

HILLSBOROUGH TOWNSHIP PLANNING BOARD
PUBLIC MEETING MINUTES
November 07, 2013

Vice Chairman Cohen called the Planning Board meeting of November 07, 2013 to order at 7:53 p.m., delayed due to some technical difficulties. All stood for the Pledge of Allegiance. The meeting took place in the Courtroom of the Municipal Complex.

Vice Chairman Cohen announced that the meeting had been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law").

ROLL CALL

Mayor Frank DelCore – Present	Sam Conard – Absent
Michael Merdinger – Absent	Steven Sireci, Jr., Chairman - Absent
Committeewoman Gloria McCauley – Present	Robert Wagner, Jr. - Absent
Steve Cohen, Vice Chairman - Present	Daniel Marulli (Alt. #1) - Absent
Tod Mershon, <i>Secretary</i> - Present	Robert Peason (Alt. #2) - Present
Neil Julian - Present	

Also present: Bruce J. Rydel, P.P., AICP, Planning Director; David Kois, Deputy Director of Planning / Zoning Official; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); William H.R. White, III, P.E., P.P., C.M.E., Board Engineer (Maser Consulting, P.A.); Lucille Grozinski, C.C.R. and Videographer from Premier Media, LLC.

DISPOSITION OF MINUTES

October 03, 2013

A motion to approve was made by Mr. Mershon, seconded by Committeewoman McCauley.

Roll Call: Mr. Julian – yes; Mr. Mershon – yes; Mr. Peason – yes; Committeewoman McCauley – yes; Mayor DelCore – yes; Vice Chairman Cohen – yes. Motion carries.

DISPOSITION OF RESOLUTIONS

County of Somerset – Clark – File #13-PB-07-MRV

A motion to approve was made by Mr. Mershon, seconded by Mr. Peason.

Roll Call: Mr. Julian – yes; Mr. Mershon – yes; Mr. Peason – yes; Committeewoman McCauley – yes; Mayor DelCore – yes; Vice Chairman Cohen – yes. Motion carries.

Primus Green Energy, Inc. - File #13-PB-08-MSR

A motion to approve was made by Mr. Mershon, seconded by Mr. Julian.

Roll Call: Mr. Julian – yes; Mr. Mershon – yes; Mr. Peason – yes; Mayor DelCore – yes; Vice Chairman Cohen – yes. Motion carries.

Hillsborough Rescue Squad, Inc. - File #13-PB-12-MSRV

Board Attorney, Eric Bernstein, Esq., noted our practice has generally been to seek the approval of the Applicant or counsel before presenting the resolution to the Board for approval. I understand this is a priority item for the Rescue Squad. I have not heard from counsel or the Applicant. The Resolution was prepared following the transcript. If there are some minor technical issues, I would ask that the Board allow me to make those technical corrections as part of the resolution, should it be approved.

A motion to approve allowing counsel the discretion to adjust any minor terms as may be needed was made by Mayor DelCore, seconded by Mr. Mershon.

Roll Call: Mr. Julian – yes; Mr. Mershon – yes; Committeewoman McCauley – yes; Mayor DelCore – yes; Vice Chairman Cohen – yes. Motion carries.

PLANNING BOARD BUSINESS

None

SPECIAL COMMITTEE REPORTS

None

BUSINESS FROM THE FLOOR

None

CONSIDERATION OF ORDINANCES

None

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PUBLIC HEARING – SUBDIVISION/SITE PLAN APPLICATIONS

Hillsborough Lawn and Garden (Skillman) – File 12-PB-11-SRV – Block 178, Lots 19 (702 Route 206) and Block 178, Lot 20 (706 Route 206). Applicant requesting Preliminary and Final Major Site Plan Approval; ‘c’ Bulk Variances for relief from Minimum FAR, and Front Yard Setback for existing carriage building (existing); as well as a number of Waivers to demolish the existing dwelling, garage and shed on Lot 19 and construct an 8,800 sf. retail space along with associated improvements on property in the GA District. (EC Agenda: 10-28-13).

Eric Goldberg, Esq. of Stark & Stark, representing the Applicant, Hillsborough Lawn & Garden Equipment, Inc. stated this application is really an extension of what already exists. As the Board is aware, the subject property is located at the intersection of Route 206 and Raider Boulevard. Lot 20 has been the subject of development 8 plus years ago when the Zoning Board had previously granted approval. Located there is a Walgreens and other associated retail. At the time a ‘d’(1) variance was required; that is no longer the case. The Ordinance was subsequently changed and the use is allowed by right. The Applicant is looking to extend what is already there by adding 8,800 sf. of retail space along with some additional improvements. The building being proposed will look similar to what is there now with similar parking.

There are two bulk variances being requested: relief from the Minimum FAR, .175 is required, .08 is existing, .1 is being proposed which is helping the development to become more in compliance; the second bulk variance is relief from the Maximum Front Yard Setback of 20 ft. which this application extends beyond. Additionally, there are about a dozen waivers being requested. It is believed that both of the variances can fall under the ‘c’(1) hardship due to the existing nature, shape and topography of the property or what is currently on the property, or they can be a ‘c’(2) flex variance, certainly in the best interest of zoning. There is no harm to the community from either of the requested variances. Many of the outside agency approvals have already been obtained including NJDEP; the Hillsborough Environmental Commission which has no objection to this application; and the D&R Canal Commission is pending approval from this Board.

