

A meeting of the Township of Hamilton Planning Board was held on the above date with Chairman David Wigglesworth presiding.

Compliance with the Open Public Meetings Law was acknowledged.

Members Present: Charles Cain, Richard Cheek, Wayne Choyce, Harry Rogers, Allan Womelsdorf and Alternate Members John Percy and David Adams.

The following Board Professionals were in attendance: John Rosenberger, Solicitor; Jennifer Heller-Care of Polistina Associates, Board Planner.

Approval of Minutes – Mr. Cain moved, seconded by Mr. Choyce, to approve the minutes of the meeting of June 4, 2015 as published. SAID MOTION CARRIED WITH ALL ELIGIBLE MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”

Application #PB2015-03 – Bob’s Discount Furniture, LLC; Signage variances
Block 1135.01 Lot 10.02

Board Member Cheek recused himself as sub-contractor on project and stepped off the dais.

Stephen Nehmad of Nehmad, Perillo and Davis representing the applicant, stated the purpose of this application is a minor site plan amendment to the original site plan for the Hamilton Mall as it pertains to signage variances.

Mr. Nehmad introduced Ms. Tiffany CuvIELLO, Planner and Mr. Andrew Tate, Construction Manager as witnesses for Bob’s Discount Furniture followed by the swearing in of the witnesses by Mr. John Rosenberger, Solicitor for the Planning Board. At this time Mrs. Heller-Care of Polistina Associates, Board Planner was sworn in as well.

Mr. Nehmad gave a summary of the history of the building that is going to house Bob’s Discount Furniture, giving its location, history of building, amount of space to be utilized and the purpose of the request for variances in size of signs. Previously a number of tenants have been located within the building and it has been a problem site for Kravco because of the visibility from the Black Horse Pike and proper signage to let people know they are there. The proposed signs are very much in keeping with the size of the building and not very far off from what is permitted.

Mr. Andrew Tate, Bob’s Discount Furniture Construction Manager, sees over new stores from start of construction to open. Mr. Nehmad presented questions regarding pertinent details to Mr. Tate, for which he answered and further explained the application as presented. This will be Bob’s Discount Furniture’s 62nd store, 10th in New Jersey and are privately owned. They presently have a contingent lease agreement for 39,400 square feet of space at this location. During construction they have +/-100 people and once operating there should be +/-25 employees. They are planning on opening Columbus Day weekend. Exhibits were presented to show sign placements. Mr. Tate continued to explain the reasoning of sign variance request, the placement of signs and illumination factors, and answered questions presented to him by the Board members, which pertained to illumination, placement, color, size, etc. They have invested just under 3 million dollars is being invested in this site. The placement of signs are relevant to the entry, pickup area, etc. The illumination is provided by LED lights and are low glow and will operate one hour before and one hour after store open/close. The store hours are Monday through Saturday from 10 AM to 10 PM; Sunday from 11 AM to 7 PM.

Mr. Nehmad called upon Ms. Tiffany CuvIELLO, Licensed Planner in New Jersey and Planner for applicant, for testimony. Ms. CuvIELLO presented the extent of variance and reviewed the subject property and surrounding area. She pointed out the challenge for the project’s visibility from the Black Horse Pike and Leipzig Avenue and why adjustments need to be made to façade. The total square footage for the signs is 351 feet, ordinance permits 300; the proposed signs are a main building sign of 225 square feet where 200 square feet is permitted; 3 informational building mounted signs of total of 88 square feet with 1 sign which will be mounted more than the 12 feet height which is above grade. Signs will identify where access is to the locations within the building and aid the public in safely traversing the site for pickup, etc.

Ms. CuvIELlo further commented that it is her opinion that the benefit of the variances being sought outweighs the detriment and that there is no substantial impairment to the ordinance.

Mr. Rogers questioned the lighting on Leipzig Avenue side and if it will be burdensome to the residents of Woodlands as the drawing does not show any external lighting and further stated that one of the purposes of the ordinance is to cut down on extraneously lighting and light pollution. Mr. Nehmad said that there is a standard for foot-candles that will be followed; Mr. Tate felt that they would not, lighting is for safety purposes and that they will meet the standards as set by code.

