

LAWRENCE TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
WEDNESDAY, MAY 15, 2013, 7:00 P.M.

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

Absent: None

Also Present: Brenda Kraemer, P.E., Assistant Municipal Engineer
Brian Slaugh, Planning Consultant, Clarke•Caton• Hintz
James L. Kochenour, P.E., P.P. Traffic Consultant
Edwin W. Schmierer, Attorney, Mason, Griffin & Pierson
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 No. 11-13z approving Bulk Variance No. ZB-1/13, ADITYA SHARMA, 3830 Princeton Pike, Tax Map Page 51.05, Block 5101, Lot 32.03

Mr. Gladwell moved and Mr. Lavine seconded to approve Resolution No. 11-13z, As Amended.

Vote:

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

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4. MINUTES FOR APPROVAL:

March 20, 2013 – Regular

Vice Chair Scangarella moved and Mr. Lavine seconded to approve the minutes. This carried on the following voice call vote: AYES (7)

NAYES (0) ABSENT (0) 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 April 17, 2013.

Also present was Court Reporter, Eric S. Fishman Sr., 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. Mrs. Price gave a brief overview of recent actions that cause a request dated May 8, 2013, to the Township to recall Mr. Ritter per the Lawrence Township Planning Board Adoption of Reexamination Report and Amendment of Land Use Ordinance. She further explained that both Objectors were notified of the applicant's request.

Mrs. Price questioned whether Mr. Ritter had attended the Planning Board Meeting on May 6, 2013, or reviewed the recent actions by the Lawrence Township Planning Board. She proceeded to referred to Exhibit A-37 (Reexamination Report of the Master Plan/Lawrence Township) Draft dated April 26, 2013, Exhibit A-38 (Planning Board Meeting Transcript) and Exhibit A-39 (Ordinance Amending the Land Use Ordinance of the Township of Lawrence to Revise Sections 110 and 420).

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A brief discussion took place by Chair Kremer and Mr. Schmierer with regard to the adoption of Exhibits A-37 and A-39. Chair Kremer questioned whether the Board could consider, as legally appropriate. Mr. Schmierer stated that the Board could consider both Exhibits since the applicant is presenting new developments and the Board could weigh as deemed appropriate. A discussion followed by Mr. Moore regarding the process of adoption of Exhibits A-37 and A-39 and stated objections to the applicant's submission of exhibits.

Mrs. Price referred to Exhibits A-37 and A-39 and requested Mr. Ritter to give testimony to address the applicant's request for variance relief. Also, she questioned whether the Planning Board's recent actions would have any relevance to the proposed application. Mr. Ritter proceeded to give testimony regarding the appropriateness of combined uses, principal uses, permitted accessory uses and permitted uses for retail with gas in the highway commercial zone. He proceeded to give testimony with regard to circulation issues and decrease in traffic because of the combined uses. He stated that the significance of the applicant's discussions would eliminate the "D" variances associated with the proposed application. He further agreed with the Planning Board's recommendations to Council that recognized the need to modernize the LUO and reduce the need for applicants to seek unnecessary relief for variances. He stated that the proposed uses by the applicant could be granted without substantial detriment to the Master Plan and would be consistent with the most recent adopted goals and objectives of the Township's elements of the Reexamination Report. (See Attachment No. 1- Exhibits A-37, A-38 and A-39)

Mr. Moore cross-examined Mr. Ritter with regard to Exhibit A-37 in terms of the proposed application and Municipal Land Use Law. Also, Mr. Casey cross-examined Mr. Ritter with regard to tracking examples of the Master Plan and Reexamination Report.

Mr. Moore presented Exhibits O-30 (Materials Submitted to NJDOT-Concept Approval) and O-31 (Application & Materials Submitted to NJDOT - Access Permit) and requested they be entered into the record. In addressing the D-1 variance, Mr. Moore requested Mr. Zimmerman to address the positive and negative criteria pertaining to the shopping center. He proceeded to address two aspects with regard to the suitability criteria and intensity of use associated with a service station.

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Mr. Zimmerman stated that the size of the property, including the frontage distance, setback, minimum size of retail store, traffic of the entrance and exits do not meet the criteria established by the Governing Body. Also, he stated that the property is not particularly suitable for a shopping center and expressed that the applicant would not satisfy the negative criteria pertaining to the public's good. With regard to the intensity of use, waivers and design exceptions, he stated that the applicant failed to provide what the Ordinance requires.

Mr. Slauch addressed the intensity of use and floor area ratio. He questioned Mr. Zimmerman's knowledge of the FAR intensity standards. Mr. Slauch proceeded to address the configuration of the shopping center and uniqueness of the site. A discussion followed by Mr. Zimmerman and Mrs. Price regarding the D-1 variance. Mr. Zimmerman stated that the site is too small for all that the applicant is proposing.

A discussion took place by the Board and Professionals with regard to the conditional use. Also, Mr. Schmierer questioned Mr. Zimmerman's position regarding the shopping center use, or a convenience store and the permitted conditional use under today's Ordinance and not the Planning Board's pending actions.

