr. Shea, I certainly have no problem with it at all on behalf of Jaylin, I will have to check with Mr. Grunin, who could not be here tonight. My concern would be with the people who are not here, Mr. Bezdecki, I believe also entered an appearance in this matter and I would like to have him set forth on the record what his opinion is, but from my perspective at this point in time, I certainly have no objection.

Mr. Gasiorowski, on its face I have no objection, but I would simply submit its up to the gentleman to make the call, if he believes he can hear this fairly, its fine with me.

Mr. Shea, as long as we get the representation from Mr. Gasiorowski that his client, if Mr. Somerset was to make that decision, has absolutely, unequivocally no objection to him here so we're not this is not a point of some brief at some future point in time.

Mr. Liston, do you want to respond to that.

Mr. Gasiorowski, I thought I said it the first time, I have no objection to this gentleman continuing to sit on this matter, nor do I intend to make it part of an objection at a future date, as long as he feels he is able to make an unequivocally fair decision and his daughter's employment not in any way influence him.

Mr. Liston, Mr. Somerset do you want to respond to that.

Mr. Somerset, I told Mr. Liston earlier today, I didn't feel this would influence me whatsoever, its just a summer job, I feel it's irrelevant in terms of my conduct here.

Mr. Gasiorowski, fine

Mr. Shea, I will have to pass muster with respect to the Wal-Mart people as well, we have no control over a third party coming in here and then raising the issue as to whether or not Mr. Somerset does have a conflict as a result of the common law statute as well as Municipal Land Use Act. Mr. Gasiorowski, has not problem, perhaps we can go on for tonight and between myself and Mr. Liston, I'll communicate to him before the next meeting.

Mr. Liston, that fine, I do not see us finishing tonight, so there won't be a vote.

Mr. Shea, that's fine.

Mr. Gasiorowski, I think Mr. Shea would like to blame me for the objection, I would understand what ever the board decision is.

Mr. Liston, the public needs to know about conflict of interest rules are rather strict and everyone who is a player in the arena, an applicant, or an objector has the right to raise that issue.

Mr. Shea, Mr. Gasiorowski, no problem continuing tonight.

Mr. Liston, Mr. Somerset feelings on record, we can go forward tonight, we do have alternative member here who in event this becomes a problem we already have it covered with an alternative member.

Mr. Shea, job in Toms River?, Mr. Somerset, no Howell.

Mr. Gasiorowski, like to get procedural matters taken care of first, tonight we have Mr. Moonan, Ms. Cofone, who else?

Mr. Shea, Mr. Uzzo, Mr. Gasiorowski, we then complete cross examination with Mr. Lacher and Mr Rodgers, who are not here tonight. Mr. Shea, correct

Mr. Gasiorowski, in regards to my calling witnesses, will that be at finish of my cross examination.

Mr. Liston, my recollection of first meeting, Mr. Shea's witnesses finish testimony, and all their cross examination before the objector had to start his. Mr. Gasiorowski, fine, Mr. Shea that's my understanding

Mr. Liston, cross examination tonight for witnesses that are here, next meeting for witnesses that could not be here

tonight, we will finish cross examination and the Mr. Gasiorowski will start his case in chief, is that right Mr. Shea,

Mr. Shea, yes, my understanding is I am not going to produce Mr. Wolfe and Mr. Gasiorowski is fine with that.

Mr. Liston, correct.

Mr. Gasiorowski, before we start, mark as O-1 a copy of the letter sent to Mr. Harrison, attorney for the applicant, as concerns his DEP application

Mr. Liston, mark as O-1, what is date on letter, 3.15.2010, Mr. Shea, let me take a look at that.

Mr. Gasiorowski, I had written to counsel in both Toms River and Manchester, noting objection to continuation of these hearings in light of the fact the DEP denied the application in both towns, so once again I renew my objection.

Mr. Shea, we firmly understand we're proceeding at our own risk. We are confident in the direction we are proceeding, sessions are being held with DEP and we are optimistic that the matter can be worked out. The board is required to do under the Municipal Land Use Act, the board as no jurisdiction to stop a proceeding just because a CAFRA permit has been denied.

Mr. Gasiorowski, my understanding that an appeal has not been filed, Mr. Liston that was my question, has your client filed an appeal? Mr. Shea, Mr. Harrison is handling that and will be filing appeal pursuant to the time frames

Mr. Liston, I would ask Mr. Shea provide the board with something in writing indicating the appeal is filed in time.

Mr. Shea, sure, Mr. Harrison has been in direct communication with AG's office.

Mr. Shea, here is email from Mr. Harrison last week, saying appeal has been filed today on behalf of Jaylin Holdings, around April 23 or 24th., I don't have an official copy of the appeal.