Brett Skapinetz P.E., of Dynamic Engineering was sworn in, reviewed his credentials, was accepted by the Board and gave the following testimony in response to questions asked by Mr. Goldberg:

Exhibit A-1 - Site Survey

Exhibit A-2 – Colorized Aerial Photo

Exhibit A-3 – Site Plan Rendering

Exhibit A-4 – Alternate Building Footprint

Exhibit A-5 – Elevations (prepared by Larson Design Group)

Exhibit A-6 – Buffer Disturbance Plan

Exhibit A-7 - Department of Transportation letter of 07-31-13

Exhibit A-1 is a Boundary and Topographic Survey prepared by Control Point Associates, dated March 02, 2012, depicting Lot 19. Currently existing is a one-story masonry dwelling with a garage to the rear. The building is situated about 1/3 of the way into the property. The grade drops back to the south towards Roycebrook which is similar to the existing center. Exhibit A-2 is an aerial photo of page 2 of our plan set with a preparation date of November 04, 2013. The center of this photo is labeled “PIQ” or parcel in question. The overall tract, including the existing Walgreens site and the addition of proposed Lot 19 at 1.4 acres, will be about 6.8 acres. The Roycebrook is behind us followed by residential property. There is commercial property and mixed-use located around us on Route 206. Exhibit A-3 has a preparation date of November 01, 2013 and is based off of our most recent set of plans submitted to the Board. It has been colorized to show the existing buildings in tan, and the proposed in copper to the right. This exhibit shows areas of existing paving and proposed paving as well as the existing vegetated areas that are on and surrounding the property.

What exists today is about a 13,000 sf. Walgreens and a 6,000 sf. retail building to its right. Behind Walgreens is the former barn that was relocated as part of the original approval and situated at the back of the site. The barn is vacant at this time. Access to the site is provided via a right-in/right-out driveway approved by NJDOT to Route 206 and a full movement driveway to Raider Boulevard that was approved as part of the original application. Those driveways are to remain the same. We made a submission to NJDOT to make sure that they would not require any additional permitting for the additional 8,800 sf. building. We submitted a “Letter of no Interest” request which was accepted. The additional trips that are being generated by the 8,800 sf. new retail do not exceed the trip threshold that was set under the original permit by NJDOT for the driveways that were approved. The circulation will remain the same coming in off of Route 206 and Raider Boulevard. All of the improvements on Lot 20 will remain the same, with the exception of some of the overlaps that will tie in with the proposed.

The proposed building is about 115 ft. in width by 80 ft. in depth. It was recognized before this meeting that we want to provide a separation between the two buildings to deal with the fire rating between the walls so the plan will change slightly. This change will take the proposed building from 8,800 sf. to 8,000 sf. and provide a pedestrian pathway to get between the buildings for anyone who would be parked in the rear. There will be a 15.2 ft. separation between the two buildings. Exhibit A-4 with a preparation date of November 06, 2013, which the Board does not have, shows the gap with the concrete walkway to get into the back. All units will have front entrances. The proposed building will have a similar walkway, front overhang, and architecture. We are projecting the drive aisles and parking as it is situated in front of the

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existing retail for the north parking lot. Now a vehicle entering from Route 206 would have the choice of going straight or making a right or a left. There will be 31 new parking spaces introduced in front of the new building, including 2 new ADA spaces. Unlike the original proposal, we are going to have the ability to have full circulation around the north side which will extend to Raider Boulevard. We will be adding in a new loading zone in the back to service the new 8,000 sf. building and are adding a new trash enclosure in the back which will be screened.

Currently there is a significantly grade drop in the northeast corner on Lot 19 as you head towards the brook. Since we are tying into the existing improvements that are on-site, we are doing our best to do so without having a significant change in the grade within the parking area. To do so, we will need to introduce a retaining wall along the outer edge of Lot 19. The tallest point will be in the northwest corner at 9 ½ ft. high and will slope to about 8 ft. tall where it will tie in with the existing retaining wall that runs along the back of the existing development. It will run along the northern boundary towards Route 206 where it will gradually become shallower in height to about 4 ft. high. A guide rail and fence are proposed along the top of that wall for protection for anyone walking along that wall or vehicles driving around the drive aisle edge.

As we will be increasing the impervious coverage, we will need to introduce a new stormwater collection system to detain the stormwater run-off. Currently Lots 19 and 20 are at 38.2% impervious coverage. We will be increasing that to 44.9% impervious which is still under the 60% allowed for the zone. In order to mitigate stormwater, we are looking to introduce a couple of inlets and collection system within the parking area that will bring stormwater around the back of the site. There is some capacity left for the existing basin around the back of the building. Utilizing that additional capacity plus adding in the 24" inlets, we have met the Stormwater regulations of the Township and satisfied DRCC which has issued what I would describe as a Conditional Approval Letter. We have satisfied all of DRCC's technical comments. We will just need to go before them to present our case should this Board approve them. The water quality device located in the back parking area will simply be expanded within the existing underground chamber. No additional changes need to be made other than adding some cartridges to that filter. The recharge requirement is met as well under this design. We will be extending all of the current utilities for the existing building to tie into the proposed 8,000 sf. building.

