

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

REGULAR MEETING

APRIL 1, 2009 7:30 P.M.

MINUTES

The regularly scheduled meeting of the Westampton Township Land Development Board was held at the Municipal Building on Rancocas Road on April 1, 2009 at 7:30 P.M. The meeting was called to order by Chairman Tim Ryan and the opening statement required by Sunshine Law was read. This meeting was advertised in the Burlington County Times on January 6, 2009 and posted in the Municipal Building. All guests were welcomed.

Everyone stood for the Pledge of Allegiance.

Roll Call: Present: Mr. Applegate, Ms. Bergen, Mr. Blair, Mr. Maybury, Ms. Sampson, Mr. Welsh, Chairman Ryan, Mr. DiOrio, Solicitor Fred Hardt, Engineer Dave Denton, Planner Harry McVey, Secretary Marion Karp
Absent: Mayor Camp, Mr. Carugno, Mr. Bell

The minutes of the January 7, 2009 meeting were approved as written.

Resolutions:

2-2009 Award of Contract for Professional Services – was memorialized

3-2009 The Dolan Group I, LLC & Concordia Group, LLC, Block 203, Lots 1.03, 2 & 3 (32 & 40 Springside Rd.) – preliminary and final major site plan approval continuance (office/warehouse) – was memorialized

New Business:

The Dolan Group I, LLC & Concordia Group, LLC, Block 203, Lots 1.03, 2 & 3. It shall be noted that First Alternate Tom DiOrio took the place of Tony Carugno who was not present. There would be seven voting members; any use variances would require five affirmative votes to pass. Mr. Maybury took his place in the audience since he would not be permitted to vote since he is a Committeeman.

Damien DeDuca, the applicant's attorney, was present to provide testimony on behalf of the application. He distributed a color layout of the industrial park to the Board. All of the exhibits and reports were marked into evidence by Board attorney Fred Hardt. Chairman Ryan commented that the hearing would adjourn at 11:00 PM, as the Board had agreed to do at their January meeting.

All witnesses were sworn in by Fred Hardt – Andrew Feranda, applicant's traffic engineer; William Stevens, applicant's engineer and planner and Mike Dolan, principal.

Board professionals Harry McVey and Dave Denton were also sworn in.

The Board took a short recess to allow for an attorney who represented the Diocese of Trenton to arrive. It was decided to continue the hearing after waiting for approximately five minutes, until 8:46 PM.

Mr. DeIDuca gave an overview of the preliminary site plan. The property in question is located in the OR-3 zone along Rancocas - Springside Road. The proposed building is 682,000 square feet in size. This has a long history and several applications have come before the Board. Several variances had been approved, a height variance had been denied. After this submission, another plan had been presented, in which the variances were all denied. In January 2008, another plan was brought back which received preliminary approval. This building was greatly reduced in size from that which was before the Board for consideration at this evening's meeting.

Variances requested are for percentage of office space (20% required, 1% proposed); floor area ratio (37.1% proposed, 20% permitted); loading in the front yard; maximum impervious coverage; non employee parking space width; and an 8 foot solid fence in the front yard.

There have been substantial extended discussions with residents and the Township as a whole in order to provide a plan with a better fit than the plan approved in January 2008. That plan required no variances with the exception of a buffer variance. There have been significant changes to the plan which would reduce the impact on the residents and the community as a whole. All yard requirements are exceeded by a large margin, according to Mr. DeIDuca.

Attorney Dave Roskos represents the Diocese of Trenton; the Francis House of Prayer lies directly across Springside Road from the proposed site. They are objecting to the creation of a warehouse in the OR-3 zone. Variances are required for the front yard loading and for the reduction in the amount of office space. Mr. Roskos believes that the principle of res judicata applies in this instance and that essentially this is the same application that had come before the Board previously. He thinks the Board must decide whether or not they will revisit this application, with variances that had previously been denied. He thinks that the application cannot proceed and wants the Board to take a vote on it.

It is up to the Board to decide if there have been substantial changes to the application, according to Mr. DeIDuca. He reviewed the changes in the application which include building setback to the north, which increased from 81 feet to 234 feet, approximately three times greater; 21 foot high berms with landscaping to be installed on the northern side; substantial landscaping and longer berms along Springside Road; the driveway has been shifted from its prior location along Springside Road; and no truck traffic to the north of the building is permitted. It is his opinion that these changes are substantial and that the principle of res judicata does not apply.

