

Township of Hamilton
October 26, 2009

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Robert J. Campbell, Sr., presiding. Members present were Charles Cain, Wayne Choyce, Eduardo Freire, Kathi Lentz, Werner Raff, & Frank Tomasello. Alternates present were Elaine Valentino & David Grassi. Also present was Robert Watkins of Mott Associates; Zoning Board Planner, Charles Endicott of Polistina Associates, Zoning Board Engineer; Robert Cooper, Zoning Board Solicitor; & Steven Maimon, Zoning Officer.

The Statement of Compliance was read.

Approval of Minutes – Mr. Cain moved, seconded by Mr. Choyce, to approve the minutes of the September 28, 2009 Zoning Board of Adjustment minutes. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Memorialization of Resolutions – Resolutions prepared by the Solicitor for the following applications were accepted by those Members voting: “AYE”, NO “NAY”, NO “ABSTAIN”:

Amy L. Gatto – Block 939, Lot 4; App.#17-09
Dorothy L. Davis – Block 996, Lot 3; App.#12-09
Kewy & Pedro Santana – Block 854.03, Lot 12; App.#14-09
Cleofe Cruz – Block 854.03, Lot 13; App.# 15-09

Hope Animal Sanctuary, LLC - Continued from August 24, 2009 Zoning Board meeting. Mr. Cooper stated that attorney, Jack Plackter, is present this evening and is representing a number of residents and veterinarians in opposition to the application. Mr. Cooper recommended that the Board hear from Mr. Plackter before public comment is opened. Mr. Plackter stated he would not mind if the public is heard first since there are about 40 to 50 people who have yet to speak. Mr. Cooper noted that even the people who Mr. Plackter represents still have a right to speak, as well.

Attorney for the applicant, Stephen Nehmad, commented that he would like to address the Board regarding something that was brought to his attention. He stated that a meeting took place recently at the Laureldale Fire House and Board Member, Charles Cain, attended that meeting. He stated that if that is true, He hereby would like Mr. Cain to be disqualified from participating in this application. He stated that this request is not to discredit Mr. Cain, however, this is done to protect the integrity of this Board. He stated Mr. Cain is a candidate for public office which I commend him for, however, Mr. Cain attending that meeting was improper. He noted there is case law on this and it is our position that the this meeting was to discuss this application, and that Board Member must be disqualified to ensure fairness and the integrity of the process so that my client can be assured that there is a level playing field.

Mr. Nehmad moved that Mr. Cain be disqualified. Mr. Cain stated that he was asked by his running mate to attend the meeting. He stated he introduced himself at the meeting and spoke about the zoning process and he did nothing wrong. He stated he will not remove himself from this application. Mr. Nehmad stated that if there is any hint of impropriety, a Board Member should step down, noting he is absolutely sure that this is the correct thing to do. Mr. Cain stated that he will not voluntarily step down. Mr. Cooper commented that if he did participate in the meeting, then he must be disqualified. Mr. Cain stated he has made it perfectly clear that he did not make any reference to the application at the meeting in his speech, and following his speech, exited the meeting.

Mr. Cooper commented that clearly there is a potential of impropriety, but based upon Mr. Cain's representation, I would leave it to the Zoning Board members. Mr. Cain stated that he was invited to the meeting as a candidate – as a meet and greet. He stated he spoke to no one before, during, or after the meeting about this application or any other application. Mr. Nehmad stated he wished to swear Mr. Cain in and ask some questions of him. Mr. Cain stated he objected. Mr. Nehmad asked Mr. Cain if he attended the meeting in question on Tuesday, October 20th, 2009, and Mr. Cain replied, yes, I attended the meeting. Mr. Nehmad asked if he knew the subject of that meeting was about this application, and Mr. Cain replied, yes, noting he spoke to a group of voters and then left. Mr. Cain commented that he stayed at the meeting about 15 minutes and did not state what his position was on this application.

Discussion resumed whether Mr. Plackter should move forward or if the public should speak first. Mr. Cain commented that he feels the process has already started and we should have the public speak. Mr. Tomasello commented that it makes no difference to him, however, feels Mr. Plackter should go first with his people. Mr. Choyce commented he would be in favor with the public speaking so that portion can be concluded. Mr. Raff commented that he would prefer to hear from Mr. Plackter and his clients first. Ms. Lentz commented that she would like to have Mr. Plackter speak first. Ms. Valentino commented that she feels Mr. Plackter should go first. Mr. Grassi commented that he feels that the public should be heard first.

More discussion ensued. Mr. Campbell stated that based on comment by the Board's attorney, we will have Mr. Plackter go first.

Mr. Plackter testified that this application is improperly before this Board. He stated the public notice failed to disclose that there was a motel; failed to disclose a retail store, and also that it would be doing surgical procedures, etc. He stated their notice was improper, and this is an inappropriate use in a residential area such as Laureldale. He stated this use is foreign to the zone and is inconsistent with this zone which is FA-70 and RD-5. He noted it is an environmentally sensitive zone and this use would change the character of this neighborhood.