As for landscaping, trees were identified to determine which trees will be removed as per the proposed plan. We note in our calculations that we are going to take down 17 trees which fall into your ordinance based on caliper size. The calculation per your ordinance results in 56 replacement trees as being required. We will be planting 26 trees to 30 trees which will need to be mitigated either elsewhere or through the Tree Mitigation Fund. When looking again at the back of Lot 19 in the area of the stream corridor buffer for DRCC which we are not disturbing, we did not realize initially that it is a fairly open area. We probably can mitigate and plant some additional trees in the back, although probably not the full 30 required. We are looking to mitigate the balance of those 26 trees by planting evergreens along the north side of the retaining wall, as requested in the report of your former Planner, Mr. Ringelheim. There will also be some additional deciduous trees along the back side of the wall as well as 4 along the front, following the same streetscape. However, those 4 trees do not count in the tree replacement requirement.

The exact same lighting fixtures are being proposed; 7 new fixtures along the front parking area. No new area fixtures are proposed for the back. Lighting in the back will be taken care of through wall mounted fixtures which mimic those approved under the original plan. Your engineer made some comments in his memo that the lighting levels may be low near the Route 206 driveway. We will make the appropriate adjustments to assure the lighting levels meet his satisfaction.

There are currently 2 monument signs; one 30 sf. in area and 6 ft. in height at the Route 206 driveway and one similar at the Raider Boulevard driveway. It is our intention at this time not to discuss the monument signs. We have done some further review based on the comments of your professionals and have decided to take another look at how we want to approach the monument signs to rebuild them. We will come back to the Board at a later date on the monument signs. The Board has elevations in black and white showing Exhibit A-5 has been slightly modified to show the existing 6,000 sf. building, the 8,000 sf. building and the gap in between. As you can see, the proposed building mimics exactly the existing with respect to the siding, stone wainscot, overhang in the front and metal roof. There are 4 illuminated wall signs on the existing building which were approved at 20 sf. maximum. We are looking for the same configuration and same external lighting.

Mayor DelCore asked when the Fire Marshal reviewed the plans, was it before you had the space or after.

Mr. Skapinetz said the Fire Marshal review the original plan. We have no problem with the Fire Marshal reviewing this plan but with the gap there will be a sufficient fire rating so there will not be a need per Code for fire sprinklers to be provided. The Fire Marshal wanted to be sure that we provide a 25 ft. wide fire zone along the entire northern driveway which we have no objection to, although it is not shown on the plan. That is one of the Waivers we are requesting. You require a 30 ft. width, we are proposing 25 ft. He requests that the dumpsters be located at least 20 ft. from the building. That is something we need to revise since it is shown right up against the building. I will create that gap by sliding the new enclosure behind the existing enclosure. The Fire Marshal also asked that prior to demolition that the Fire Department have access to all buildings for training purposes. I do not think my client would object to that.

Mr. Mershon asked if the traffic in the back would continue to be 2-way traffic.

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Mr. Skapinetz answered the traffic will continue all the way through.

Mr. Mershon asked if any thought was put into relocating the dumpsters' site which is currently right behind the drive-through. Although there is not a lot of traffic going northbound now, there is not a whole lot of room and you just cannot see with the dumpsters located where they are. I was almost clipped myself. If you make that a road back there I think you are going to see some accidents.

Mr. Skapinetz agreed to look at relocating the dumpsters to improve better visibility.

Mr. Mershon asked for more details about the retaining wall to the north which could not only be an eyesore but a problem for traffic heading south.

Mr. Skapinetz explained that anyone traveling southbound will still see the 4 ft. high face. Anyone seeing the higher fence would be walking along the back along the Royce Brook. I do not think anyone along the residential will see the back side of the wall with all of the vegetation. Right now we have a plain concrete wall. We will not be continuing with the same but going with a decorative stacked block wall. The tone of the block has not been picked yet but I believe it will be complimentary to the building.

Mr. White asked how far from the curb is the wall.

Mr. Skapinetz replied it is about 5 ft. along the edge and a few areas around back where it is less than that.

Mr. White questions the design of the wall. He said the reason why it is concrete is because of the load. We require structural calculations on that. I can tell you from my past experience that the segmented wall is not going to work there unless you put huge foundations in for the guide rails because the load they have to take from a car impact is substantial. You can put in a form liner with cast-in-place concrete walls and achieve the same decorative look.

Mr. Skapinetz said I understand the concern being raised. We do have some flexibility to shift the wall away from the drive aisle, if need be. We will provide calculations and shift the wall if need be but the block wall is certainly going to be more aesthetically pleasing since most of the wall will be facing the public as opposed to the majority of the existing wall that faces the Royce Brook.

Mr. Peason asked for additional information on the evergreen trees.