Mr. Roskos argued that the Board's decisions rested upon whether or not the variances met the burden of proof. He asked the Board to consider if the plan is in agreement with the Master Plan.

Fred Hardt agrees that this is a question to be resolved by the Board. He is not so sure that this has to occur before the Board can hear testimony.

Karen Sampson asked if they should be provided with copies of the Board's decision in 2007.

Mike Dolan gave a brief summary of his professional background. They have met with Township Committee members as well as neighbors for approximately the last year. The result is this new plan. He went over the parts of the plan that were subject to discussion, review and change. The property owners to the north will only see approximately one to two feet of the building due to the berm and retaining wall. The new driveway location was required by the County and has led to the elimination of truck traffic to the north of the building. Front yard loading is further away from the residents and better screened. The exterior of the building would not necessarily change if there were 20% office space as opposed to 1% office space. There is no proposed tenant for the building at this time. He showed the Board two different "by right" plans which detailed office buildings, one consisting of two buildings and the other with one large building, along with the associated parking spaces which would be required for an office use. They were using these diagrams for contrast with the plan presented, in order to show the benefits of the application which was before the Board.

Mr. Roskos asked Mr. Dolan if he had met with any representatives from the Diocese of Trenton; he had not. He asked if he could get a copy of the "by right" plans, Mike Dolan agrees to provide them. He asked if the changes to the plan involve the buffering of the residential properties to the north, Mike Dolan answered yes, but they weren't the only changes. He questioned if there would be more trucks on site as a result of the changes, Mike Dolan answered that there may be. Hours of operation would not be decreased. There are 70 loading docks along Springside Road proposed. He asked if a wall was proposed along Springside Road, there was not. He asked why, Mike Dolan explained that the noise from the road would be greater than that generated by the loading docks.

Gene Blair asked how many loading docks were approved in the original application; the number was equal or greater than the docks presented in the plan today. Gene Blair asked if this was the first time that there was legal representation for the Diocese, he answered that it was. He asked why they had never come forward since 2005 to be a part of the process in meeting the neighbor's concerns. Mike Dolan explained that he had purchased this land from the Diocese of Trenton; he did not know the Diocese had expressed an interest in the application until this evening. There were no deed restrictions placed upon this property. Ironically, the land on which the Catholic Charities building is constructed was donated to the Diocese by Mike Dolan. He stated that they were surprised by their position at this evening's meeting.

Andrew Feranda, traffic engineer, testified on behalf of the application. Trip counts were generated and data was gathered. A trip generation report was prepared for the intersections. 7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM are the peak times for traffic. Levels of service were determined for the intersection as well. As a result of this, the driveway was moved a quarter of a mile away from the intersection at Rancocas and Springside Roads. Vehicles on site will now be permitted to queue without blocking traffic within the site. This plan will generate less than five times the trips than the previously approved plan according to Mr. Feranda. Most of the parking is to the north of the building, there is a small parking area to the south.

Parking spaces are proposed to be nine and a half feet which is larger than the industry standard. There will not be much turnover in parking such as what might occur at a mall or convenience store. Truck traffic will be scheduled and metered so as to avoid overload. On site circulation and access to the site will work safely and efficiently according to Mr. Feranda's testimony. It is his opinion that this plan will work much better than the previously approved plan or the "by right" plan.

Mr. Roskos asked Mr. Feranda to break out the trips into car and truck trips; he wanted to know if the truck traffic would increase with the new plan under the peak hours as compared to the approved plan. Mr. Feranda stated that he could not state what the mix would be. The total number of trips would increase over the previously approved plan according to Mr. Feranda. He asked if there would be truck traffic all day long, Mr. Feranda answered that there would be. He asked if he had calculated over a 24 hour period, he had not done this. He asked how many trucks would be on site at any one time; there are 140 loading docks as well as trailer parking spaces. Trucks are permitted to make both left and right hand turns when exiting the site, but the county has ultimate jurisdiction over this and would have input over the configuration of the driveway.