Mr. Plackter questioned if this application should be before this Board. Mr. Cooper stated that he did review Mr. Plackter's letter of objection, however, he does feel that this Board does have jurisdiction to hear this application. Mr. Cooper stated that a number uses are accessory uses with the principal use. He noted the size of the site does not create an issue and this Board should hear this application.

Mr. Plackter stated that there are many problems with this application, and if this Board has jurisdiction, we are sure that this use is not inherently beneficial. He stated there is no case law that an application of this type is inherently beneficial and there is also no evidence that there is a need for this type of facility in the Laureldale section of the town. He stated it is not an appropriate location and the two roads are not suitable for this use, noting they would have to widen the streets which may involve taking some of the people's property. He stated there is no public water or sewer and also abandoned animals would be a problem for the residents.

Mr. Plackter called upon Mr. Jay Adamson, professional planner, to testify. Mr. Adamson stated that he is here as a professional planner this evening for the opposition. He stated he has visited the site, examined the files, and listened to two meetings of tapes. He stated he has received the plans submitted by the applicant. Mr. Adamson expressed his concern that no E.I.S. requirement had been done and it did not appear to be waived. He noted there are two different types of wetlands here and the E.I.S. is critical to this residential area. Mr. Adamson referred to a map (Exh. N-1) which depicted an aerial of the general area of Laureldale.

Mr. Adamson stated that both Holly Street and Columbia Road would be the roads used to access the Hope site. He discussed the multiple uses proposed on the lot, noting there appears to be uses that are not consistent with the principal use, including a commercial retail use. He presented Exh. N-4 which depicts zone designation, noting that Laureldale consists of a rural area with mostly single family homes. He noted the FA-70 zone is even more sensitive than the RD zones. He presented Exh. N-5 – Master Plan Reexamination. He discussed the rural nature of the Laureldale area. He presented Exh. N-2 - photos of Holly Street depicting the condition of the road, noting this road would be the primary access road to the Hope facility. He noted the photos depicted mail boxes, telephone poles & vegetation on the roadside. He presented Exh. N-3 & N-7 – more photos of Holly Street. Mr. Adamson spoke of the traffic and Mr. Nehmad objected that this is improper. Mr. Nehmad commented that Mr. Adamson is not a traffic expert and not qualified to address this. Mr. Choyce and Mr. Raff agreed along with several other Board Members that Mr. Adamson is not an expert in traffic engineering, and they noted that the Master Plan was adopted by the Township Planning Board.

Mr. Adamson presented Exh. N-8 which depicted Columbia Road, and noted some streets are only 22' wide. He presented Exh. N-9 – depicting other streets, noting they are very wooded, heavily vegetated areas. Mr. Adamson questioned if any other sites were considered for this type of facility, noting there may be another area zoned commercial which may be more suitable for this use.

Ms. Valentino asked Mr. Adamson if there were any other uses other than residential that he observed, and he replied, no. Ms. Valentino commented that there is South Jersey Transportation and Lumberton Lumber Company in that area. Mr. Cain asked if there is city water at this site, and Mr. Adamson replied, no, there is no sewer or water. Mr. Cain asked if schools generally locate on a site without public sewer or water, and Mr. Adamson replied, I do not believe so. Mr. Adamson testified there would be an impact in this area because of the sensitive area of these zones, noting the character of the community would change. He stated there would be more cars, more traffic, and more people. Mr. Nehmad objected, noting that these are traffic issues, and Mr. Adamson is not qualified.

Mr. Plackter asked Mr. Adamson if he believes this use is inherently beneficial, and he replied, no, I believe the need is already being addressed by the County. Mr. Adamson stated that he feels the current need for spaying and neutering is already being met in this community. He stated he feels an area like the Atlantic City Race Track would be suitable for this type of use because it has sewer and water and is accessible to roadways which would support it, etc. He stated the Hamilton Township Business Park would be more suitable, as well.

Mr. Plackter asked Mr. Adamson about the proposed 16-unit motel. Mr. Adamson testified it is out of character for this use. He stated the veterinary hospital or the animal shelter is not needed and will change the character of the community. Mr. Nehmad commented that the overnight facility is only for volunteers for a night or two – they are not residences. Ms. Lyons commented that they are like dorm rooms, not houses. Mr. Adamson commented that this type of use is not consistent with the rural character of this neighborhood. Mr. Raff commented that much of this site is already cleared, noting a massive area is cleared with seven existing buildings. Mr. Freire commented that the existing seven buildings are not in good condition and the applicant is proposing to restore them. He questioned how that is going to change the character of the neighborhood, noting it is already cleared and the buildings are there. Mr. Freire stated that at some point there was a significant use of that site – with maybe as many as 100 horses on the site.

