

**LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING  
WEDNESDAY, JANUARY 30, 2013, 7:00 P.M.**

**Present:**     **John Gladwell  
Bruce Kmosko  
Charles E. Lavine  
Samuel Pangaldi  
Frank Scangarella, Alt. #1  
Edward H. Wiznitzer, Alt. #2  
Peter F. Kremer, Vice Chair**

**Absent:**     **Leona Maffei (Absent/excused)**

**Also Present:** **Brenda Kraemer, P.E., Assistant Municipal Engineer  
Brian Slaugh, Planning Consultant, Clarke•Caton• Hintz  
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson  
James L. Kochenour, P.E., P.P. Special Traffic Consultant  
Sara A. Summiel, Recording Secretary**

**1. Statement of Adequate Notice**

Adequate notice of this meeting of the Lawrence Township Zoning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building, and mailing to the Trenton Times, the Trentonian and the Lawrence Ledger newspapers.

**2. Public Participation : (None)**

**3. Application No. ZB-1/11 (2012 LAWRENCEVILLE ASSOCIATES – formerly Ferber Construction), Preliminary and Final Site Plan Application No. SP-1/12 and Consolidation of Lots, Brunswick Pike & Bakers Basin Road, Tax Map Page 36.01, Block 3601, Lots 1-4, 28, and 30-37.**

**The hearing was recorded. Jurisdiction continued from January 16, 2013.**

**Also present was Court Reporter, Eric S. Fishman, on behalf of the applicant.**

**Kevin, J. Moore, Esq., (Sills Cummis & Gross) was present to represent interested property owner, BSA Oil Corp., (Objector). The gasoline service station is located at 2961 Brunswick Pike.**

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**Application No. ZB-1/11 & SP-1/12 – Continued**

**Robert Casey, Esq., was present to represent two Car Dealerships located to the south of Route 1 (Mercedes-Benz of Princeton and Lawrenceville Ford Lincoln Mercury).**

**Gail L. Price, Esq., represented the applicant. Mrs. Price gave a brief overview of the previous meeting. She stated that Mr. Moore would proceed with a cross-examination of the applicant's Professional Planner.**

**Mr. Moore proceeded with the cross-examination of the applicant's Professional Planner, George Ritter. Mr. Moore addressed the testimony given by Mr. Ritter at the December 19, 2012, and referred to Exhibit 7 of Exhibit A-34. He questioned Mr. Ritter's testimony regarding the Table of Variances and Design Waivers and whether it sets forth a complete list. He requested clarification for the discrepancies of variances and questioned the sign relief for the TD Bank. He questioned the applicant's ability to comply with the required conditional use criteria of the five variances for the proposed use, as outlined in the Township's Land Use Ordinance for a Shopping Center. He referred to Exhibit 7 and questioned the discrepancy regarding the entrances and exits of the Shopping Center. He addressed the relief from the sign requirement because of the amendment to the Code that changed the dimensions of the McDonald's sign. A discussion followed by Mr. Moore and Mr. Ritter regarding the Ordinance for the "C" variance for number of parking spaces, directional signage, height variance of signage and the Master Plan concerning the combination of a gas and convenience store.**

**Mr. Casey proceeded with the cross-examination of the applicant's Professional Planner, George Ritter, regarding testimony. Mr. Casey questioned whether the traffic criteria could be considered when evaluating negative criteria and degradation of traffic safety as the basis for determination of substantial detriment. Mr. Ritter responded and addressed the public traffic improvements.**

**Mrs. Price gave re-direct and questioned Mr. Ritter with regard to his careful review of the variances, variances for signage, waivers, Notice in newspaper, supplements, conditional use, relief and Township Professional Reports associated with the proposed application. Mr. Ritter agreed that he had adequately addressed each of the items outlined with the Township Planner regarding the combination of the conditional use for a shopping center.**

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Mr. Ritter gave brief testimony about the combination of the conditional use with the Wawa site. A lengthy discussion took place by Mr. Moore with regard to the interpretation of the Resolution for Quick Chek and its determination as a convenience store and whether the proposed site is a shopping center or a convenience store. Mrs. Price stated her summarization of the Resolution for Quick Chek and explained that the applicant did Notice for a conditional use variance relief required for a shopping center and any other additional reliefs, as deemed necessary or required by the Board. In response to Mr. Moore's letter regarding a required D-1 variance, Mrs. Price stated the applicant's testimony by their experts will not change but would apply to a D-1 or D-3 variance.