Mr. Choyce inquired about signage footage and Ms. CuvIELlo explained the dimensions. Mr. Choyce pointed out that the square footage is 351 13 square foot, not and that the correct footage of 313 sq. ft. should be reflected in the variance approval.

Mr. Adams asked about light timing and it was addressed that they will be on timers and shut on/off automatically.

Mr. Percy asked if any moving or flashing lighting is involved. Mr. Tate responded with a no. Mr. Percy questioned intensity of color of the signage and that he felt that earth tones are required. Mr. Nehmad pointed out that sign color is not specific in the ordinance and that it is the company's corporate. Mr. Tate responded that the corporate building exterior colors are earth tones, and that the sign and colors are the corporate logo.

Mr. Rogers inquired if there will be any further signage at roadway on Route 322, and is the signage at that present free standing sign included in this proposal. No this particular site does not have any free standing sign, only the building mounted signs.

Ms. Heller-Care of Polistina Associates reviewed Mr. Polistina's report of July 28, 2015 and stated that there does not appear to be any negative effects to granting this relief through variances requested.

Mr. Choyce asked Ms. Heller-Care if she has any comments about the justification the applicant's planner gave. Her response was that they agree with what was presented and that they are not seeking anything that is greater than what is throughout the township.

Chairman Wigglesworth opened to the public for comment. There being no response, Public portion was motioned and seconded to close. All members voting aye.

Mr. Rosenberger stated the variances heard tonight were from the schedule of application filed by Mr. Nehmad amending site plan approval applicants seeks the following relief

1) 5 building mounted signs; 2 on Black Horse Pike frontage and 3 Leipzig Avenue side versus 1 sign per parallel street frontage as permitted

- 2) Total signage area of identification signs of 351 vs. 300 sq. ft. as permitted
 - Primary building mounted identification sign of 225 sq. ft. where 200 sq. ft. is permitted
 - 3 building mounted information signs of 88 sq. ft., gross vs. permitted 65 sq. ft. gross
 - 1 information sign of more than 12 feet above grade
 - 2 building mounted signs perpendicular to Leipzig Avenue where 1 is permitted
 - 3 building mounted signs perpendicular to Black Horse Pike where 1 is permit

These variances relate to the 5 signs presented to the Board this evening. Motion to grant site plan approval with the variances is appropriate to present to the Board for vote.

Mr. Cain asked if granting this approval would it be changing the sign regulations be in effect for other building, to which Mr. Rosenberger responded that no it would not, this variance is just for this applicant.

Motion was made by Mr. Cain, seconded by Mr. Rogers to grant signage variance relief to Bob's Discount Furniture as requested.

ROLL CALL VOTE ON THE ABOVE MOTION:

Mr. Cain – Aye – because of the uniqueness of the location it justifies the variances as requested

Mr. Choyce – Aye – agree with the applicant's planner that the location is somewhat of a hardship and that this will help customer locate the store and of the positive and negative criteria reviewed tonight, the positive criteria outweighs the negative

Mr. Rogers – Aye - for the reason that he feels this is an asset to the community and far outweighs the small deviation from the ordinance

Mr. Womelsdorf – Aye – the signage is beneficial to the company and the general business area and all are needed for additional customer direction and is beneficial for the safety and overall flow of traffic in the area

Mr. Percy – Aye

Mr. Adams – Aye – appropriate for building and area

Mr. Wigglesworth – Aye – façade and the size appropriate for proper safety and that the signs are well needed and very timely for the area.

SAID MOTION CARRIED WITH ALL ELIGIBLE MEMBERS PRESENT VOTING “AYE”, NO “NAY”, AND NO “ABSTAIN”.

Chairman Wigglesworth motioned for a brief recess at 7:45 PM, with all members voting in favor.

Meeting resumed at 7:51 PM and Mr. Rosenberger announced that Ms. Heller-Care of Polistina Associates will remain and is under oath and that Board member Cheek returned to the dais.

