

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Elaine Valentino, presiding. Members present were Wayne Choyce, William Christman, Dr. Robert Kahrmann, Dr. Lawrence Mroz & Bruce Strigh. Also present was Board Solicitor, Richard DeLucry (substituting for Rebecca Lafferty), Zoning Officer, Hannah Desmond, Kevin Dixon, Engineer, Chris Carey, Landscape Consultant & Robert Watkins, Planner.

**Member(s) Absent:** Carl Pitale

**Announcements:** There were none.

**Arnold Sikking; App. #2017-15; Block 492 Lot 2;** located at 7024 Harding Highway, was present & is seeking a Certificate of Non-Conformity for 2 existing single family dwellings located on the same lot.

Solicitor, Richard Delucry, verified the proof package had been executed properly.

Mr. Marcolongo is representing the owner & stated the witness, Mr. Zuckel, is unable to attend the meeting tonight. He is asking for the application to be tabled until the October 23 meeting. The time constraint for the Board to act would be waived & he is requesting that no further notices are required since the mailing & ad were already done.

Ms. Valentino stated if the Board is in agreement the application can be carried to the October 23 meeting with no further need for re-service or re-notification.

MR. CHOYCE-AYE  
DR. MROZ-AYE

MR. CHRISTMAN-AYE  
MR. STRIGH-AYE

DR. KAHRMANN-AYE  
MS. VALENTINO-AYE

**Mays Landing DG, LLC; App. #2017-16; Block 996 Lot 22;** located at 5401 Route 40, was present & is seeking Use Variance for the construction of a Dollar General retail store (9,238 sf) where retail stores are not permitted & any other variance(s) found to be necessary. The applicant is represented by Duncan Prime, Prime Law.

Solicitor, Richard Delucry, verified the proof package had been executed properly.

Mr. Prime stated the subject site is an undeveloped & consists of 35 acres. They are seeking a Use Variance for a 9,238 sf Dollar General Retail store. The site is in the GA-M zone which does not allow retail stores. If the Use Variance is granted they will return for subdivision approval to divide the property allowing Dollar General to take 2.81 acres which leaves 32.19 for future development. A common driveway with an easement for access for both lots would be provided.

Dollar Generals are a small box retailer which makes shopping for every day needs simpler & hassle free by offering carefully edited popular brands at low everyday prices in small convenient locations. The store is not a 99 cent or Dollar store; it is a store which carries top quality brands by Americas most trusted manufactures (Proctor & Gamble, Kellogg's, General Mills, Nabisco, etc.). The goal of Dollar General is to simplify the customer's time by focusing on the necessities (soap, shampoo, laundry detergent, etc.).

Mr. Daniel Dougherty, Engineer (1904 Main Street, Lake Como) was sworn in & presented his credentials to the Board. The Board accepted his qualifications as an expert.

Mr. Dougherty introduced the following:

Exhibit A-1 (aerial exhibit 9/25/17) - colored version of the 2<sup>nd</sup> sheet of the plan which was submitted.

He gave testimony as to the location of the proposed site (North side of Rt. 40, across from Claytons storage, multifamily apartments are to the East & to the West the development with Cousin Mario's & medical offices). Approximately 28 acres of the lot are wetlands or wetland buffers (north end of the site). The area along Route 40 is the upland portion of the site.

Exhibit A-2 (aerial overlay 9/25/17) – The Dollar General is superimposed on the map.

Dollar General will utilize the front quadrant (SW) of the site along Rt. 40 & the lot is carved out. The Use Variance is specific to the area the store will utilize (2.81 acres). The Use Variance is only for the proposed lot. The lot would be subdivided & about 3 acres would be used for the store.

Exhibit A-3 (site plan rendering 9/25/17) is a color version of the site plan showing the improvements along with color graphics of the landscape plan. A driveway will be located to the east of the store & will be shared with any future development of the other lot. After the subdivision there will be about 4 acres of developable land. Driveway access will be from Harding Highway & there will be DOT submission. The parking is located to the left of the driveway (in front of the building) & along the East side of the building with a total of 47 spaces. Planter islands will also be installed. The storm water system will be located to the upper left of the proposed store which will satisfy the Pinelands requirements.

The frontage along Harding Highway, after the subdivision, will be 223 ft. The 47 parking spaces are sufficient & typical stores have about 30 spaces. The building entrance will face Harding Highway. Deliveries & trash containers are located in the NE corner. Small delivery trucks will go to the front of the building & all others to the rear. A tractor trailer will make deliveries 1-2 times per week.

