

A meeting of the Township of Hamilton Planning Board was held on the above date with Chairman Gordon Dahl presiding. Members present were Michael Biglin, Jack Carson, William Christman, Joseph Nickels, John Percy, Charles Pritchard and David Wigglesworth. Alternate members present were Joan Dumoff and Liz Parlett. Also present were Joseph Adamson, Landscape Architect Consultant; Anthony LaRosa, Alternate Engineer Consultant; Robert Watkins, representing James Mott, Planner Consultant; Philip Sartorio, Community Planning/Economic Development Director; Steve Mazur, representing Kevin Dixon, Alternate Traffic Engineer Consultant; and Ronald Curcio, representing Chris Rehmann, Engineer Consultant.

Compliance with the Open Public Meetings Law was acknowledged.

Approval of Minutes – Mr. Christman moved, seconded by Mr. Nickels, to approve the minutes of the meeting of February 21, 2008, as published. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Restored Israel of Yahweh – Mr. Biglin moved, seconded by Mr. Pritchard, to adopt the resolution prepared by the Solicitor for Application #SD 1-06, submitted by Restored Israel of Yahweh.

ROLL CALL OVTE ON THE ABOVE MOTION:

Mr. Biglin – Aye

Mr. Carson – Aye

Mr. Christman – Aye

Ms. Dumoff – Aye

Mr. Nickels - Aye

Mr. Percy - Aye

Mr. Pritchard - Aye

Mr. Wigglesworth – Aye

Mr. Dahl – Aye

SAID MOTION CARRIED.

Rocco Policarpo (Minor Subdivision Hearing) – Timothy McGuire, Attorney; David Bernard, L.S., and Rocco Policarpo were present.

Mr. McGuire informed those present that Rocco and Ludwena Policarpo had entered into an agreement with Atlantic Blueberry Company, the owner of the property immediately to the rear of Mr. and Mrs. Policarpo’s property, to purchase .38 acres of its property to eliminate an encroachment. Mr. McGuire stated that portions of Mr. Policarpo’s house, swimming pool and driveway, and a utility shed and septic system. were constructed on Atlantic Blueberry Company’s property, and the perfected subdivision would result in those structures being located entirely on Mr. and Mrs. Policarpo’s property.

Mr. McGuire advised that variances would be necessary to accommodate the subdivision, and he stated that the nonconforming conditions would either be improved or would stay the same.

Mr. Watkins reviewed his report, advising that the Applicant was requesting eight checklist waivers. He stated that the Applicant has indicated he would deed restrict his property from any further development, such as accessory structures, etc., if the Board would not require that the wetlands and/or wetlands buffer be delineated. Mr. Watkins stated he would not object to granting the waiver, provided the restriction is reviewed by the Board Solicitor and recorded.

Mr. LaRosa referred to his report, and noted certain waiver requests.

Mr. Nickels moved, seconded by Mr. Biglin, to deem complete for review Application #2008-001, submitted by Rocco and Ludwena Policarpo, with the requested waivers being granted, conditioned upon compliance with the recommendations contained within the reports of James Mott, dated March 4, 2008, and March 6, 2008, and Anthony LaRosa, dated February 25, 2008, and providing a restriction within the deed for Lot 26.02 in Block 591 prohibiting any further development of the parcel.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Biglin - Aye	Ms. Parlett – Not eligible to vote
Mr. Carson – Aye	Mr. Percy - Aye
Mr. Christman – Aye	Mr. Pritchard - Aye
Ms. Dumoff – Aye	Mr. Wigglesworth - Aye
Mr. Nickels – Aye	Mr. Dahl – Aye

SAID MOTION CARRIED.

Mr. Watkins advised as to what variances would be necessary and how the proposal would affect the existing nonconformities.

Mr. LaRosa noted that the existing development exceeds the amount of impervious coverage permitted, but additional impervious coverage is not being proposed.

Mr. Bernard described existing conditions and the encroaching structures, and stated that no further development is being proposed. He testified that the lot currently contains .43 acres and will contain .81 acres after the subdivision is perfected.

Mr. Bernard stated that there would be a restriction in the deed concerning the wetlands areas and the deed will, also, contain a restriction prohibiting further development of Lot 26.02 in response to the waiver being granted from the requirement to delineate wetlands and wetlands buffers.