Mr. Skapinetz clarified they will be planted at the base of the wall. As replacement trees, they will be a minimum of 6 to 7 ft. in height at planting so they will be a few feet above the wall.

Mr. Julian reported the Environmental Commission met with and reviewed the application on October 28th. Although we had no issues with the application there are several things we talked about. There is a riparian zone in the back with the stream. There are wetlands back there that typically requires a 150 ft. buffer; the applicant is proposing a 50 ft. buffer. As a result, the Applicant has submitted a general permit to DEP. Typically, the State works with the Applicant but may require some enhancements or mitigation. That approval will need to be granted from the DEP. We also talked about the drainage. The Applicant will put an additional 6 canisters to handle more of the run-off. They may also have to get a permit from DEP for the flood hazard zone as well.

Mr. Skapinetz stated we already have approval from Somerset-Union Soil Conservation District, the County Planning Board approval; DRCC is just waiting for this Board's approval so that we can go before them for their approval. As far as the wetlands and DEP, although I was not the presenter, I worked on most of the engineering on the original application. There is a flood plain that was established under that original approval which is far downhill from our site. From the wetlands line noted closest to the brook on the plan, there is a 150 ft. buffer. A LOI was given to us by NJDEP and noted the 150 ft. buffer. That buffer extends just to the back of the building and paved area. We submitted the Buffer Disturbance Plan to the NJDEP for approval. We worked with our Environmental Consultant, Ed Cook, and filed an application to the NJDEP for what is considered a Minor Driveway Permit (GP 10A), which we received. So we have an approval from the DEP to disturb this area based on the nature of the area of disturbance as well as the amount of area being disturbed. The 100 ft. stream corridor buffer lies from the flood plain of Royce's Brook. The DRCC reviewed our plan and reviewed with our flood plain line. They agreed with the disturbance and improvements we have within the vicinity of buffer.

Mr. Julian asked Mr. White to review his comments on the matter.

Mr. White said I address this on page 3 of my report. Based on the Letter of Interpretation received, dated December, 2012, it states that the resource value is "exceptional" so the buffer should be 150 ft. but the plans indicate a 50 ft. buffer.

Mr. Skapinetz said the 50 ft. noted on the plan was a carry over in error. When the original LOI was granted, it was a 50 ft. buffer by the DEP. When we went to receive a new LOI, we were told it would be 150 ft. While that 150 ft. line extends through some of the other improvements, those improvements have already been put in place.

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Mr. Julian asked for further information on a Flood Hazard Area Permit from DEP.

Mr. Skapinetz said I am going to slightly modify the outlet structure. We were not required to go for a Flood Hazard Permit on the original application. The changing grade from where the outlet structure is to where the flood plain line is, is a significant distance vertically and horizontally.

Mr. Julian commented, I would encourage you to plant those 30 trees.

Mr. Skapinetz said we will do our best.

Mr. White said the parking area consisting of 142 spaces, 17 banked, which gives you 125 spaces on-site. Based on calculations with the reduction of the 800 sf., you now only need 106 spaces. Is there any way to reduce this to bank more spaces to keep the impervious coverage down?

Mr. Skapinetz responded, we are over on spaces per your Ordinance at 3.5 spaces per 1,000 sf. which is on the low side. ITE looks at 4.0 spaces per 1,000 sf. for retail. Mr. Skapinetz reviewed his observations regarding parking in a 90 minute time period prior to this meeting. He noted a good deal of the parking was being utilized from 4:45 p.m. to 6:15 p.m. By 6:00 p.m. the parking in front of Walgreens was very active. While there were spaces open, we are in the 25% or so range. There are 17 spaces banked, 11 of which are in the back. We have a little room to bank some more spaces but not a lot. If the pattern continues at night and we add in the new retail use, in my opinion, all of the spaces in the front will certainly be utilized just as they are in front of the 6,000 sf. building. I do not think it would be a good idea to reduce the number of spaces, based on the usage observed. Secondly, I do not know where we would remove them from. We could remove some from the back but then what happens if the 2,000 sf. building in the back gets utilized?

Mayor DelCore asked Mr. White for his thoughts on the matter.

Mr. White said purely based on the numbers, I wanted to get some testimony on the usage for the site. Mr. Skapinetz visited the site and noted the usage seemed to be high around 5 p.m. When I have visited other Walgreens I have notice the same.

Mayor DelCore asked Mr. White if the parking is adequate.

Mr. White responded, I feel the site is over-parked based on your Ordinance.

Mr. Goldberg said we have one of the tenants as a witness to discuss some of the parking concerns if you would like.

Mayor DelCore said I would rather see a little more parking than a little less at this site.

Mr. White said just looking back at the original application, we banked some of the spaces because we had so many. Per Ordinance they are required to have 106 spaces; they have 125 and 17 banked.

Mr. Skapinetz said we have 10 ft. x 20 ft. spaces meeting your Ordinance as well as some 10 ft. x 18 ft. spaces that are shallower in depth but have a 2 ft. overhang. Keep in mind that this site is not fully occupied. Our client is still trying to rent out the building in the back. Based on my observations at the site tonight, all of the spaces along Raider Boulevard and Route 206 are going to be utilized fairly heavily. The impervious has been through the stormwater management. We reduced the drive aisle widths through a Waiver in an effort to reduce the impervious.

