

A meeting of the Township of Hamilton Planning Board was held on the above date with Vice-chairman David Wigglesworth presiding. Members present were William Christman, Wayne Choyce, Nelson Gaskill, John Kurtz and Charles Pritchard. Alternate member present was Henry Dorsey. Also present were Kevin Dixon, Engineer Consultant and Landscape Consultant; Charles Endicott, representing Vincent Polistina, Planner Consultant; Steve Mazur, Traffic Engineer Consultant; and John Rosenberger, Solicitor.

Compliance with the Open Public Meetings Law was acknowledged.

Approval of Minutes – Approval of the minutes of the meeting of May 21, 2009 was deferred, at the direction of Mr. Rosenberger, due to a technical problem involving the recording disc.

Cotton Mill Associates, LLC – Mr. Christman moved, seconded by Mr. Pritchard to adopt the resolution prepared by the Solicitor for Cotton Mill Associates, LLC, Block 730, Lots 5.02 and 6.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Christman – Aye
Mr. Choyce – Aye
Mr. Dorsey – Aye
Mr. Gaskill – Aye

Mr. Kurtz - Aye
Mr. Pritchard - Aye
Mr. Wigglesworth - Aye

SAID MOTION CARRIED.

Dorothea Von Suskil, Fernas Estates (Major Subdivision Hearing) – Stephen Nehmad, Attorney; Sean Delaney, P.E., P.P., and Dorothea Von Suskil were present.

Mr. Nehmad informed those present that Dorothea Von Suskil was proposing to reconfigure a fifteen acre site, consisting of four lots, to create five lots that conform to Ordinance requirements with the exception of lot frontage for three of the proposed lots. He pointed out that two existing lots do not meet the lot frontage requirement.

Mr. Nehmad expressed the opinion that the proposal had more of the characteristics of a minor subdivision than a major subdivision, as no new streets were being proposed; there were four lots existing; and the applicant was creating only one additional lot, but the reconfiguration and the number of lots resulted in the proposal being classified as a major subdivision.

Mr. Nehmad stated that four lots would be developed by family members and the fifth lot would be sold.

Mr. Nehmad advised that the four existing lots are presently served by an existing private right-of-way, and the Applicant was proposing to use that right-of-way to serve three of the proposed lots, with another private right-of-way being created to service the remaining two lots.

Mr. Nehmad pointed out that the proposed lots that have less than the required frontage would be serviced by one driveway onto Somers Point Road, and he explained the purpose of frontage requirements. He noted that two existing lots have less than the required frontage, and the three proposed lots with less than the required frontage are closer to conformance than the existing non-conforming lots.

Pointing to Exhibit A1, Mr. Delaney described existing conditions, the site location and the plan of re-subdivision. He stated that the existing driveway would be widened to twelve feet and reconstructed with a surface suitable for emergency vehicle access, with a clear space area of twenty feet, and the proposed twenty foot wide driveway easement would contain a twelve foot wide asphalt surface, with a clear space area of twenty feet. Mr. Delaney stated that both

driveways would be private and maintained pursuant to covenants and restrictions, and there would be no obligation upon the Municipality to maintain the driveways.

Mr. Delaney advised as to the number of lots that could be created pursuant to present Ordinance standards.

Mr. Delaney expressed the opinion that the proposal meets the purpose of the one hundred foot frontage requirement, as the five lots would be serviced by two points of access to Mays Landing/Somers Point Road that are appropriately spaced.

Mr. Delaney expressed the opinion that the proposed subdivision advances the purposes of the Municipal Land Use Law to promote appropriate population densities and a desirable visual environment, and that benefits derived by granting the lot frontage variances would substantially outweigh any detriment, as the Applicant would be creating lots that exceed the minimum lot area requirement, and that there would be less clearing of the site, as an existing driveway would be used to service three lots. He noted that seventy-five percent of the site would remain in its existing wooded state; that there is an existing irregular lot configuration; and that there are wetlands affecting the site.

Mr. Delaney referred to the waivers that were being requested, and it was his opinion that the proposal is more akin to a minor subdivision.

Mr. Delaney stated that the Applicant would like to construct a six square foot sign at each of the driveway entrances.

In response to a question of Mr. Wigglesworth, Mr. Delaney described how the driveways would be constructed and the turn-around to accommodate emergency vehicles as a result of consultation with fire officials.

Mr. Nehmad stated that the Applicant would accept as a condition of approval that, when an application for a building permit is submitted for development of the two lots serviced by the newly created easement, a K-turn to accommodate emergency vehicle access would be provided.