Mr. Ryan asked if the applicants had done any studies for traffic for the "by right" plans. They answered that they had done some basic counts which had warranted adding a signal at the entrance, where as this plan did not warrant the additional of a signal.

William Stevens, applicant's engineer, gave testimony on behalf of the application. He reviewed the existing conditions as well as the site plan layout. He believes this driveway location to be superior to the prior plan's driveway location. Lighting will be building-mounted shoe box fixtures located twenty five feet up, which will be well below the line of sight. The drainage basin will collect all the storm water from the property and is in the southwest corner of the site. It will meet all State regulations currently required. Trash collection will be by a private hauler and is contained in the southeast corner of the site; this is a significant change from the prior application. All applicable noise standards will be met, according to Mr. Stevens. He believes they can meet all of the comments contained in the Board's professionals' letters.

Mr. Stevens reviewed each of the variances being requested, as he is a professional

planner as well as an engineer. He thinks this is a better plan than the one that has been approved as it advances many of the purposes of zoning. He went through the proofs for each variance.

This building is nearly twice as large as the plan which was previously approved. Mr. Roskos asked why that plan has the building located so close to the neighboring residential properties. Mr. Stevens stated that perhaps it was to maximize the use of the property. Mr. Roskos asked if Burlington County required the driveway to be relocated, Mr. Stevens stated that he thought this was so. He asked Mr. Stevens if he thought this plan would generate a tremendously increased amount of truck traffic than the previous plan, he answered not necessarily so, it would depend upon the user of the building. He asked if he prepared the alternative "by right" plans, Mr. Stevens answered that he did not, they were prepared by someone in Mr. Dolan's office. He asked him if he was familiar with the premise that the OR-3 zone is a transition zone, he stated that he was. He asked him to address this in terms of the Township's Master Plan. He asked if a smaller building would serve as a better transition in this zone than a building of this size, Mr. Stevens answered not necessarily.

Gene Blair asked if the changes were not all concessions put into the plan based on residential requests. Mr. Stevens stated that they were.

Mr. Roskos asked if he could have copies of the resolutions from the first application that was brought before the Board.

There was discussion regarding the difference of parking and of loading in the front yard.

Fred Hardt read from Cox regarding the res judicata principle.

Mr. Roskos asked if this plan intensifies the use of the property; Mr. Stevens answered yes.

Gene Blair asked Mr. Roskos if a solid fence placed on top of the berm along Springside Road would improve the visual impact. He is not concerned about the view from Springside Road; he has concerns with the view from his client's property. Gene would like to see this built into this application. A screening proposal could be worked out between them to achieve this.

Harry McVey commented that the Township ordinances are quirky at best in some locations, especially so in the OR zones. He thinks the plan has attempted to address the neighbors' concerns. He thinks the distinction regarding truck parking is an important one; the ordinance makes a distinction between unloading in the front yard and parking in the front yard. It is his opinion that the building that was approved is an inefficient building. The key in his opinion was moving the building off the residential zone, which was accomplished. He is comfortable with the application as presented; he thinks there are significant differences in this application. He is not overly concerned

with the size of the building.

At this point, the meeting was opened to the public for comment.

Sister Marcy Springer, Francis House of Prayer – is worried about noise and traffic on the street which will be a detriment to the House of Prayer. They were here at the meeting in 2005 but did not get to speak that night. She asks that it not happen at all, or if it does, that the amount of office space be increased. People come to the House of Prayer for peace and quiet for prayer, and the placement of the driveway is an awful thing for them, it will destroy their quiet.

Gene Blair asked why the Diocese sold the land to Dolan if they didn't want a warehouse there.

Chris Vanetti, Barrington – here on behalf of the Diocese. When they sold the land, they didn't realize they needed a deed restriction in order to limit a building of this size.

Dave Guerrero, 121 Sharpless Blvd – in February 2008 he approached the Committee and asked to start a dialogue with Mr. Dolan. Most communication has been through the Township Committee and not Mr. Dolan. There are some issues that they still have, such as wanting the berm height to be increased on the western side, fencing issues, etc. He would like the Board to keep everyone in mind and not just them when looking at the application.