Vice Chairman Cohen asked Mr. White if he is satisfied with the turning radiuses and safety of the site.

Mr. White said we still need to see the truck turning radiuses for the fire trucks.

Mr. Skapinetz said we did the fire truck turning in a WB-40. The Fire Marshal wants to see a WB-50 running into the site. I do not expect it to be any different than what was approved for the Walgreens. For the size of the stores that are here I do not expect a WB-50 to occur. Both are showing that they do work on the plans.

Mr. White asked to extend the curb and sidewalk along the frontage on Route 206.

Mr. Skapinetz agreed to extend both to the end of their property line where it butts up to Lot 18.

Mr. White said rather than go comment by comment, is there anything you cannot comply with?

Mr. Skapinetz began, Item #8, beginning on page 4 of your report, outlines all of the waivers regarding parking which as you noted are existing nonconformities which are an extension of the application previously approved. I will touch on Item #5 under Landscaping. Again, we have a deficiency of 30 replacement tree. While we did show the full 30 and made a note as far as paying to towards the fund, we will amend and see if we can plant additional trees in the back.

Mr. White said I would rather have the trees if we can get them in there.

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Mr. Skapinetz continued. We will look at the lighting in the back as per your comments. I just want to put it on the record that the Route 206 driveway is a little dark because there are light fixtures that are not working but will be fixed. There is also a new light fixture we are proposing in close proximity to that driveway that I have already discussed with Mr. White. We will shift it closer to the driveway for better illumination. We will model all of the lights in that area and redo our calculations.

Mr. White reviewed, to date we have received copies of the LOI and GP-10 from the DEP, letters from the Somerset-Union Soil Conservation District and SC Planning Board.

Mr. Kois said for the Board's information, our Gateway District was adopted June 13, 2006. The approval for the original application was granted October, 2006. Some key things that are different for the Applicant this time in coming to the Board include sign requirements since previously there was no requirement to have a Sign Manual. The Sign Manual calls for the shopping center to have some uniformity in terms of its standards. Another is the requirement for a 97 ft. right-of-way in the Gateway A District. According to the Tax Map, there is an existing 83 ft. right-of-way. When Lot 20 received approval from the Board of Adjustment, a 15.5 ft. wide area was reserved for future roadway improvements in lieu of a Dedication. Lot 19 also shows a 15.5 ft. area reserved. I would like for the Applicant to address what you are proposing in terms of a Reservation instead of a Dedication.

Mr. Skapinetz said it would be a Reservation in form of the Easement which would be recorded as part of the Plan and would run with the land. This came up with the original Zoning Board application, was included in the plans and had approval. I know that DOT was approached, I do not know if anything formal is in writing, but the reason why the 15.5 ft. easement was put into place is because the DOT just does not take land you give them. DOT was approached but they did not need the property; the improvements slated for the intersection are part of the ultimate approval here. We appealed the Board at the time and granted that easement. We are willing to extend the easement through Lot 19 with the same language as was part of the original approval.

Mr. Kois said the State is not looking at our Master Plan which is designating that area for the right-of-way for a time in the future when that area becomes part of our Main Street. Is it correct to say that the State has not been approached about that specifically?

Mr. Skapinetz responded by saying they were approached previously but not under this specific application. When the Town takes over this right-of-way, if this easement is in place for the purpose of performing roadway improvements and ultimately now is the Town's right-of-way, they have it for their use. If at that time they want to have it dedicated to them, the easement will be written to allow the Town to use this for road improvements. That is the way it was written previously and I would expect that same language to just extend through Lot 19. I do not know that right now, since the Town does not own the right-of-way, whether we can do any more than this.

Mr. Kois asked Mr. Skapinetz to mention for the record how wide the sidewalk will be, noting that the Ordinance calls for a 5 ft. wide sidewalk.

Mr. Skapinetz confirmed it will be a 5 ft. wide sidewalk.

Mayor DelCore asked for clarification about the circumstance with the traffic light.

Vice Chairman Cohen added we would like it on the record since it took 2 1/2 years to get everything straightened out with DOT with the same applicant who had trouble following through on his promises with the Board of Adjustment application which started in 2006.

Mr. Goldberg said I am not sure of the overall history but what I can tell you is that the NJDOT letter of 07-31-13 confirms its review of the application and finds that the work performed was in order in accordance with the permit, so the matter has been cleared up.

Mayor DelCore said I recognize that but I would like to understand the time frame from when it was supposed to have been cleared up to the time it actually was.

Vice Chairman Cohen noted we had to go to court and summonses were issued. There is plenty of history back and forth over the period of 2 1/2 years. That is not normal with other applicants so why should we not have that as a consideration?

Mr. Goldberg asked for a break to discuss the matter further with the Applicant.