Exhibit A-4 (Vehicle Circulation Exhibit 9/25/17) shows how the tractor trailer will come into the driveway to make deliveries. The layout is the same as other Dollar General's throughout the country.

Mr. Strigh asked if any other locations were looked for this store & Mr. Dougherty stated the developer is constantly looking for sites & this site is the best fit. They are looking for the Use Variance only for this lot (2.81 acres) once it is subdivided. The current owner of the rest of the lot would be responsible for coming to the Board for a Use Variance or utilize it for an approved use.

Ms. Valentino asked the professionals for testimony regarding their reports.

Mr. Dixon asked which way the topo falls in regards to the drainage basin. Mr. Dougherty stated there are wetlands to the North along with the buffer. They are scheduling preliminary storm water/soil testing based on tonight's outcome. The storm water should be able to be maintained on site & not have detrimental discharges off site. The flow will be directed toward the woods.

Mr. Dixon asked if they looked into connecting the parking areas with Cousin Mario's site for better circulation. Mr. Dougherty stated Dollar General does not like to have cross access easements with adjoining properties but this location does not have any issues with competition with the adjoining lot. With trip generation & low parking demands they do not see the demands. The parking aisle is 36 ft. which is conducive for truck circulation.

Mr. Strigh has concerns about the drawing which shows the tractor trailer circulation. Mr. Dixon commented that the circulation for the tractor trailer is not what the town is used to. Mr. Dixon stated this would be a question for the traffic engineer.

Ms. Valentino asked if the property lines could be extended to accommodate. Mr. Prime stated the site plan can be revamped to meet the Boards satisfaction.

Mr. Choyce inquired how the size of the lot was determined. Mr. Prime said the lot size was determined on the needs for Dollar General. The lot is subject to PDC's. The rear of the property has environmental concerns. Mr. Choyce stated if there are concerns about the size & the restriction of the lot it impacts him granting a use variance. He wanted to know if they could make the lot larger for this site. Mr. Prime commented there are options regarding the geometry of the lot & they can ask the owner of the property about reconfiguring the subdivision.

Dr. Kahrman has concerns about the design of the parking stalls & if a fire truck had to access the building in case of a fire. Mr. Dougherty explained the parking access requirements. There is parking between the building & where an apparatus may pull up. The parking does not preclude that from being fire access lanes. Based on the code requirements fire hydrants are not required due to the size of the building.

Mr. Justin Taylor, traffic engineer, 1904 Main Street, Lake Como was sworn in & gave his credentials to the Board. He took a look at the traffic impact associated with the proposed Dollar General store. Studies were done at existing Dollar General Stores regarding traffic & parking generation rates. Traffic counts were taken on Harding Highway to get rates in order to analyze to make sure the driveway & parking could operate. A building of this size during peak times would generate 49 cars (25 in/25 out)

& on a Saturday there would be 78 cars (40 in/40 out). They feel during those times the driveway would operate with acceptable levels of service. The parking lot generates lower than other commercial sites (2.11 spaces per thousand). A building of this size during the busiest time would demand about 20 spaces. Most of the time more than half of the spaces will remain empty & the Dollar General trailer will arrive during a slow period at the store. Mr. Taylor demonstrated on the plan how the trailer would park in the lot & feels there is no safety issue.

The traffic count was performed in July during the peak hours of rush hour (4:30pm – 6:30pm & Saturday 11am to 2pm). From the site an easterly direction the 1<sup>st</sup> controlled intersection is 1,000 ft. During the peak hours the back up of cars traveling east would not block the driveway.

Mr. Strigh has concerns regarding left hand turns onto Harding Highway & feels it is problematic. Claytons does not allow left turns out of their site.

There is not any intention to put a deceleration lane to get into the site. The shoulder acts as that lane.

Mr. Watkins asked what the peak hours are for deliveries. Mr. Dougherty stated 9am-11am & 2:30pm-5pm. Mr. Watkins commented the building/site plan layouts are a template & the drivers are familiar with the driveway layout of the stores. The square footage & layouts of the buildings in EHT & Somers Point are the same as what is being proposed.

Mr. Dixon stated his concerns regarding the parking. Mr. Taylor stated the parking maneuver is the same as other stores & the visibility is great. The trucks have the ability to make changes as to the best times to deliver at the site.

There was discussion regarding a scenario of a car leaving WAWA & a tractor trailer making a delivery.

Dr. Kahrman asked about the trash pickup & has concerns if the area is wide enough. Mr. Taylor stated the aisles are the wide enough for a trash truck & that detail can be reviewed during site plan. With a 30 ft. wide aisle & the 7 stalls in the rear, a trash truck will have the luxury of being able to maneuver in order to pull out.