Norm Miller, 118 Main St. – regarding the piece on the western side, it is not bermed as high as they would like to see. He would like the Township to take a piece of Ikea Drive and route the traffic out where it comes out now. He would like to see a driveway created that would use the same entrance. Fred Hardt commented that the Board does not have the ability to condemn land to accomplish this; it is a Township Committee function. There is time between preliminary and final approval to try and see if this could be done.

Jim Jacob, 113 Sharpless Blvd. – his number one concern is the same that Norm Miller just brought up; the increase in truck traffic due to the doubling of the size of the building. He would encourage the Board to see to it that the trucks enter and exit the property via Ikea Drive. He wondered why the proposed entrance was moved from the southeast corner to the northwest corner if previously the entrance was not a topic of concern. Why would it be moved if it had been found to be adequate before? He wants to see the existing tree line in the northeast corner remain and not be taken down. It would remain, as Mike Dolan testified. This was recommended to remain as per Harry McVey.

Janet Curran, 123 Main St. – Mike Dolan has gone out of his way to meet with the residents. She asked Fred Hardt if Ikea has denied access; they have been contacted before and have refused to provide access here. It is worth an inquiry. Truck traffic on Springside Rd is over whelming.

Neil Perozzi, 19 Azalea Way – he is the director of real estate and property for the Diocese. He thanked Gene Blair for his cooperation and help he has provided. His largest problem is the driveway, if it is resolved in some way, he is sure they could live with the project. It is singularly the driveway.

Gene Blair asked Mike Dolan if they could go back to the prior driveway plan. He stated that they are open to either location, as long as it works for everyone. They want to proceed with the application that is before the Board tonight.

Janet Coccozza, 132 Wagush Trail – is here representing Francis House of Prayer. One of the jewels in Burlington County is the Francis House of Prayer, there is nothing like it anywhere and we should preserve it.

The meeting was now closed to the public.

Mike Dolan – there are a lot of competing interests. He wishes that the Diocese had come to talk with them. This property is less than a mile from the interstate and is slated for this type of development.

Mr. Roskos – thinks the driveway location is key. They envisioned a much smaller building, everyone is entitled to use their land, but this is a warehouse on an OR - 3 zoned piece of property. He doesn't think it is a better plan, he thinks it is a way to get the variances granted. He thinks the road change was driven by the County. He asks the Board to wait on a vote to get a determination. He thinks the vote should be deferred for a month and the Township Committee should be consulted.

Gene Blair – we have a fire marshal's report; the applicant agrees to comply with the conditions in the report.

The applicants have reviewed the EAC report, they don't think the pervious paving which was recommended is a practical solution; they have no issues with the rest of the report.

Chairman Tim Ryan – this application has been before this body in various shape and form since 2005, but is different in shape and detail. He thinks the testimony given on this plan is substantially different from that give on other plans, to him; it makes it a new and different application.

The Board must determine if the plan is significantly different from that which was presented before, which is the res judicata principle. The Board must consider this first. Mr. Applegate made a motion that res judicata does not apply in this instance; the motion was seconded by Mr. Welsh. All Board members voted yes.

The next vote taken was for the use variances. Mr. Applegate made a motion to approve the use variance for exceeding the FAR; the motion was seconded by Mr. Blair.

All Board members voted yes, with the exception of Mr. DiOrio, who voted no. Mr. DiOrio then made a motion to deny the use variance for amount of office space; Mr. Applegate seconded the motion. After some discussion and confusion about voting, the Board decided to table this motion. Ms. Bergen made the motion and Mr. Welsh seconded. All Board members voted yes.

Ms. Bergen made a motion to approve the office space variance; Mr. Welsh seconded the motion. All Board members voted yes, with the exception of Mr. DiOrio, who abstained.

The last vote taken was for the preliminary site plan approval and associated bulk variances. Ms. Bergen made a motion to approve; Mr. Welsh seconded the motion. All Board members voted yes, with the exception of Ms. Sampson and Mr. DiOrio, who voted no.

The letter on the agenda from the EAC will be tabled until the next month due to the late hour.

The meeting was again opened to the public for comment. There was no comment from the public and the meeting was closed.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marion Karp, Secretary
Westampton Township Land Development Board