Mr. Bernard addressed the nonconforming conditions and advised of those that would remain the same and those that would be improved as a result of the subdivision. It was Mr. Bernard's opinion that granting of the variances would increase light, air and open space and create more space for the Applicant's use, and the benefits derived would outweigh any substantial detriment to the public good

With regard to the encroachment involving Lot 26.01, the property to the west of the Applicant's property, Mr. Bernard stated that the Owner of that property has agreed to remove the portion of the structure that encroaches to eliminate the need for a variance and an easement.

Mr. Percy questioned when the Applicant's lot was originally created, and Mr. Policarpo stated that he believed it was created in 1953. Mr. Policarpo commented that there are lots to the east and west of his property that are undersized and contain dwellings, similar to his situation.

Mr. Dahl opened the hearing to public comment.

Marianne Acord, the owner of the property to the west of the Applicant's property that contains the encroaching structure, stated that she did not object to what Mr. Policarpo was proposing to do. Ms. Acord informed those present that she is Mr. Policarpo's sister-in-law.

Mr. Biglin moved, seconded by Mr. Pritchard, to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Nickels moved, seconded by Mr. Biglin, to grant minor subdivision approval to Rocco and Ludwena Policarpo, Block 591, Lots 22.02 and 26.02, Application No. 2008-001, with variances granted involving Lot 26.02, for impervious coverage, lot frontage, lot area, side yard setback for the principal structure, front yard setback for the principal structure, and rear yard setback for the principal structure, conditioned upon compliances with the recommendations contained within the reports of James Mott, dated March 4, 2008, and March 6, 2008, and Anthony LaRosa, dated February 25, 2008; providing a deed restriction within the deed for Lot 26.02, prohibiting additional development of accessory structures and items of an impervious nature; and removal of the portion of the structure encroaching upon the westerly property line of Lot 26.02.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Biglin – Aye
Mr. Carson – Aye
Mr. Christman – Aye
Ms. Dumoff – Aye
Mr. Nickels – Aye

Ms. Parlett – Not eligible to vote
Mr. Percy - Aye
Mr. Pritchard - Aye
Mr. Wigglesworth - Aye
Mr. Dahl – Aye

SAID MOTION CARRIED.

Wal-Mart Stores, Inc. (Preliminary Site Plan Hearing) – Stephen Nehmad, Attorney; Peter J. Dolcy, P.E., William McManus, L.S., P.P.; Cheri Thomas, Real Estate Manager for Wal-Mart; Ron Fogg of Wal-Mart; Perry Petrillo, Architect; and Deanna Drumm, Traffic Engineer, were present.

Mr. Nehmad presented a list of the exhibits.

Mr. Nehmad stated that Wal-Mart Stores, Inc., was seeking amended preliminary and final site plan approval to permit construction of three additions to an existing retail store, totaling 56,510 square feet, and would be making improvements that would result in the site appearing as if it were newly developed.

Mr. Nehmad informed those present that the original approval was granted to Wal-Mart in 1992 and 1993, and the existing store has been in operation for approximately fifteen years. He stated that the approved plan had shown that the site would be developed in phases, and pointed out that the present proposal is well within Phases 2 and 3 of that approval.

Mr. Nehmad advised of the improvements that would be undertaken to upgrade the site, and noted that variances were being requested.

Mr. Nehmad stated that the site is located within the Design Commercial Zone, and that the stated purpose of that zone is to accommodate the greatest variety of commercial development and to promote a high level of commercial activity. Mr. Nehmad commented that the improvements that will be made by Wal-Mart could inspire commercial development in the area to do likewise.

Ronald Gasiorowski asked for clarification of a procedural issue, and he informed those present that he was representing Constance Van Seeters of 85 Devon Rd. in Mays Landing. Mr. Gasiorowski stated that he filed an appeal with the Zoning Board of Adjustment, and it was his position that the Planning Board did not have jurisdiction to go forward with the application once that application had been filed with the Zoning Board

Mr. Rosenberger acknowledged that he had received a copy of the appeal to the Zoning Board, and it was his opinion that the Planning Board could proceed with the hearing. He referred to a section of the Township's Land Use Ordinance which set forth that the appeal would have to be made from a decision of the Administrative Officer, and noted that the appeal Mr. Gasiorowski had submitted was an appeal of a Planning Board's decision. Mr. Rosenberger stated that the Planning Board has its own rules and its own procedures, and acts in accordance with its own processes and discretion. He stated that he disagreed with Mr. Gasiorowski that the Board does not have jurisdiction because of the appeal to the Zoning Board, and advised that the Planning Board would be barred from proceeding only if it was the result of something filed with a Court. Mr. Rosenberger expressed the opinion that the Planning Board had not interpreted the Ordinance, and that it had just issued a judgment on the construction of the Ordinance with relation to what was included or not included within the EIS. Mr. Rosenberger commented that Mr. Gasiorowski had stated his position, which was on the record, and if his advice was improper during the completeness hearing or at this hearing, a Judge would tell him what he had said wrong.