In response to questions of Mr. Choyce and Mr. Christman, Mr. Delaney described the access easements, and Mr. Nehmad stated that the covenants and restrictions would be submitted for review by the Board's Solicitor and Engineer.

Mr. Christman questioned whether the Applicant would be providing a school bus stop area, and Mr. Nehmad stated the Applicant would provide for it if the Board requires it.

Mr. Dixon reviewed his report, and made recommendations with regard to the driveways. He noted that there would be no requirement for landscaping, as the site is heavily vegetated, and the structures would be screened from the street.

Board members asked questions regarding the driveways, wetlands, recreation and open space and variance justification, to which responses were provided.

Mr. Endicott reviewed his report and stated that he supported the waivers requested by the Applicant.

Mr. Nehmad requested that waivers be granted from the checklist requirements for both preliminary and final applications.

Mr. Endicott noted that the Applicant is not subject to present storm water rules, but at some point they may need to manage storm water. Mr. Dixon concurred, and suggested that the resolution contain a provision for the Applicant to abide by the current rules as the lots are developed.

Mr. Endicott referred to the waiver from the requirement for an on site fire protection system, and he noted that the Applicant has agreed to comply with the recommendations of the Fire Official.

Mr. Wigglesworth opened the hearing to public comment and there was no response.

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

Mr. Kurtz moved, seconded by Mr. Dorsey, to grant preliminary and final major subdivision approval to Dorothea Von Suskil, Block 1121, Lots 2, 3.01, 3.02, 3.03, Application #2009-003, with variances granted for proposed Lots 2, 2.01, 3.01, and waivers granted as listed in the Board’s consultants reports, conditioned upon providing a driveway surface, width and turn-around for each of the proposed driveways to the satisfaction of the Township’s Fire Official and the Board’s Engineer; providing covenants and restrictions involving the driveway easements for review and approval by the Board’s Solicitor and Engineer; providing a school bus stop pursuant to Ordinance requirements; compliance with current storm water management regulations when the lots are developed; and compliance with the recommendations contained within the reports of Vincent Polistina, dated May 28, 2009, and Kevin Dixon, dated May 27, 2009.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Christman – Aye

Mr. Choyce – Aye. He commented that he thought the Applicant had addressed the positive and negative criteria to justify the granting of the variances; that five building lots, with only two points of access, would make the overall situation better; and that the wetlands constraints further support the granting of the waivers and variances.

Mr. Dorsey – Aye. He stated that he agreed with Mr. Choyce’s comments.

Mr. Gaskill – Aye

Mr. Kurtz – Aye

Mr. Pritchard – Aye

Mr. Wigglesworth - Aye

SAID MOTION CARRIED.

Mr. Nehmad stated that, since the second, newly created driveway would be deferred to a later date, he requested that it not be included in the performance guarantee.

Magic Sports and Health Complex, LLC (Continued Public Hearing) – Christopher Baylinson, Attorney; David Horner, Traffic Engineer; Randolph Scheule, P.P.; Jack Zoller and Ronald Nametko were present.

Bruce Strigh mentioned the technical difficulty with the audio recording of the continued hearing on May 21, 2009, and referred to his position regarding whether the bunkhouse use would be a permitted use. He expressed the opinion that a bunkhouse is different from a dormitory; questioned when the Board would be discussing the issue; and asked whether an application would have to be submitted to the Zoning Board. Mr. Strigh, also, referred to other issues that had been previously discussed.

Mr. Rosenberger stated that the Board would reach a conclusion with regard to the bunkhouse use at the time it deliberates, and he suggested that Mr. Strigh develop his argument, if he believes there is a distinction, and submit it to the Board for consideration, with a copy submitted to Mr. Baylinson

In response to certain comments of Mr. Strigh, Mr. Rosenberger advised that the fiscal analysis and market studies that an applicant is required to submit as part of an application are irrelevant under the Municipal Land Use Land, and are intended to be used by the municipality for its future planning...

Mr. Baylinson referred to previous testimony regarding traffic at various intersections, and he requested that the discussion be directed to what’s relevant, and that it be kept in mind that all the Applicant is required to provide is a pro rata share contribution toward off tract improvements. He emphasized that the Applicant has already committed to paying its fair share contribution.

Mr. Strigh read an Ordinance provision that contained a prerequisite condition that must be met for Planned Recreation and Entertainment Complexes, and he questioned whether that provision was being met, as the Applicant had testified that certain activities would be conducted in Millville.

Mr. Rosenberger advised that the tract that was being developed was located entirely within the Business Park, even though related activities may be somewhere else.

Mr. Baylinson stated that the Millville Project was not part of the application to the Board.