Mr. Christman commented there are many different spots available in 4 different shopping areas & asked why Dollar General is asking for a Use Variance at a vacant lot. Mr. Prime stated the planner will give testimony as to why this site is appropriate for the retail use.

Ms. Tiffany Cuveillo, 7 Equestrian Drive, Galloway, NJ was sworn in & gave her credentials.

Ms. Cuveillo testified that Dollar General is here for a Use Variance & the area is a GA-M zone which is for Regional Growth District. She explained the layout of the property, the zone it is in & then explained about the type of business Dollar General is & the products they carry.

The land is constrained with wetlands & buffers (about 80%). From Harding Highway to 400 ft. back is the area which can be developed. Ms. Cuveillo explained the buffers & how many single family houses could be developed. She also explained how detrimental single family homes would be to the proximity of Rt. 40. The proposed use would work well at this site because of the needs & unique circumstances of the components. There is no place, other than Walmart or Target, to pick up items that they carry. The location, next to the design commercial, provides sufficient space in an appropriate location for a variety of uses. It will be next to an existing commercial & business use. There will not be impairment to the zone use, ordinance or detriment to the public good. The site is designed for commercial, they are asking for a variance only for the Dollar General site (3 acres). If the variance is approved tonight, they will make modifications to the site plan in accordance to the concerns of the Board. The Master Plan was re-adopted & examined in 2012 & various goals & objectives in regards to promoting economic development opportunities along with promoting development along Rt. 40, preserving wetlands/greenbelts & providing opportunities for a balanced land use space.

The area is in a GA-M zone but cannot develop as intended given the restrictions to buffers & storm water issues along with 80% of the lot being impacted by environmental issues. It is a better zoning alternative not to push residential units within 400 ft. of Rt. 40 but to have more suited to this corridor.

This is a bifurcated application & concerns the Board has can be addressed at another meeting.

The property is currently vacant & if it is approved, the billboard will be removed. They will also propose a cross-access easement with Cousin Mario's & sidewalk for the connection. The positives greatly outweigh the negatives & this is a better fit.

Mr. Christman understands everything said by Ms. CuvIELLO but feels another egress & access is not conducive to this area. The area is backed up quite often & feels Rt. 40 is backed up between the hours of 2pm to 6pm. He would like there to be 1 access. Ms. CuvIELLO stated if the other property wants to connect into the cross access easement, they would entertain it. They want to keep their own access as well.

There was discussion regarding why Dollar General will be beneficial to this area of town.

Ms. Valentino asked what percentage of stores are free standing & Mr. Dougherty stated up until this year the ones in NJ were in strip malls. Now they are free standing units.

Mr. Watkins commented that some of this area was GA-M & would count toward PDC's for the town & knew the area would not be developed as residential. If Pinelands was told to rezone this area as commercial some other area in town would have to be rezoned. There were buffers & wetlands buffers created. There are 2 Dollar Generals in EHT within a 5 mile radius & are on smaller lots.

Mr. Watkins feels as a Use this property is well suited & there will be an access agreement to Cousin Mario's for the future which would be a benefit which should be indicated on the site plan. Mr. Prime stated they will present similar/identical architectural plans as what is in EHT for site plan approval.

Mr. Christman would like to see an access easement along the back of the building. Mr. Strigh would like to see plans with all the access easements.

If the Use Variance is granted they will come for another workshop to work out the details for site plan.

Mr. Dixon stated the Board can impose any conditions for the variance. The applicant does not own the property yet & conditions can be imposed for when they purchase the property.

Conditions for the Use Variance were discussed. Mr. Dougherty stated they will come back for a workshop to work out details regarding cross easements, secondary entrance, & drainage.

The store will not have tobacco or lottery & will have a definitive answer at Site Plan. It will have over 9,000 sf. It will be the same size as the one in EHT.

Mr. Strigh made comment that if the store changed ownership & the trip generation increased; with this store is a small retail use as a standalone store. They are conforming to the parking standards for this retail use.

Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh moved, seconded by Mr. Christman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Dougherty stated they are here for the Use Variance only. They will submit a site plan that addresses the concerns that the Board raised tonight.

There are 6 members here tonight & the absent member indicated he will listen to the tape. The Board can reserve the decision & discussion until he has done so. The Board can discuss the application & vote on it. The applicant's attorney can advise if they go forward or they prefer the absent member listen to the tape.

Mr. Prime asked if there are 5 members who are in support of the application. If they are denied, they can come back only if the plan is substantially altered. They are asking approval on the Use Variance & will come back with the Site Plan.