Mr. Liston, you will provide that to us. Mr. Shea, yes, Mr. Gasiorowski, to me also,

Mr. Liston I do not have a problem with the application going forward, Mr. Gasiorowski's motion denied.

Mr. Moonan, sworn in for cross examination by Mr. Gasiorowski.

Mr. Gasiorowski, plan presented here same plan as in Toms River, Mr. Moonan, yes
Mr. Gasiorowski, I cross examination you in Toms River, regards to variance needed, Mr. Moonan. Yes, percentage of blacktop of building coverage, 20 percent permitted and your plan calls for 24.67, your seeking relief, Mr. Moonan, Question , size of building including plant life, 195,000 sq ft, Answer, a little over 193,000
Q, size of building will be reduce to 145-150 correct, A, 150
Q, that would also reduce parking requirements, A, it would
Q, would eliminate any parking in Manchester, A,I have not done a concept to know whether that's reduced or not.
Q, be fair to say, building were reduced, parking would be reduced, significantly impact the number of spaces in Manchester, A, I would not say that's necessarily accurate.
Q, you have not done any study on this, A, I have not
Q, fair to say , building reduced, parking reduced, would reduce traffic impact on 37 and Northampton, less cars entering site, A, there would be less cars.
Q, less cars utilizing the jug handle proposed for Northampton by the Wa Wa, A, yes, I would like to point out that we do have a DOT preliminary approval for that site as proposed today.
Q, approval subject to all conditions, is it not, A, its approval subject to conditions
Q. Its not a final approval, A. I will let the traffic expert comment on that.
Q. ingress on 37, what is distance from east boundary line of lot 6, block 44 to west line of ingress coming into property
A. the distance if you extended this curb line up, Q, right, A, approximately between 55 and 60 feet
Q. actual entrance into site off 37 A, take from point of curvature it's 12.8 feet
Q, that's why you are seeking a variance, A, correct
Q, traffic coming from Manchester, east will enter into what you call ramp coming onto property A, yes jug handle ramp coming into Northampton Blvd, not coming onto the property
Q, you proceed down 37, going east you hit ramp,takes you onto Northampton, A, yes
Q, is ramp owned by state or town, who owns fee simple of ramp, state or county, A, it is a state road
Q, are there restrictions or standards, deal with distance between begin of ramp, where enters 37, distance wise from ingress and egress, A, yes, design of this access point was in association with the traffic engineer
Q, what is distance between the center line of ingress on the west side of property, what we call westerly begin of ramp
A, approx. 660 feet
Q, is that a full 660 ft , required, or could the ingress and egress coming out of west side of property be moved in a further more east direction on 37
A, defer to Mr. Rodgers
Q, Block 44 Lot 4, lot 4 is larger that that which is before board
A, Correct
Q, do you have numbers
A, 1.68 acres existing
Q, familiar with letter to board secretary from T & M, December 23, 2009 engineer's most recent letter
A, January 12, 2010 most recent
Q, letter goes thru variances needed for lot 4, minimum lot area of 3 acres required, now there is 1.6 acres, application before us seeks a reduction of that square footage to 1.14 acres
A, correct
Q, terms of minimum lot frontage 300 ft required, existing frontage is 207 ft
A, correct
Q, minimum front yard setback of 100 ft is required, where 52.7 ft exist
A, correct
Q, existing gas station is to be demolished
A, my understanding as well
Q, applicant would come back to board or the owner of property there would be a pre-existing 52.7 ft ,it would simply be one blank piece of property
A, if it is demolished yes, at the time of the application, it is there, so we listed it conservatively as a variance
Q, was representation made that it would be demolished
A, I believe after the application is complete yes
Q, minimum improvable lot area of 40,000 sq ft required, 20,100 sq ft existing and 9700 sq ft proposed, explain how you got from 20,000 to9700, what did you remove
A, we removed a portion of the lot
Q, minimum floor area of 15000 sq ft required, whereas 1500 sq ft exists, is 1500 sq ft size of the garage
A, yes
Q, that's to be removed, right
A, yes
Q, do you know if applicant has made overtures to owner of property to acquire property
A, do not have that knowledge
Q, T & M letter recommends to board they inquire of the applicant what the proposed use of lot 4 is, do you have knowledge of this use
A, I do not
Q, would you agree what ever the use, it would require a variance for virtually every setback that would be necessary for construction of any type of building within the footprints of that lot

A, no, I disagree

Q, what setbacks would you be able to satisfy

A, all of them

Mr. Liston, are you talking about if sub division was granted, Mr. Gasiorowski, yes, Mr. Liston, important to note on record.

Mr. Gasiorowski, record is clear, referring to Exhibit A-2 specifically to the light green area, after sub division is granted.