Chair Kremer asked for General Public Comments. There were none. Public Comment closed.

Chair Kremer proceeded to request for the Summations from the Objectors and the Applicant:

Mr. Casey's Summation stated some concern about the traffic on Route 1 and area of Litho Drive. He expressed the need for mutuality with regard to Route 1 (southbound) and the elimination of lanes. He proceeded to address a sight distance issue, removal of a tree, and striping of aisles. He requested the Board to condition these concerns. With regard to the d-cell lanes, Mr. Casey would like the Board to make sure that they are conforming and safe. He requested that the sidewalk be extended. Also, he requested the Board to allow for a "win win" situation for public safety and an opportunity for others to sit at the table with NJDOT to address public safety.

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Mr. Slauch addressed Mr. Casey's request for the removal of tree and stated that the tree cannot be removed unless his client comes back to the Board with an Amended Site Plan.

Mr. Kochenour addressed Mr. Casey's request and suggested that, if application is approved, that part of the condition be included for Mr. Casey to present his client's concerns to NJDOT.

Mr. Moore read his Summation statement into the Transcript. He further stated that the property is not suitable for the proposed development and requested the Board to not approve the application. (See Transcript for Read Summation.)

Mrs. Price stated the applicant's willingness to address Mr. Casey's concerns and process with NJDOT. With regard to the tree, she stated that if NJDOT gives approval, the applicant will take care of the tree and defer to local jurisdiction.

Mrs. Price addressed Mr. Moore's Summation. She stated the applicant's rejection to Objector SBA Oil concerns regarding landscape, sign variances, D-1 and D-3 variances. With regard to traffic, she expressed that the applicant took a conservative approach and modified the approach as suggested by Mr. Kochenour. She stated that there were no public outcries against the proposed development. She proceeded to review and read her Summation. (See Summation – Attachment No. 2.)

Chair Kremer referred to Mr. Schmierer's Memorandum dated March 28, 2013, and the Board reviewed the "Potential Conditions of Approval". (See Attachment No. 3) Also, see Mrs. Price letter dated April 5, 2013, in response to "Potential Conditions of Approval". (See Attachment No. 4)

Mr. Kochenour reviewed conditions pertaining to the design details from Litho Road to Connector Road. He stated that the applicant agreed to work with the Township Professionals for the configuration of the roundabout for the center aisle. Also, the applicant agreed to provide a four foot sidewalk along the Connector Road.

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Following the review of all the "Potential Conditions" by the Board and Professionals, the applicant agreed to comply with all modifications to plans, standard comments and appropriate conditions, as modified. Also, the applicant agreed to work with the Township Professionals, as required. In addition, Mr. Slaugh requested applicant's compliance regarding freestanding signage and façade. The applicant agreed to work with the Township Professionals.

Prior to the Board's deliberation, Chair Kremer requested Mr. Slaugh to give a brief overview of the Coventry Square Standards. Mr. Slaugh explained intensity standards of a site, distribution of parking and count, appropriateness of variances and allowed uses meeting required conditions.

Mrs. Kraemer gave a brief overview of the Board Members eligible to vote. She stated that Ms. Saunders, Mr. Scangarella and Mr. Kmosko have certified their reading of all Transcripts of meetings not in attendance. All signed affidavits were filed with the Township.

Vice Chair Scangarella, Mr. Gladwell, Mr. Lavine, Mr. Kmosko, and Mr. Pangaldi read their detailed statements into the Transcript for the approval of the proposed application. Ms. Saunders read a lengthy statement of disapproval for the proposed application. Chair Kremer stated his findings and some benefits for the approval of the proposed application. Also, Chair Kremer stated earlier in the meeting that he did not read or review the recent actions taken by the Planning Board at their May 6, 2013, meeting with regard to the Reexamination Report and Amended Ordinance.

EXHIBITS:

- A-37 Re-Examination Report of Master Plan – Township of Lawrence
Dated 4/26/2013 Draft
- A-38 Planning Board Meeting Transcript – dated 5/6/2013
- A-39 Ordinance Amending Land use Ordinance
(Revised Sections 110 and 420)
- O-30 Materials Concept Approval to NJDOT
- O-31 Application & Material Access Permit to NJDOT

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WITNESSES PLACED UNDER OATH:

- P. David Zimmerman, Professional Planner (Objector)
- George Ritter, Professional Planner & Expert
- Charles D. Olivo, P.E., P.T.O.E.

PUBLIC COMMENT: None

The following action was taken by the Board:

Vice Chair Scangarella moved and Mr. Gladwell seconded to approve the application, including conditional uses, bulk variances, consolidation, variances and waivers, subject to all appropriate conditions, stated conditions, and the recommendations contained in the Township Professionals' reports.

Vote:

AYES: Gladwell, Kmosko, Lavine, Pangaldi, Scangarella, Kremer

NAYES: Saunders

ABSENT: None

INELIGIBLE TO VOTE: Maffei

6. Old Business/New Business/Correspondence: None

7. Adjournment

There being no further business to come before the Board, the meeting was adjourned at 11:28 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: August 21, 2013