Mr. Adamson stated that this is not an inherently beneficial use, noting there is no public sewer or water; there are safety issues with animals in the neighborhood; there will be increased traffic; noise; odors; animal waste; run-off; stormwater; as well as no public transportation out there. He questioned how low income people will get there.

He stated the use is inappropriate because of the zones and the character of the neighborhood will be changed forever. He stated this use cannot be granted without detrimental impact to the public good and to the Plan/Zone of the Township Ordinance.

Mr. Campbell, Sr. opened the hearing to public comment. George Barnett of Post Road was present and questioned if there are roads wide enough for this use. Mr. Charles Endicott, Zoning Board Traffic Consultant, commented that the width of Holly Street & Columbia Road is insufficient. Mr. Barnett stated he is opposed to this application because there are other places that it could go, and does not feel they have demonstrated the need for it and addressed the cost to the Township.

Terry McCalmont of Rosenhayn, Cumberland County, was present and commented in favor of the application. He stated he is a Board Member of the Department of Agriculture & Equine of Cumberland County and is here this evening for Hope Animal and they are doing for horses. He stated the proposed care of 30 to 36 horses can be adequate. He noted the Cumberland Department of Agriculture & Equine support this application, as well as myself.

Paul Kuras of Columbia Road was present and commented that he is opposed to this proposal. He questioned if there are other phases following 1 & 2. Ms. Lyons stated no, that will be it. Mr. Kuras stated his major concern is the traffic and zoning, noting these roads are not prepared for this use and expressed concern about accidents. He stated another concern is that it would be tax exempt and who will pay for the services needed.

Dr. Mark Newkirk of Gravelly Run Road was present and expressed his opposition to the application. He stated he is a veterinarian with the Ocean City Humane Society and is for an animal shelter, however, Hope's numbers as testified to by Ms. Lyons do not add up. He also questioned the retail sales use. Ms. Lyons commented that the proposed small retail area of about 500 square feet would be to provide sample of food, bows, leashes, etc. for animals adopted – not for people to just come and shop. Dr. Newkirk also expressed his concern how this facility would benefit the Township, noting \$30,000 off the tax rolls, and also if there is a need for it.

Mr. Cain asked Mr. Nehmad to explain the retail portion of the site. Mr. Nehmad explained the proposed 500 square foot area would be for supplies for the adoptions, just as Ms. Lyons stated, noting it is accessory to the use.

Ms. Juliann Henry of Farragut Avenue was present and expressed her opposition to the application because of the way it has been presented. She commented she feels the plans are grandiose and they keep changing. She noted that most of the support for it comes from outside our community and there is no trust.

Ms. Cathy Gonzalez of Galloway Township was present and commented in favor of the application. She testified she is a rescuer and has tried to get local veterinarians to lower than prices, however, most do not. She stated she feels Hope Animal is coming in with the right idea, noting a lot of animals are unnecessarily euthanized. She stated there is a great need and there are a lot of people who have low income and they cannot afford to spay/neuter their animals.

Ms. Jean Evans of Egg Harbor Township was present and commented in favor of the application. She testified she is a cat rescue person and explained the need for the facility and also to aid low income families who cannot afford to care for their animals. She stated she did a price comparison and Hope was cheaper for low income, but not for regular income. She stated, however, we would still use other veterinarians.

Ms. Peggy Thompson of Egg Harbor Township was present and commented in favor of the application. She testified she is and has been a rescuer for 13 years. She stated she has rescued over 200 pets and feels there is a real need for this type of facility, especially for low income services. She stated what the vets are saying that we do not need Hope's services is just not true. She commented that we still need our vets, however, we desperately need another venue.

Mr. Tim Lewis of Holly Street was present and commented that he was at first in favor of this application, however, now that has changed. He stated he questions if we really need this center, noting that local vets do offer low cost services. He stated he is very concerned about the traffic and feel this facility will negatively impact our neighborhood. He commented that it will bring a lot more strangers coming into our community, as well as strangers who will be working at the facility. He questions if there will be volunteer checks. He stated he is also concerned about the impact it will have on his property value and will there be a need for more police and animal control services. He noted he is also concerned about the water supply, noting they have wells in this area, and concerned about people leaving their animals in our area.

Mr. Cain asked how Hope will do checks on volunteers and workers. Ms. Lyons stated there would be criminal background checks and there will be interviews with volunteers, as well. Mr. Cain also questioned what assurance the residents will have when people stay overnight at these cottage facilities.

Mr. Campbell announced that due to the lateness of the hour, and with many more members of the public yet to speak, public comment will remain open and this application will be continued at the Zoning Board of Adjustment meeting to be held on Wednesday, December 16, 2009, at 6:30 P.M.

Adjournment - Mr. Raff moved, seconded by Mr. Cain, to adjourn the Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Respectfully submitted,

Jeanne C. deVecchis, Secretary
Zoning Board of Adjustment