Application #PB1981-06 - D&D Residential (Hamilton Greene) Amended Final Site Plan Approval Extension Block 1135.01, Lots 1.02-1.04 and 1.08-1.10 Phase IV & V

Chairman Wigglesworth recognized Mr. Stephen Nehmad of Nehmad, Perillo and Davis the attorney representing D&D Residential Limited Partnership. Mr. Nehmad introduced Lisa Price, Peter Wilson and Michael Scully who will give testimony on behalf of the applicant.

Mr. Nehmad opened by giving a history of the project and stating that over the years they have made previous application for the extension of site plan review and approval and are requesting this 3 year extension for startup of Phase IV & V of the project because of economic reasons. The present extension expires February 2016 and they would like to extend that 3 years beginning February 11, 2016 and expiring February 11, 2019.

Mr. Nehmad continued to explain that the project was presented as an overall Hamilton Community Center/residential and commercial project. The project contains the Hamilton Mall, Timber Glen and Hamilton Greene. There are presently 416 units (Phase I, II, III) that are built out in Hamilton Greene with approval for an additional 220 units (Phase IV & V) to be built and it is for those 220 units for which this extension is sought. The applicant was before this Board in 2004 and granted site plan approval for Phases IV & V and were set to proceed, with all requirements in place, when the Pinelands Commission called up their approval. As a result of this call up the Applicant was in litigation and not able to begin work on the project until they resolve the Pinelands Commission concerns which were recently satisfied, February, 2013, at which time the tolling began for the 2004 approval. This time period runs out in 2016, therefore the need for a further extension. As the Pinelands is a superior State agency, they have the right to review the things the Board grants and may amend, reverse or revise the approvals. As a result of this call up, the Pinelands has requested the applicant buy 45.75 pinelands development credits. The applicant has since followed procedures to respond and has purchased 20+/- credits with the remaining to be purchased. The applicant has spent well over a million dollars with more to be spent.

Mr. Rosenberger swore in Chad Gaulrapp, Engineer for the applicant; Lisa Price, of Lisa Price & Associate; Peter Wilson, manager for Hamilton Greene and Michael Scully, a principal with D&D Residential Partnership, LLC, as witnesses for the applicant.

Mr. Nehmad called upon the respective witnesses as need arose for their testimony.

Mr. Nehmad called upon Ms. Price of Lisa Price & Associates. Ms. Price does market research for builders, developers and lenders and gave a background of her professional history. Mr. Nehmad inquired if she was familiar with the project and Ms. Price affirmed that she is familiar with the Hamilton Greene complex and Mr. Nehmad asked if as part of her work effort and expertise did she look at economic impact and influence and conditions of the area, for which she replied she did. Ms. Price continued to give her observation and conclusions from her report, which was made available to the Board. She further stated that the Atlantic County area’s market is opposite of the Philadelphia area and surrounding regions. The area growth has declined and there appears to be no demand for building. She further pointed out the statistics for unemployed, housing, growth, etc. The comparison was from 2004 to 2014. Ms. Price gave various statistics as it relates to the housing demands of the area.

Peter Wilson with the Scully Company representative of the applicant, as Director of acquisitions, manages Hamilton Greene and other units throughout the Eastern Seaboard. Mr. Nehmad posed questions regarding the required 45 Pineland Development Credits. They have purchased 20.50 over a course of 3/4 years from 2004 to 2007 for \$1,932,250 in anticipation of starting the build out of Phase IV & V. At the time, the Pinelands called up and froze the project. They still have to purchase 25.25 credits to continue the project. Reasonable extension of time is to allow the market to stabilize so that client can make an informed decision to move forward. Mr. Nehmad: Do you feel it is prudent to go ahead today. Mr. Wilson: no not at this time because as Lisa pointed out with today's market. There is no market for this type of new units at this time. For rental base, financing is almost impossible. It was brought out that stated that the approximate cost for remaining project is \$200,000 per unit, which figures out to roughly 44 million dollars, not counting PDC's.