Back to Questions

Q, how deep is property, A, approx. 260 ft

Q, rear yard setback A, 50 ft

Q, under existing ordinance would applicant be allowed to have parking in front yard of building

A, I believe it would be

Q, what size building, A, 5000 sq ft building

Q, refer to letter dated, 12-23-09 Al Yodakis, sheet 6, 4.2 and 4.3, do you have that, A, yes

Q, have you read NJDEP letter of denial, O-1 A, I have not seen that letter Q, you have not seen any portion, A, no

Q, any portion, A, a debrief from the environmental attorney regarding letter

Q, can you respond to questions A, my understanding of letter is deals mainly with off site mitigation issues

Mr. Liston, do we want to open this witness to public, Mr. Shea, fine

Mr. Liston, anyone not represented by Mr. Gasiorowski, have questions for this witness please come forward

Mr. Bill Klein, President of Kay Realty Holdings, I am a contract purchaser of adjacent property, to west

Mr. Liston, in past you were represented by counsel, correct, Mr. Klein, no not correct, Mr. Bezdecki represents the contract seller, I am the contract buyer.

Mr. Klein, is there any reason your client would object to an easement road coming across and entering into this road from our property

Mr. Moonan, engineering perspective, site design with storm water management facilities in coordination with DOT, no DEP approval yet, there is a plan in place, applicant at this time would not want to consider this.

Mr. Klein, but is their any engineering prohibition against requesting this, Mr. Moonan we would have to redesign the basin area.

Mrs. Barbara Hanley, 1632 First Ave, ask engineer, the jug handle opposite the WaWa, or should I wait for Mr. Rodgers traffic expert, Mr. Liston ask question, Mrs. Hanley, why is not going to be widened to accommodate two lanes of traffic

Mr. Moonan, I defer to Mr. Rodgers

Mr. Hank Glen, 29 Wycliffe, if you took lot 4 and moved it over to west property line, reach agreement with owners would it affect the building site as far as construction

Mr. Moonan, it would impact the site access, it would effect everything

Mr. Liston, they already have DOT approval

Mr. Chris Donato, 112 Southampton, live on First and Southampton, we have a major flood problem, will this store effect the flooding in PLP, Mr. Moonan, no

Mr. Liston, close public portion, Mr. Shea, next witness please

Mr. Gasiorowski questions Mr. Uzzo previously sworn

Q, my understanding you have only dealt with issues relative to environmental clean up of Lot 4, oil spill

A, no not correct

Q, clarify

A, we were retained to prepare an EIS in accordance with Manchester ordinance requirements, evaluate the status of ongoing evaluation of the wetland

Q, in your EIS do you mention the pine snake

A, no we reference the earlier work done by another consultant and the remedying that was associated with that.

Q, are you aware of DEP denial of application A, I am aware of the letter

Q, what environmental issues your prepared to opine upon, A, we prepared and EIS and were retained by Wal-Mart as environmental consultant to perform due diligence activities , evaluation of the status of the environmental investigation on Lot 4

Q, would you agree regards to pine snake habitat, fresh water wetlands, all in jurisdiction of the DEP

A, I agree we have not been involved with that

Q, Lot 4 contamination from oil spillage or leakage of underground tanks

A, History of petroleum releases at the site, clean up efforts since 1980's.

Q, That's one of the things you reviewed and opined upon, A, Correct

Q, The number of test wells significantly reduced since initial remediation

A, No there were far fewer in the start, total number of wells has been reduced with DEP approval

Q, Total number of wells, A, 28 wells

Mr. Liston are there any wells off site on applicant's property

Mr. Uzzo there are none on the portion of property on plan for redevelopment by Wal Mart

Mr. Liston were they there earlier, Mr. Uzzo,yes

Mr. Liston they were shut down why and what were the results

Mr. Uzzo DEP approval, March 2005, non detectable contamination or below appropriate standards

Q, Did you listen to Mr. Moonan, A, Yes

Q, Under current law could a road way be installed across or the entirety of Lot 4 despite monitoring wells

Mr. Shea objection, can't ask to recite law

Mr. Liston asking for legal opinion based on his expertise

A, DEP regulations would not preclude redevelopment of site, there would be considerations taken into account, closure or relocation of wells, nothing that is precluding or prohibiting

Q, Opine on use as a detention basin or infiltration basin

A, Environmental standpoint, would not put storm water infiltration basin on top of ground water contamination plume

Public Portion Open for this witness

Hearing None Public Portion Closed

Mr. Gasiorowski cross examination of Ms. Cofone, previously sworn

Q, Did you review DEP denial letter

A, No

Q, You are opining as a Professional Planner, A, Yes

Q, You must consider all conditions of land, A, One thing we look at

Q, Did you read Mr. Yodakis's review letter, A, Yes

Q, Did you review Mr. Rodgers's report A, Yes

Q, Consider these important for your testimony, A, I think it would be relevant

Q, You attach no relevance to denial letter of DEP

Mr. Shea Objection, she has indicated she has not read it, Mr. Moonan indicated he did not read it, for the third time the answer is no.