Break

Mr. Goldberg brought up Sean Leonard from Interstate Commercial Real Estate who was sworn in and gave the following testimony:

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We are the developers on the project. I have been involved with this for the better part of 10 years so I am very familiar with the project and its' history. To address the Board's concerns, there is really no one to blame but us. We were made aware that there were still some certifications that were required from DOT to ensure the improvements at the intersection of Raider Boulevard and Route 206 were built in accordance with the plans. We had an issue with our contractor and unfortunately, it took too long. I can assure the Board that it will not happen again. This is the first time this has ever happened. We are a bondable company that does not have issues like this and we will not have them again.

Mayor DelCore said that is comforting but you do recognize the liability you left us with during your squabble.

Mr. Leonard said I do not know the extent but yes, I am sure there was liability.

Vice Chairman Cohen reviewed some of the Township documents issued related to issues regarding the traffic light. He noted that the matter was only deemed completed by DOT as of October, 2013.

Mr. Leonard explained, we worked with our Traffic Engineer and submitted. NJDOT requires documents in a certain format. We submitted through our engineer, several CAD files through the "As Built". It would take DOT several months to send a response that would request us to make changes. After making the changes, we would send the files in and wait several months again. We then received a response that said thank you for the files but we are going to do them in-house. I do not want to get into the whole history of this; we ultimately bear the responsibility. However, the process with DOT and with all of the back-and-forth, was like nothing I have ever dealt with before. We got the certification to DOT, had our on-site meeting with the engineer, our contractor, DOT and I believe the Township officials and the matter was resolved. It took absolutely too long. We apologize and can assure you it will not happen again.

Vice Chairman Cohen asked Mr. Bernstein if there was anything the Board could impose as an assurance that we can be assured to have money in-house should the Applicant not follow through, based on a past history.

Mr. Bernstein stated if the Applicant is willing to do so voluntarily, yes. This Board does not have the authority to make that a Condition. However, the Township Committee does have such authority, depending on the permit and other related items.

Mayor DelCore asked Mr. Leonard if the Applicant is still doing work on this contract.

Mr. Leonard said no. The improvements were completed several years ago. It was just a matter of getting DOT's final sign-off that confirmed the improvements were built in accordance with DOT's plans. That is the only aspect of the project that was not finalized.

Mayor DelCore asked, will you be involved with the work that will be going forward and if so, in what capacity.

Mr. Leonard affirmed his involvement saying I handle the leasing and tenants to make it economically feasible. We will be hiring a general contractor to be in charge and undertake the actual construction.

Open to the Public

Susan Gulliford – Hunt Club Road

Ms. Gulliford asked how long the building is between the gap. Is that area for public access or just for persons associated with the businesses, maintenance and emergency responders?

Mr. Skapinetz responded, it will be about 80 ft. in length. The access is for anyone needing it. The ability to have that walkway there allows for better access to the back.

Ms. Gulliford said then there is public parking in the back; it is not just for a loading zone.

Mr. Skapinetz explained the public parking behind is just in back of the Walgreens. There is no new parking being introduced in the back.

Ms. Gulliford asked if there will be security lighting and/or security cameras in the walkway.

Mr. Skapinetz said the area is 15 ft. wide by 80 ft. in length. It will be lit on either side on the buildings, and lighting in the front and back. I do not see a need to add the cameras.

Ms. Gulliford commented that the row of evergreens in front of the buildings along Route 206 seem to block the view of the building. How wide is the area where they are planted? My thought is that the trees will grow over the sidewalk once matured.

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Mr. Skapinetz said the trees will be planted by the retaining wall, far from the sidewalk. The 4 deciduous trees in front are similar to the ones already in place with the same setback off of the walk. They will shade the walk, not block it.

Ms. Gulliford asked if better maintenance is going to be provided for the new trees. There are trees in place that are dead or dying and have not been maintained very well.

Mr. Skapinetz said there is a protocol for maintenance forced by the Township.

Ms. Gulliford asked for additional information on the wetlands buffer.

Mr. Skapinetz clarified the buffer requirement is 150 ft. buffer and restated his previous comments about the error of the carry over marked on the plans from the previous application.

Robert Mazey – Neighboring property owner

Mr. Mazey said my father and I are the owners of the property 2 lots to the north. He complimented the Township on its' vision of the Gateway and a Main Street. He also complimented the developer on maintaining the character of the property. The problem is, we own the 2 lots to the north which are over 4 acres. My father currently lives at Lot 18. We intend to allow the development of the remaining 4 acres to finish the conceptual development of the Gateway. I have been in contact with the developer to remind him that these lots will ultimately become part of this project. However, I do not see an access easement in the drawing. I am not sure why there is a 4 ft. wall proposed. I grew up in this house and can tell you that there is not a 4 ft. grade there. I would ask that an access easement be part of the approval so that when it is time to develop this property, we can do that without having a problem with access and egress. Right now we have a cut-out to Route 206 but I imagine at some point we would be happy to give that up to reduce the entry points onto Route 206, using Raider Boulevard instead, provided we had an access easement to the front parking lot area.