Mr. Cain asked if with the foreclosure rate at what it is, it should help the rental market. What is the occupancy rate of Hamilton Greene at present day? Response was given by Mr. Scully, principal of DD Residential Partnerships, and he stated that it is above 90% and that during the teeth of the recession it was -85%. He feels that the 90% rate is because of good management and they take a lot of pride in the development. The rental rates have been lowered and they are looking for a stabilized period of time before adding to the 416 existing units. He expressed concern that if they proceed now that it would tip scales because the approved units are larger than existing; today's market is more millennium specific, cookie cutter desires, kind of opposite of what is approved. They have even reached out to CDRE national brokerage firm that is very prolific and as suggested sought to do a joint venture for independent studies and has not received any offers.

Mr. Cain questioned size of the units that have not been built as it relates to what is there now, and if they are required to be larger? Mr. Nehmad stated that they are not required to be larger and that they are as presented in the 2004 approval when that they deleted the 3 bedroom units. Mr. Cain inquired as to what the rent would be compared to the average of today. Mr. Scully could not give a definitive answer, but felt it could be possibly \$100+ more than what is there today. Mr. Cain pointed out that on Page 21 of Ms. Price's report lends to theory that the combination of single and multifamily homes in 2013 showed largest increase in Atlantic County only to be eclipsed by 2006. Ms. Price pointed out that some of that is Atlantic City and also includes affordable housing.

The applicant is seeking for the economy to stabilize before beginning this 45 million dollar project. Mr. Scully feels they are good neighbors and are tangible, are happy here and hopes that the township feels the same. They are a 3rd generation family business, and have no intention of leaving and are here to stay.

Mr. Nehmad presented exhibits which included economic factors, aerial photos of Hamilton Center, including Hamilton Greene, rendering of site plan for Phases IV & V and architectural elevations for new apartments regarding the project so that if the Board has any questions, their Engineer could address them.

Mr. Rosenberger pointed out that is the Board's discretion to grant this extension and reminded them that the Board has previously granted requests with less compelling conditions and that they did not require expert witnesses information, and relied upon their judgment and feel within the community, that those decisions were appropriate. As Mr. Nehmad has noticed the public, Mr. Rosenberger recommended that the meeting be opened up to the public.

Mr. Cheek questioned if the Governor's extension act and if this case would fall under that. The response was that the most recent permit extension runs to June 2016, and with the market as it now there would not be the time to take action on this project.

Mr. Nehmad explained the permit extension act. The cycle of the extension acts and reminded that it is the Board's discretion as to grant an extension of time as they wish to be reasonable.

Mr. Womelsdorf posed a statement to Mr. Rosenberger for clarification: it is his understanding the Board is looking at an approval of an extension 3 years beyond the February 2016 date that currently exist.

Mr. Rosenberger reported that Mr. Nehmad had provided stipulation of facts to him and what happened in the Pinelands litigation. Mr. Rosenberger and Ms. Rainbow, former Planning Board Administrator, reviewed the settlement of April 2013 and concurred that the then extension would begin February 11, 2016.

Mr. Cain requested that we hear from Mr. Sartorio regarding amount of housing for which approvals have been given, but not built as yet. Mr. Nehmad had no objection.

Chairman Wigglesworth opened up to the public for comment and requested Mr. Sartorio to provide a brief statement regarding the posed concern.

Mr. Sartorio, Community Development Director for the Township of Hamilton responded that he could not give an exact number, but estimates around 1500 units, including this project. Majority is within the proximity of this development, some along West Jersey Avenue and nothing at this time, that he is aware of, west of the township.

Mr. Cain expressed his concerns as to the proximity of the projects being within the same area and the possibility of getting an influx all at once and the pitfalls of the development, i.e. traffic, etc. that could exist. He would like to see the extension for 2 years at this time since the present extension does not run out until February of 2016.

Motion made and seconded to close the public portion.

Mr. Choyce inquired as to whether all the other projects that have received approval be subject to an extension. Mr. Rosenberger responded that he is not certain of their expiration dates, but yes, if it were expiring, they need to seek extensions.

Mr. Percy brought about discussion about the recreation and what may be in place and if they are planning on additional recreation with the increase of housing.

He also spoke regarding standing water in the drainage basins. Mr. Nehmad is not aware of any problems nor did they receive any notification otherwise.