Mr. Gasiorowski stated that his position was that the application was not a continuation of the application and that the prior variances or waivers that were granted must be approved again. He questioned the procedure for cross examination of the witnesses and whether there would be a certain time established for ending the meeting.

Mr. Rosenberger explained the process to entertain public comment, and Mr. Dahl advised as to how the public portion would be conducted. Mr. Dahl stated that the hearing would conclude at 11:00 PM and would be continued at the next meeting if a decision had not been rendered by 11:00 PM

Mr. Gasiorowski advised that he would be presenting two professional witnesses.

Mr. Rosenberger stated that Mr. Gasiorowski should submit copies of all reports if he plans to present reports and professional testimony, and that the reports should be provided to the Board, its consultants and to the Applicant in advance of the meeting.

Mr. Nehmad asked that a specified time prior to the hearing for submission of the reports be established, and a discussion ensued. Mr. Dahl established that the reports are to be presented on Monday of the week when the hearing is to be continued and Mr. Nehmad asked that the Applicant's copy be delivered directly to him. Mr. Gasiorowski stated he would comply if written reports are prepared. Mr. Dahl warned that he would not entertain a delay in proceeding if a request is made to continue the hearing at a later date because the reports couldn't be delivered on time.

Pointing to a plan of the project, Mr. Dolcy advised of the property location and the surrounding land uses. He compared that which was originally approved to be constructed in phases to that which was being proposed. Mr. Dolcy noted that the Applicant had been permitted to clear the entire property and install the storm water management system in anticipation of the full build-out.

Mr. Dolcy stated that the Applicant had constructed a sewerage pump station and dedicated it to the Hamilton Township Municipal Utilities Authority, and had, also, constructed marginal access roads which were designed to connect to the adjoining properties to reduce impact upon the adjacent roadway system.

Mr. Dolcy described the improvements that the Applicant would be making to the storm water management system. He requested that a waiver of six inches for the bottom of the basin be granted, as it would present a hardship if the Applicant was made to comply with the required three foot separation.

Mr. Dolcy described pedestrian circulation, and advised as to the location of existing and proposed sidewalk.

Mr. Dolcy stated that the parking lot would be resurfaced; the existing lighting standards would be removed and replaced at the same height previously approved so they would be consistent; and the Applicant would work with Mr. Adamson to upgrade the site landscaping.

Mr. Dolcy expressed the opinion that the proposed height of thirty-three feet for the lighting standards and their spacing would result in more efficient lighting and would be consistent with the lighting height at the adjacent Toys "R" Us site, resulting in a more aesthetically appealing, uniform treatment.

Mr. Dolcy noted that the project exceeds the amount of open space required; impervious coverage is less than that permitted by Ordinance; the setbacks meet or exceed ordinance requirements; and the parking would meet Ordinance requirements.

Mr. Dolcy stated he would provide a plan to demonstrate truck turning ability.

Pointing to a photograph of the existing building, Mr. Dolcy compared the existing signs to that which was being proposed, and advised that the total sign area and number of signs would be reduced, and the colors would compliment the building colors

With regard to the two free standing signs, monument signs being proposed, Mr. Dolcy pointed out that they would compliment the building architecture and would replace the existing pole signs.

Mr. Dolcy stated that a variance would be necessary for building length to exceed the maximum ordinance provision of one hundred feet, and he pointed out that it has been past practice of the Board to grant building length variances within the Design Commercial Zone because of the way the buildings are treated. Mr. Dolcy testified that the original approval granted to Wal-Mart would have permitted a building length of six hundred forty four feet upon final build-out, as opposed to the six hundred ten feet presently being proposed.

Mr. Dolcy described the parking lot layout as previously approval and the modification proposed, and stated that the Applicant was seeking to match the existing layout to promote safety. It was Mr. Dolcy's opinion that the intent of the Ordinance would be met as a result of the landscaping treatment that would be worked out with Mr. Adamson.

