

**LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
WEDNESDAY, MARCH 20, 2013, 7:00 P.M.**

Present: John Gladwell
Bruce Kmosko
Charles E. Lavine
Samuel Pangaldi
Melissa Saunders
Frank Scangarella, Vice Chair
Peter F. Kremer, Chair

Absent: Leona Maffei (Absent/excused)

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slauch, Planning Consultant, Clarke•Caton• Hintz
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson
James L. Kochenour, P.E., P.P., 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. RESOLUTION:

**Resolution 9-13z approving Conditional Use, Use & Bulk Variances
Application No. ZB-4/12 and Preliminary & Final Major Site Plan with
Waivers Application No. SP-10/12, MAZHAR PAROYA, 4024 Quakerbridge
Road, Tax Map Page 41.03, Block 4104, Lot 11.**

Vice Chair Scangarella moved and Mr. Lavine seconded to approve Resolution No. 9-13z, as Amended.

Vote:

AYES: Gladwell, Kmosko, Lavine, Pangaldi, Scangarella, Kremer
NAYES: None
ABSENT: Maffei
INELIGIBLE TO VOTE: Saunders

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4. MINUTES:

January 16, 2013 – Reorganization & Regular Meeting

Mr. Gladwell moved and Mr. Lavine seconded to approve the minutes. This carried on the following voice call vote: AYES (6) NAYES (0) ABSENT (1) INELIGIBLE TO VOTE (1)

January 30, 2013 – Special Meeting

Mr. Lavine moved and Mr. Pangaldi seconded to approve the minutes. This carried on the following voice call vote: AYES (6) NAYES (0) ABSENT (1) INELIGIBLE TO VOTE (1)

5. 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 February 20, 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.

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. Also, present was Timothy M. Prime, Esq., representing Wawa and McDonald's Corp.

Mrs. Price gave a brief overview of the previous meeting. She proceeded to state that applicant will provide additional planning testimony this evening.

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

Mr. Moore requested to address one narrow issue with regard to Mr. Zimmerman's testimony about the proofs of the D-1 variance. Following a brief conversation by Mr. Moore about having the opportunity to cross examine the applicant's Planner, Mr. Schmierer stated that if any additional testimony is presented by Mr. Ritter, that Mr. Moore should be given the opportunity to cross. He felt that the Board should allow Objectors to present and finish their case. He stated that the meeting should wrap up at the April 17 meeting.

Following a brief discussion by the Board, Chair Kremer requested the Objectors, Messrs. Casey and Moore to prepare a brief Memo stating their Finding of Facts by April 17.

Mrs. Price explained the position of her applicant's case and concerns with regard to delays in not wanting any procedural gaps because of issues being painted by the Objectors. She stated that with regard to the issue on the D-1 vs. D-3 variance, which was opened by her re-direct with Mr. Ritter on January 16 following Mr. Moore's cross of Mr. Ritter, the Objector had every opportunity to address those issues. She further stated that even though there has been no deficiency in the applicant's case, the applicant states its willingness to accommodate Mr. Moore's request.

The applicant's Professional Planner, George Ritter, P.P., proceeded to address the testimony given about the standards of designs, classification of sign and specific requirements subject to waivers on re-direct with Mrs. Price. Mr. Ritter stated that the variances associated with the signs should be considered variances rather than waivers. He further stated that from their review of variances listed and provided to the Board were correct. He stated that some typographical errors listed in the section numbers could have caused some confusion to Mr. Moore. He stated the applicant's willingness to amend the exhibit and proceeded to review the corrections for Section 530K.2 that should be K.1; Section 530R.1, should be R.7; Section 535.Z-14, should be Y-13; and Section 535.0-B, should be 0-1B. He stated that the previous testimony does not change the classification of the text, request for relief or basic detail of the testimony. With regard to the shopping center issue, Mr. Ritter addressed the standards in the Ordinance and applicant's request for relief for the conditional uses in the HC under 420.F-4 established after January 1, 1989. He further stated that the appropriateness of the subject property under the requirements for a

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shopping center has been demonstrated to the Board in addressing the potential negative impact and the positive benefits the proposed project could bring to the neighborhood. He added that the project can be accommodated within the neighborhood without a substantial detriment and identified the Plan Development improvements associated with traffic safety, drainage, landscape, and highway improvements. With regard to the relief from the number of buildings on the proposed site, Mr. Ritter expressed that he was not aware of any statute in the MUL that would make the number of buildings the condition for a D-1 variance. He stated that the language for the number of buildings relates to a C variance and not a D-1. He explained that the language for a service station and sale of retail goods would require a D-3 variance. Mr. Ritter rebutted Mr. Zimmerman's testimony regarding the changing of district, sale of retail goods, service station, 100-year flood, convenience store element and stated that his testimony would not change.

A cross-examination of Mr. Ritter took place by Mr. Moore with regard to the number of buildings in a shopping center located in the HC district of Lawrence Township that may have been approved after 1998. Mr. Moore questioned Mr. Ritter's knowledge about various zones in Lawrence Township that permit convenience stores. He questioned whether there were a line of cases where the zone limits the number of uses on a particular site and whether it would constitute a D-1 variance. He proceeded to address the sign ordinance and requested clarification of the sign standards.

A brief discussion took place by Chair Kremer and Mrs. Kraemer about the submission of all final reports by the applicant and objectors. Mr. Schmierer will provide a list of conditions and reliefs discussed. Also, Mr. Slaugh will provide an outline to the Board with associated Planning framework. All reports are to be submitted to Mrs. Kraemer by April 8, 2013.

No further cross-examination took place and no action was taken by the Board. The Board moved and seconded to continue jurisdiction and meeting on April 17, 2013. Jurisdiction carried with no further notice required. The Board accepted.

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EXHIBITS: None

WITNESS PLACED UNDER OATH:

- George Ritter, Professional Planner & Expert

PUBLIC COMMENT:

- Catherina Schimert, 18 E. Darrah Lane, questioned the type of retail use that could be accommodated for the proposed square footage.

6. Old Business/New Business/Correspondence: None

7. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 8:33 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: _____