Mr. Cain added to Mr. Percy's comments regarding discussion of the drainage basins and if they are operating as they should. He further stated that approximately 4 or 5 years back the Governing Body made the drainage basins a primary issue to bring up to standards for any further development and/or changes.

Mr. Rosenberger stated that the site plan approved has a stormwater management plan, accepted and in compliance at the time. Applicant has right to rely on that and at the time it goes to build under that approval, because the applicant seeks this acceptance we cannot approve or alter what is already approved. When the applicant goes to build, if something is not in compliance there are appropriate mechanisms in place within that will be able to check the status of compliance and have the applicant address them. If there is an issue the Township should take proper procedures to resolve. Discussion continued regarding recreation, sidewalks, and other items that were in previous approvals and the status of them and what is done or needs to be done. Mr. Rosenberger and Mr. Nehmad reiterated that there are mechanisms in place that will be able to check these items out as proposed development of this project continues.

Chairman Wigglesworth gave comment that from his experience of the years he has been on the Board that the other developments in question are not as far along in their projects, or we would not be having this discussion.

Mr. Choyce inquired as to what has to happen within that time period of the extension. Does construction need to begin, permits applied for or does construction need to be underway?

It was clarified that the applicant does not have to be done but applicant has to be substantially involved in the project before the end of the extension or if nothing has happened, they could come back and ask for another extension.

Mr. Nehmad explained what that they would need to have in place before they can put a shovel in the ground: post performance guarantee, inspections fee, arrange financing, have bonding in place, do cost estimate, apply for building permits and actively commence construction. There is also the Pineland timeline and the need to acquire remaining credits and go through that procedure before the first building permit can be issued during the 3 year period. This process would have to begin a minimum of 1 year in advance of starting to build.

Chairman Wigglesworth recapped a year sounds pretty tight, and that he feels the applicant is making a major commitment, at a minimum of 1 year in advance, before the termination of their extension. Mr. Wigglesworth feels this is a strong argument for 3 year request given the complex and completion of this development.

Mr. Nehmad pointed out that the New Jersey Municipal Land Use Law permits the extension requested under statute because of the comprehensiveness of the development portion that is not built and the

economic conditions as they relate to the site plan approval for the last two phases of Hamilton Greene complex.

Mr. Rosenberger asked Ms. Heller-Care if her firm had any comments and she replied that they did not at this time.

Motion was made by Chairman Wigglesworth and seconded by Mr. Rogers to grant the applicant a three year extension of zoning protection beginning February 11, 2016 pursuant to Section 52b of the Statute.

Mr. Cain – Aye – he has made comments on record, hope they are clear, does have concerns regarding development in the area, and he voted as he did because of comments presented, it is one of the better kept areas, police volume of calls are minimal and the extenuating circumstances they had to go through as well as Mr. Rogers comments about the State far reaching.

Mr. Cheek – Aye – has been through it himself and stated that they don't want to drop 4 million dollars and be sitting where they are now

Mr. Choyce – Aye - believes applicant has provided the necessary proofs and meets the requirements of the statute and feels that the 3 years extension is appropriate for a project of this magnitude

Mr. Rogers – Aye - Rogers thanked applicant for patience, can't imagine if you had to start the same now, he wouldn't

Mr. Womelsdorf – Aye – they have demonstrated all the necessary evidence that they do deserve this extension and appropriate under the circumstances and grant the additional time and wishes them well

Mr. Percy – Aye

Mr. Adams – Aye – for the 3 years with hopes the economic conditions as such

Mr. Wigglesworth – Aye – thanked the applicant for their patience and dedication to our Community.

SAID MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING “AYE”, NO “NAY”, AND NO “ABSTAIN”.

Chairman Wigglesworth opened to public comment, there being none, motion was made and seconded to close public comment.

Mr. Nehmad, on behalf himself and of the applicant and witnesses, thanked the Board for their consideration and decision.

Adjournment - Motion was made and seconded to adjourn the meeting.

SAID MOTION CARRIED WITH ALL MEMBERS PRESENT VOTING “AYE”, NO “NAY”, AND NO “ABSTAIN”.

Respectfully submitted,

Mary A. Lisitski
Planning Board Secretary

Accepted August 20, 2015