Jan Smith, 462 Clarkstown Road, Mays Landing, New Jersey, stated that she reviewed three documents: Alexander Litwornia memorandum, dated June 23, 2008; Traffic Impact Statement, dated February 3, 2009; Magic Sports and Health Complex Report, dated as revised, December 17, 2008.

Ms. Smith referred to the previous presentation of Harry Bilicki and Adam Greco, Mr. Litwornia's report and Mr. Mazur's review report, and asked questions related to traffic.

Ms. Smith asked questions of Mr. Nametko related to transportation of players, use of fields, use related to Millville site, how games are conducted, tournament schedule, effect of weather conditions, stadium use, anticipated days and time visitors would arrive and depart, to which Mr. Nametko responded.

Ms. Smith asked questions of Mr. Horner with regard to what was considered when the traffic report was prepared, anticipated primary site access, service levels and other traffic-related matters. Mr. Horner responded.

Mr. Mazur responded to some questions of Ms. Smith related to the fair share contribution toward off tract improvements and other traffic-related issues. He commented that the Board could not collect a fair share contribution toward the improvement of County intersections, as it has no jurisdiction over what the County does., and that the State has jurisdiction over improvements to its roadways.

Ms. Smith attempted to ask questions related to reports prepared in 2008, and questioned why certain things were not included in 2009 reports. Mr. Rosenberger pointed out that there may be some confusion, as certain reports were prepared by the Board's previous traffic consultant, Alexander Litwornia, one dated January 23, 2008, that set forth comments related to his review of the original Magic Sports' submission, and a study he prepared at the direction of the Planning Board to assess certain intersections impacted by full development of the Hamilton Business Park. Mr. Rosenberger pointed out that Mr. Litwornia was not present to answer Ms. Smith's questions.

Ms. Smith continued to ask questions, make suggestions, offer comments and expressed opinions with regard to the fair share contribution and traffic related issues.

In response to Ms. Smith's suggestion to include assessment of other intersections, Mr. Rosenberger stated that the Board could ask for additional information and ask its professionals to review the information if it so chooses.

In response to Ms. Smith's question as to whether it could be guaranteed that improvements would be in place prior to completion of construction of the project, Mr. Rosenberger stated that neither the Board, nor the Applicant, could make that commitment, and that the Board could only require the Applicant to contribute a pro rata share contribution to offset the cost of off tract improvements that it determines to be necessary due to the project.

In response to Ms. Smith's question as to whether the fair share contribution would be paid as the time each phase is developed, Mr. Mazur advised that it would be paid up front.

Ms. Smith encouraged the Board to consider the project's impact on all of the roadways throughout the Township.

Ms. Smith's power point presentation was marked as Smith Exhibit 1, and the video presentation was marked as Smith Exhibit 2.

Mr. Baylinson requested that he be presented with copies of the discs of all Mr. Bilicki's, Mr. Greco's and Ms. Smith's presentations.

Ms. Smith displayed the video she had taken on Memorial Day of traffic on Mays Landing Somers Point Road and River Road, which depicted the conditions she observed. Mr. Rosenberger asked if she could excise the interviews she had conducted, and Ms. Smith responded that she could not. Mr. Rosenberger directed the Board to disregard the interviews and comments of the individuals in the video, as they were not under oath. He advised that the Board could consider Ms. Smith's personal description of what she saw.

Mr. Baylinson requested that the record reflect his objection to the video.

Mr. Strigh asked if the security expert was present, and Mr. Baylinson responded that he is currently out of the County and would be available at a future meeting.

Harvey Kesselman referred to the "Market Study & Demographic/Social Analysis for Hamilton Township", original date of April, 2008, latest revision date of March, 2009, and the Ordinance section that required its submission. Mr. Kesselman offered comments related to the document, and expressed the opinion that it was flawed and inconsistent with the some of the testimony presented.

Mr. Kesselman, also, commented with regard to the Fiscal Impact Analysis submitted by the Applicant, and he encouraged the Board not to grant the requested waivers and variances.

A copy of Mr. Kesselman's power point presentation was marked as Kesselman Exhibit 1.

Mr. Wigglesworth announced that the hearing would be continued on July 2, 2009, with no further notice required.

Mr. Baylinson asked which of the Applicant's consultants would need to be present on that date, and Mr. Strigh stated he would let him know tomorrow. Mr. Rosenberger advised that all consultants would need to be present unless an agreement is reached between Mr. Strigh and Mr. Baylinson.

Public Comment – Mr. Wigglesworth opened the meeting to public comment and there was no response.

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

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

Respectfully submitted,

Nancy Rainbow,
Planning Board Administrator