Mr. Skapinetz explained the access in place for the current retail is fixed and matches up with the grading with Route 206. Exhibit A-1 shows the elevation from the driveway at 93 ft. but by the time you get to Lot 19, the grade is 87 ft. The property is dropping 6 ft. in that corner over a fairly short distance. My client will incur the costs to balance the site with fill and add the wall in the corner. We engineered it so that it would not be too steep but also not too shallow. I will defer to counsel as to the easement.

Mr. Goldberg said there is no indication that these sites are going to be developed as one.

Mr. White said at the Zoning Board, we have seen a lot of applications on Route 206 over the course of the past few years. We have been asking for cross-access easements in order to minimize the number of driveways in and out of Route 206 and encourage cross-access.

Committeewoman McCauley asked if there would be another option since they are putting a retaining wall there.

Mr. White said as Mr. Skapinetz said, you can only grade a parking lot so much. You cannot have a steep grade because when you open your car door it will either push back at you or open too quickly to the car next to you, depending on the grade. We look to see that we are not at those maximums. We have looked at that here and see that we do have a drop in grade to minimize the fill but not create an unsafe condition for the people using it. The same thing will probably continue on along the whole frontage there. It will be a fill condition to assure that the parking lot continues on a safe slope and provides a nice access to Route 206 but minimize the number of driveways. The Board can ask for a cross-access easement from this common lot line with the neighbor which can be worded for sometime in the future. It may or may not ever get used.

Vice Chairman Cohen asked if that is an issue for the client.

Mr. Goldberg stated I believe it is.

Mr. White explained, with regards to left-turns in, if they put another driveway at the next property down, DOT may allow a left in 150 ft. down from northbound Route 206. Right now there is not a left in; you have to go onto Raider Boulevard. Going beyond the light, with the extension of this project, they may be able to have a left access into it and have access to this particular project from abutting properties. This has been done on a number of occasions at the Zoning Board with site plans.

Mayor DelCore asked what the issue is.

Mr. Skapinetz said while I agree with Mr. White that it may be a benefit in the future, there is the detriment that right now it is a DOT controlled roadway. We do not know what the intension is right now to develop that 4 acre piece but let's assume it is intense enough that it now triggers a threshold issue with our DOT permit and causes a problem. That can be an issue for us. We do not know how they are going to situate their buildings, where the access easement would be so how

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could we define that? There are several impacts that need to be looked through further before an agreement for an easement could be made. Typically that happens later on when they have an idea of development, they can approach our client for that easement in the appropriate location should they need it. Since they are further down, they may not need access to get to Raider Boulevard. If all things go well with the Bypass, this roadway will no longer be DOT controlled which changes things.

Mr. Goldberg added, at this point you are talking about so many variables. The only thing before the Board is what is here being discussed tonight.

Vice Chairman Cohen said we understand that.

Mr. White said my other thought is whether this project is truly built to Gateway standards. The next one might be which would push the buildings closer to Route 206. Logically, the interconnect would be northward in the parking lot. What the future developer really wants to do is a concern. There are a lot of unknowns here.

Mr. Mazey said, for the record, we do not care where the access is, just so as a matter of record, there is at least some access between the two lots built into the approval; that is our only concern.

Mr. Goldberg said there are no other witnesses, just some follow-up questions for Mr. Skapinetz.

In response to Mr. Goldberg's questions, Mr. Skapinetz said there is no harm to the public or ordinance with regards to the variances and waivers requested. In my opinion we have shown through the development of the plan that we will remain consistent with what was previously approved by the Zoning Board and will be upheld with this plan.

Mr. Bernstein voiced his objection to the witness being asked to testify as to planning issues before the Board. The requirement for the approval of a variance requires the negative criteria be addressed by a licensed planner.

Mr. Goldberg said I have seen it done both ways.

Mr. Bernstein said the Board can accept the testimony for what it is or require the testimony from a licensed planner regarding negative and positive criteria.

Vice Chairman Cohen expressed his dissatisfaction with the fact that the Applicant had not met the requirement of providing testimony from a licensed Planner.

Mr. Goldberg responded, when a 'd' variance is involved, a planner would be here. We did not perceive that it was something that would be warranted in terms of the nature of this particular application for 2 bulk variances.

Mr. Bernstein explained, I am pointing out for the record that the issue is that that type of testimony is usually provided by a licensed planner. The Board can agree to accept the testimony of the engineer as to these issues.

Mayor DelCore asked, has a planner worked with you on the application?

Mr. Goldberg said no.

The Board agreed to have the testimony proceed, reserving the right of requiring future testimony from a planner.

Mr. Skapinetz continued. We have 2 variances, one of which is the Floor Area Ratio. We are deficient with the site being at .08, but bringing it further into conformance to .10, while the requirement is .175. We have a small lot so to create a plan that would conform to the requirement would actually deviate much more from the Code if we were intent on meeting the requirement of the FAR. This is a much better plan to meet the other intensions of the Zoning Code. The other variance is for the maximum front yard setback. The plan shows the setback with the overhang at 144 ft. where 20 ft. is the requirement. The actual setback will be the exact setback as the existing building at 138 ft. in depth. From a planning layout perspective, the plan we are proposing makes the most sense for this lot.

Mr. Kois asked if the building were proposed to be in accordance with the ordinance and meet the intent of the Master Plan for the Gateway, how would that be different from the current circulation that you have on the site.