Mr. DeLucry stated the Board has the Use Variance application only being presented tonight. The Board can make a condition that the applicant meet with the professionals, as many times as needed, to discuss & come up with proposals for the site plan regarding site access, site circulation & possibility of cross access easement & drainage. There has been testimony regarding positive & negative criteria along

with the applicant demonstrating that this site is the best use for what is being proposed. These points were well made.

Mr. Choyce asked if the Board won't accept a site plan can the Use Variance be void. Mr. Prime answered once the Use Variance is given it is for the proposed use only & is site specific.

Mr. Strigh asked Mr. Watkins about the density & the acreage if the use is granted. Mr. Watkins stated the applicant has to buy PDC's within the township.

Ms. Valentino asked the senior members of the Board (Mr. Strigh, Mr. Christman & Mr. Choyce) if they prefer to go into discussion about the application (Use Variance only) & then vote or defer the discussion until the absent member listens to the disc & verify.

Mr. Christman said with what council has stated & the conditions that Mr. Watkins & Mr. Dixon also stated he is fine with the Variance.

Mr. Choyce is comfortable proceeding with a vote & discussion if the applicant desires.

Mr. Prime would like to proceed with a vote.

Ms. Valentino asked Board Members for a discussion regarding this application.

Mr. Choyce said that in regards to the Use Variance, the arguments which were heard along with comments from Board Professionals, the fact that 80% of the parcel cannot be developed & where it is physically located along with zoning activities in the area he feels it is best suited for commercial use. The requests for a Use Variance are well supported.

Mr. Strigh feels the use is good & it fits the Dollar General model. The only concern is the traffic flow, pedestrian safety & egress/ingress. If the professionals & applicant can work on these items he is good with it.

Dr. Mroz has knowledge of this property since his practice is located by Cousin Mario's. He would welcome another commercial development. He does have concerns about making the left turn onto Harding Highway.

Dr. Kahrman understands the Use Variance is the 1<sup>st</sup> step & would like to have the site plan reflect a cross access easement, traffic flow explained & the driveway entrance restricted on which way to turn in & out.

Mr. Dixon stated a condition should be to keep the subdivision lines flexible.

Ms. Valentino commented there is no place along Rt. 40 once you get past Acme to shop for items that are carried at the Dollar General. There is clearly a need for a store like this in this area. It will provide a convenience for those in the Sandpiper & an alternative for those at the Cousin Mario's. She also commented that a lot of the property cannot be developed & some of the alternatives that can go on this property are more detrimental than what is being proposed.

Mr. Strigh moved, seconded by Dr. Kahrman, App. #2017-16, Block 996 Lot 22; located at 5401 Route 40 to grant a Use Variance for the construction of a Dollar General Retail Store with the following conditions: 1). Applicant meeting with Board Professionals to design traffic pattern as discussed 2). Flexibility of subdivision lines 3). Drainage 4). Cross access easement 5). If the Board does not reach a consensus on the site plan it will be rejected. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

#### ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE  
DR. MROZ-AYE

MR. CHRISTMAN-AYE  
MR. STRIGH-AYE

DR. KAHRMANN-AYE  
MS. VALENTINO-AYE

SAID MOTION CARRIED.

**NOTE:** The following Board Members made comments

**MR. CHOYCE:** Yes. I feel this use is well suited for this site. It is a better use for this lot.

MR. CHRISTMAN: Yes. I agree with Mr. Choyce & the points that Ms. Cuvillo. He also noted over the past few years he is asked why new places are being built when so many are empty.

DR. KAHRMANN: I vote yes but with the contingences that were mentioned.

DR. MROZ: Yes & would welcome them as a neighbor.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: Yes for all the comments & concerns with the board members.

A recess started at 8:57 pm & the ended at 9:04 pm. with the same members in attendance as before the recess.

**Curtis Wunder; App. #2017-18; Block 588 Lot 67;** located at 817 Leiling Avenue, was present & is seeking a Height Variance of 22 ft. for the construction of a 30 x 40 pole barn & any other variance(s) found to be necessary.

Solicitor, Richard Delucry, verified the proof package had been executed properly.

Mr. Wunder was sworn in & testified he has lived at the address for 24 years. He has always wanted a workshop & garage. The proposed pole barn would be for storage. His daughter is getting married in November & would like to use the pole barn for some of the festivities. His current 2 car garage is full of his kids junk & car. What he is proposing will aesthetically tie into what is current there. It would be used for storage, boat & tractor. The height of the roof (to the peak) is slightly over 22 ft.

Mr. Choyce asked if the height of the roof is considered the midpoint slope of the roof. Ms. Desmond answered from grade to the midpoint slope & at the highest is 22 ft. The Board should take into account the height of the midpoint of the roof & 18 ft. would meet his needs.