Mr. Liston for the record, she has indicated she did not read the letter, I do not have a copy of the letter, she was not copied on the letter, under these circumstances she can not be cross examined on it

Mr. Gasiorowski I 'm not cross examining her as to the letter, as a Planner did she think the letter was relevant in preparing her to give testimony, goes to credibility

Mr. Liston that's fair, you were aware of the letter, your client received it, did you ask for a copy, Ms Cofone, yes

Mr. Liston did you receive copy, Ms Cofone, not yet

Mr. Liston do you think it was important to review for your testimony, Ms Cofone, no

Q, Were you present for Mr. Moonan's cross-examination, A, yes

Q, He testified do to snake habitat, if building were reduced parking would be reduced

A, He did not say parking Manchester would be reduced

Q, In regard to Lot 4 did you check out history of ownership A, No

Q, Did you attempt to determine how lot 4 was created A, No

Q, Did you attempt to determine if title to Lot 4 as well as surrounding area, common ownership A, No

Q, Is Lot 4 non conforming A, It is an existing undersized lot

Q, Will it become further non conforming A, From 1.68 to 1.14

Q, If the board were to grant a variance, would be necessary for owner to come back to develop, owner would have to seek a number of bulk variances

A, I have disagree with you there

Q, Would they have to come back for a bulk variance

A, It would depend on the application, I can not answer that today

Q, Do you agree if applicant acquire title to property it would make ingress and egress a lot simpler

A, I do not agree, our access is DOT approved

Q, Do you know is a parking lot is a permitted use,

A, Its not a permitted use, they can permit parking as an accessory

Q, Is a free standing parking lot a permitted use in Manchester

A, I don't think its listed a specifically permitted use

Public Portion Open for this witness

Hearing none Public Portion Closed

Mr. Shea that will conclude our witnesses tonight

Mr. Liston, what other witness to be crossed next

Mr. Shea, Mr Lacher and Mr Rodgers

Mr. Liston to make it clear that would complete your case with cross examination

Mr. Shea yes, with one issue, potential cross examination of Mr. Perlmutter

Mr. Liston your not going to rest until cross examination of your witness is completed Mr. Shea, fine

Mr. Liston, that would happen at our next meeting, premature to address that question now

Mr. Shea, just want to alert the board

Mr. Liston, we are going to carry this application to June 7, 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

Ten Minute Recess

Chairman Vaccaro called meeting to order

ADMINISTRATIVE SESSION:

Open Space R.O.S.I. list amendment, Recreation Open Space Inventory

Mr. Yodakis few minor changes, hi lighted in report, board require to review for council to take action

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

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

Messrs. Czekanski-yes, Krasky-yes, Somerset-yes, Borowski-yes

Motion to approve May 3, 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 May 2010

Mr. Borowski, submitted bill report.

| | Escrow | General Matters | Hov/Stav | Perlmutter |
|--------------|-----------|-----------------|----------|------------|
| T & M Assoc. | | | | |
| 155547 | 422.50 | | | |
| 3558 | 1,029.00 | | | |
| 3559 | 369.70 | | | |
| 3561 | 935.00 | | | |
| 3705 | 626.07 | | | |
| 3704 | | 73.50 | | |
| 3557 | | 569.00 | | |
| Liston | | | | |
| 86131 | 391.50 | 364.50 | | 54.00 |
| Total | \$3773.77 | \$ 1007.00 | | \$ 54.00 |

Motion made to pay bills by Mr. Czekanski seconded by Mr. Trutkoff

Roll Call: Mr. Czekanski-yes, Mr. Trotkoff-yes, Chairperson Vaccaro-yes

Messrs. Barron-yes, Krasky-yes, Somerset-yes, Borowski-yes

PROFESSIONAL REPORTS:

Mr. Czekanski, Mr. Yodakis, has Quick Chek contacted you regarding their sign

Mr. Yodakis, not yet, Mr. Czekanski, sign for prices not visible

Mr. Liston they will need a variance

Mr. Yodakis, may need variance for second pylon sign, not an unreasonable request

Mr. Barron commented Lowes is stacking higher than screen fence

Mr. Vaccaro agreed and stated fence needs to be addressed for resolution compliance, need to speak with Mr. Cain, Code Enforcement

PUBLIC PORTION

Hank Glenn, 29 Wycliffe, question if something was eliminated from open space, Mr. Yodakis explained, no just some number changes.

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

ALL IN FAVOR
NONE OPPOSED

ADJOURNMENT:
Meeting Adjourned 9:35 P.M.

Respectfully Submitted

Marianne Borthwick
Secretary to the Board