Mr. Skapinetz responded, there would be no way to circulate around the back side of the building. I know the intent is to create the doorways closer to the roadway but the way in which this site operates, the mixing of the two would create a problem with the distribution of the parking. Right now we have the ability to circulate through the main parking field rather than it be a dead-end space.

Mr. Kois pointed out, the way you currently have circulation on the site, you do not have access around the one building. How would the circulation plan be different from what currently exists on the site?

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Mr. Skapinetz said from that standpoint in the front, it would not deviate.

Close Public

Mr. Kois noted, my understanding then is that the Applicant currently does not have a Sign Manual, my which is a requirement, and that they will need to come back for another meeting in order to have that adopted to address the freestanding signs and all of their signs so it can ensure going forward that we can properly administer the Zoning Ordinance. Otherwise, they are not meeting that standard.

Mr. Skapinetz said we do not know how we are going to address the freestanding signs right now, which would go into that manual. I can easily submit for the 5 signs we are asking for on the building to your office tomorrow as a Condition of Approval. Providing a Sign Manual was not a requirement of the original approval. That new freestanding sign is going to have to be incorporated into the manual.

Vice Chairman suggested waiting for the complete Sign Manual before voting on the application.

Mr. Kois noted the time of decision for the application runs through February 05, 2014. He pointed out to Mr. Skapinetz that the Planning Report was done October 18, 2013 in which the issue of the Sign Manual was raised. Only the Board has the authority to approve the Sign Manual; there is no other way for it to be approved.

Mr. Bernstein asked how long it will take to get the Sign Manual completed.

Mr. Skapinetz said I am not certain since we are still working on the freestanding sign. We do not have the proposed tenants yet and do not know what their requirements would be. We know we want to increase the monument signs to an extent. That really is the only difference here. We decided it was best to wait until some tenants come on board and then come in once we know what we want to do with that sign. This is the first town in which I had to do this manual; normally my plans suffice. I cannot see why it could not be a condition of approval that we submit the manual. You will need to sign off on my plans so it could be signed off all together.

Mr. Kois explained, the Sign Manual is not intended to be designed for what you are anticipating for the uses proposed. The purpose of the Sign Manual, which is in our ordinance, is to allow the Board to see that there is going to be a consistent design theme throughout the development. There are a number of things they would be looking at such as the style of the lettering, method of attachment, construction, material, size, proportion, lighting position, day and night impacts, color and things of that nature. That is something that is done ahead of time and blending into the architecture. It does not have to do with the uses coming in by way of the specific tenants.

Mr. Bernstein suggested that it can be a condition of approval that the Applicant come back before the Board with the manual and any changes in the signage. I am not so sure I disagree that we are putting the cart before the horse.

Committeewoman McCauley said to Mr. Kois' point, the vision and design of the sign is done ahead of time. It is understood that the design will probably stay within the realms of where you are now but you will still need to abide by our Sign Ordinance.

Mr. Skapinetz said I would like to repeat that all signs on the site right now, the directional, monument, and wall signs are all staying. The only thing I have added to the plan and testified to is that we are asking for 5 new signs, could be 4, on the building that match exactly to the existing signage in size and external lamination.

A motion for approval with the re-approval by the Fire Marshal and relocation of the dumpster, was made by Mayor DelCore, seconded by Mr. Mershon.

Mr. Bernstein stated that all of the other requirements of meeting the requirements and recommendations of the Township Engineer, Township Planner and Township Fire Marshal shall be part of the condition of approval. He added that since the situation here is unique, I recommend that we schedule another date in case the approval from the Fire Marshal and relocation of the dumpster has not been accomplished by a date certain, that the Applicant come back before the Board to address it.

Mr. Skapinetz said we will request it from the Fire Marshal immediately but may want to schedule the meeting in January.

Mr. Bernstein suggested the Applicant come back before the Board on January 09, 2014 if there is an issue or no approval by the Fire Marshal and plans showing the relocation of the dumpster. If there is approval by the Fire Marshal, the Board will not need to have the Applicant come back for the two conditions discussed.

Mr. Skapinetz agreed.

Roll Call: Mr. Julian – yes; Mr. Mershon – yes; Mr. Peason – yes; Committeewoman McCauley – yes; Mayor DelCore – yes; Vice Chairman Cohen – no. Motion carries.

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Vice Chairman Cohen stated the application will be carried to January 09, 2014 for open issues from the Fire Marshal and relocation of the dumpster, without further notice.

Mr. Kois informed the Board there is no activity scheduled to the agenda of November 14th.

A motion to cancel the meeting of November 14, 2013 was made by Committeewoman McCauley, seconded by Mr. Mershon. All were in favor; none were opposed. Motion carries.

Mr. Kois introduced Bruce Rydel, P.P., AICP, Hillsborough Township's new Director of Planning, present in the audience who was welcomed by the Board.

ADJOURNMENT

The meeting adjourned at 10:05 p.m.

Submitted by:
Debora Padgett
Administrative Assistant
Planning Board/Board of Adjustment Clerk

Approved