Mr. Dolcy agreed to eliminate certain parking spaces, as recommended by Mr. Curcio, and noted that the plan would still comply with the Ordinance requirement for number of parking spaces.

Mr. Dolcy addressed other comments within Mr. Curcio's report and agreed to comply with his recommendations.

Mr. Dolcy expressed the opinion that a lot width variance would not be required, stating that is an existing condition that was approved when a previous subdivision was approved that created the lots upon which Kentucky Fried Chicken and I-Hop are located.

Mr. Dolcy stated that the Applicant would address the comments contained within the report of the Township's Fire Official, dated February 26, 2008.

Board members asked questions to which responses were provided.

Mr. Biglin left the hearing at this point, but stated he would listen to the electronic recording so he would be able to participate in the decision on the application if the hearing is continued.

Mr. Gasiorowski requested that he be provided with copies of the exhibits, and Mr. Nehmad agreed to comply, provided he is reimbursed for the cost to produce them.

Pointing to various exhibits, Mr. Petrillo described how the building would be upgraded and how it would be treated to lessen the impact of the size.

Mr. Petrillo described the proposed signage and their locations. He expressed the opinion that the new signs would be more aesthetically pleasing, and more dignified in nature and function, than those that presently exist, and would not negatively affect adjacent properties.

Mr. Petrillo described the internal layout of the building, and stated there would be approximately 30,000 square feet of stock room within the new facility.

In response to a question of Mr. Percy, Mr. Petrillo stated there would be no moving or flashing parts to the signs, and they would be internally lit.

In response to a question of Mr. Percy as to whether the building materials would be purchased locally, Mr. Petrillo stated that most are available locally. Mr. Percy asked if all the materials would be made in the USA, and Mr. Petrillo said that most would.

Mr. Adamson questioned with the HVAC equipment could be seen from the Black Horse Pike. Mr. Petrillo stated that he believed it would not be visible, but he would make sure that it would be adequately screened from view.

Mr. McManus referred to, and read portions of, the Township's Master Plan, Re-examination Reports and Land Use Ordinance, and advised as to the purpose of the Design Commercial Zone. He expressed the opinion that the building length provision of the Ordinance is very restrictive, from a planning perspective, and that buildings need to be longer than one hundred feet in length to achieve the purposes of the DC Zone. Mr. McManus stated that his

research revealed that, in the past, building length variances had been granted ranging from one hundred sixty three feet to two thousand three hundred fifty feet.

With regard to the Applicant's proposed building additions, Mr. McManus stated that there would be sufficient light, air and open space; that the location of the facility is appropriate for the use; that the proposal encourages a desirable visual environment; that the proposal is good civic design; that the building is not oversized for the site; and that granting the building length variance to permit Wal-Mart's expansion would advance the purpose of the zoning ordinance and the benefits derived would substantially outweigh any detriment.

It was Mr. McManus' opinion that the proposed plan represents a better plan of development than existing conditions, and the requested variances could be granted without a substantial detriment to the public good and without substantially impairing the intent of the zoning ordinance.

Due to the lateness of the hour, it was decided to continue the hearing on another date.

Mr. Nickels moved, seconded by Ms. Dumoff, to continue the public hearing at the Board's meeting of March 20, 2008.

Mr. Rosenberger announced that the Applicant would not be required to publish formal notice of the continued hearing on March 20, 2008, and that the announcement would serve to inform the public that the hearing will be continued on that date.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Biglin – Not present	Ms. Parlett - Aye
Mr. Carson – Aye	Mr. Percy - Aye
Mr. Christman – Aye	Mr. Pritchard - Aye
Ms. Dumoff – Aye	Mr. Wigglesworth - Aye
Mr. Nickels - Aye	Mr. Dahl – Aye

SAID MOTION CARRIED.

Mr. Gasiorowski asked when he would receive the exhibits he had requested of the Applicant, and Mr. Nehmad agreed to provide them by the Monday before the rescheduled hearing date. A discussion ensued during which it was pointed out that reports produced by Mr. Gasiorowski's experts were to be presented by the Monday before the meeting. Mr. Gasiorowski stated he would pick up the exhibits by next Friday at Mr. Nehmad's office.

Adjournment – Mr. Carson moved, seconded by Ms. Dumoff, to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Respectfully submitted,

Nancy Rainbow,
Planning Board Administrator