Mr. Wunder stated Leiling Lane is a private lane & he has access to his property is a narrow strip with a lot in front. He does not have access from Morningside Lane. He is below the lot coverage requirements. There will be electric only for the proposed pole barn. It will consist of wood to match the house. It will be used for personal use only. The 2<sup>nd</sup> floor is for storage only & will not consist of a 2<sup>nd</sup> residence.

Mr. Strigh asked if Leiling Lane was township owned. Mr. Wunder answered it is not. The property to the left is the park.

Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh moved, seconded by Mr. Christman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Strigh asked if this is a hardship variance. Mr. Delucry asked Mr. Wunder if the additional height will allow the storage he needs without building multiple buildings or increasing the footprint of what is being proposed. Mr. Wunder stated yes.

Mr. Choyce asked if the current residence is a 2 story home. Mr. Wunder answered yes, it is a split level. The height of the pole barn will be shorter than the house. The setbacks for the proposed pole barn will be 20 ft. from the rear property line & 5 ft. is what is required.

Mr. Strigh moved, seconded by Dr. Kahrman, App. #2017-18, Block 588 Lot 67; located at 817 Leiling Avenue to grant a height variance of 18 ft. for a 30ft x 40 ft. pole barn which will have electric only with a 20 ft. rear yard setback & will be used for personal use only. SAID MOTION CARRIED WITH SIX (6) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE  
DR. MROZ-AYE

MR. CHRISTMAN-AYE  
MR. STRIGH-AYE

DR. KAHRMANN-AYE  
MS. VALENTINO-AYE

SAID MOTION CARRIED.

**NOTE:** The following Board Members made comments

**MR. CHOYCE:** Yes. What the applicant is proposing is not detrimental to the neighborhood. It will probably not be seen due to the wooded nature of the lot.

**MR. CHRISTMAN:** Yes & I agree with what was stated by Mr. Choyce.

**DR. KAHRMANN:** Yes.

**DR. MROZ:** Yes.

**MR. STRIGH:** Yes.

**MS. VALENTINO:** I vote yes with the conditions that are stated in the motion (residential use, electric only, height of 18 ft., 5 ft. side yard setback & rear of 20 ft.

**Approval of Minutes** – Mr. Christman moved, seconded by Dr. Kahrmann to approve the minutes from the August 28, 2017 meeting. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHRISTMAN-AYE                      DR. KAHRMANN-AYE                      DR. MROZ-AYE  
MR. STRIGH-AYE                          MS. VALENTINO-AYE

SAID MOTION CARRIED.

**Memorialization of Resolutions-** Dr. Kahrmann moved, seconded by Dr. Mroz to adopt the resolution for John Lehman for a 6 ft. fence in the front yard area-**App. #2017-10; Block 1231 Lot 1.** SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and ONE (1) “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-ABSTAIN                      MR. CHRISTMAN-AYE                      DR. KAHRMANN-AYE  
DR. MROZ-AYE                                  MR. STRIGH-AYE                          MS. VALENTINO-AYE

SAID MOTION CARRIED.

Mr. DeLucry commented that after speaking with Ms. Desmond the applicant was having trouble meeting the deadline of October 1<sup>st</sup> & the contractor is asking for additional time. The Board has the power to do this. Ms. Desmond stated they asked for an additional 10-15 days. The Board agreed upon an extension of November 1<sup>st</sup>.

Mr. Strigh moved, seconded by Dr. Kahrmann, App. #2017-10, Block 1231 Lot 1 to extend the deadline to November 1, 2017. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE”, NO MEMBERS VOTING “NAY” and ONE (1) “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-ABSTAIN                      MR. CHRISTMAN-AYE                      DR. KAHRMANN-AYE  
DR. MROZ-AYE                                  MR. STRIGH-AYE                          MS. VALENTINO-AYE

SAID MOTION CARRIED.

Mr. DeLucry stated the Zoning Officer can reach out to the owner or the contractor regarding the extension.

**Public Comment-** There was no one in the public.

Mr. DeLucry stated there is a chance Ms. Lafferty will be back for the October meeting.

The Board thanked Mr. DeLucry for his time with the Board.

Mr. Choyce asked if the applicant on Cranberry Drive, whose shed was denied, has filed an appeal. The Secretary stated not to her knowledge. The shed would have to be removed by mid-November as per the deadline in the Resolution unless they decide to return to the Board.

**Adjournment** – Mr. Strigh moved, seconded by Mr. Christman to adjourn the Zoning Board of Adjustment meeting at 9:26 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary  
Zoning Board of Adjustment