A brief discussion took place by the Board and Mr. Schmierer explained that the determination of Quick Chek was considered as a stand-alone use and that the proposed application is viewed as a form or type of shopping center in the HC Zone. He further explained that the experts' testimony allows for the proofs that the proposed use is an integrated commercial use which includes a convenience store as oppose to a stand-alone convenience store.

The Objector's Professional Planner, P. David Zimmerman stated his review of the Transcripts of all the meetings when not in attendance. Mr. Zimmerman proceeded to describe the site as a mixed use. He stated that based upon his findings that all of the special reasons are D-1 variances and not D-3 variances. He referred to Exhibit 0-23 and reviewed the Table of "Special Reasons" Variances. He referred to Exhibits 0-24 and 0-25, and explained that the site is too small; not having enough width between parking and landscaping, and site extends into the stream buffer. He addressed the design standards and the negative criteria associated with all the uses. He referred to Mr. Litwornia's testimony about the traffic deficiencies and stated concerns about cars coming off Route 1, and the parking. He addressed the spirit of intent for a shopping center and the service station combined with four other uses on the site. He did not think that the site could handle the multiplicity of uses on the property and the proposed use. He proceeded to recommend that the Township re-zone the property. Mrs. Price stated objections to Mr. Zimmerman's scope of testimony and Vice Chair Kremer interjected, and stated that Mr. Zimmerman should stick with the facts instead of giving theory regarding re-zoning.

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**Mr. Slauch proceeded with the cross-examination of Mr. Zimmerman's testimony regarding the combined uses not being permitted, the frontages, a safer ingress, and whether the Objector is recommending the applicant request a D-1 variance to have a service station. He further questioned Mr. Zimmerman's thought process about the stream buffer and other districts' uses. A discussion followed about Mr. Zimmerman's interpretation about the floodplains, the numerical distances, the adding of principal structures, the Covenant Square standards and the Financial Services vs. Little Ferry case.**

**Mrs. Price reserved her cross-examination until the next meeting in order to review the few cases and added information mentioned by Mr. Zimmerman.**

**Also, the Board requested Mrs. Price, Mr. Moore and Mr. Casey to provide their Summations to the Township by March 11, 2013.**

**Due to the lateness of the evening, no further action was taken by the Board. The Board moved and seconded to continue meeting on February 20, 2013 and March 20, 2013. Jurisdiction carried with no further notice required. The Board accepted.**

**EXHIBITS:**

- 0-23 Table of "Special Reasons" Variances – Review by P. David Zimmerman**
- 0-24 Enlargement of Exhibit No. 5 – Waivers**
- 0-25 Copy of Overall Site Plan Sheet C-3, Colored**
- 0-26 Resolution No. 15-05z/ZB-12/04 - Quick-Chek Application.**

**WITNESSES PLACED UNDER OATH:**

- George Ritter, Professional Planner & Expert (Remained under oath)**
- P. David Zimmerman, Professional Planner & Expert**

**PUBLIC COMMENT: None**

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4. **Old Business/New Business/Correspondence:** None

5. **Adjournment**

**There being no further business to come before the Board, the meeting was adjourned at 9:58 p.m.**

**Digital audio file of this meeting is available upon request.**

**Respectfully submitted,**

*Sara A. Summiel*-emailed



**Sara A. Summiel  
Recording Secretary**

**MINUTES APPROVED:** \_\_\_\_\_