

**WASHINGTON TOWNSHIP PLANNING BOARD
JULY 5, 2011 MINUTES**

Mr. Boyer called a regular/work session meeting of the Washington Township Planning Board to order at 7:09 pm. The Open Public Meetings Act Statement was read, followed by the salute to the Flag.

Roll call was taken as follows:

PRESENT: Mr. Campbell, Mr. Morley, Mr. D'Ariano, Mr. Frattali, Mr. Boyer, Mr. Reed and Mr. Christy

ABSENT: Mr. McPoyle, Mr. Davidson, Mr. Sparacio and Mayor Lyons

STAFF PRESENT: Diana Tutolo, Secretary; James Pierson; Solicitor, Rich Fini, Environmental Engineer; Jon Bryson, Engineer and Jay Petrongolo, Planner

Mr. Pierson swore in the Professionals.

APPLICATIONS:

1. Smyle, LLC

564 Hurffville Cross Keys Rd.

80/11.06

Preliminary & Final Major Site Plan

Scott Marcus represented the applicant, Smyle LLC for preliminary and final major site plan approval to construct a 3590 sq. ft. dental office. Joseph Raday, P.E. and Guido Babore, P. E. were sworn in by Mr. Pierson. Mr. Marcus stated that in speaking with the Board solicitor, notice has been properly given. Mr. Marcus noted that the applicant's professionals have reviewed the outstanding comments with the Board's professionals.

Mr. Raday stated that the property lies at the south east corner of Hurffville Cross Keys Rd. and Greentree Rd. He noted that it is a 0.79 acre vacant lot within the Highway Commercial zone. Mr. Raday testified that the applicant complied with the Board Professionals, the MUA and the Environmental Commission's issues. He added that plans would be revised accordingly.

Mr. Petrongolo addressed his 5/31/11 review letter. Mr. Petrongolo reviewed various submission items. He noted that several variances are necessary. He commented that a variance is requested for fencing in the front yard. Mr. Boyer asked for testimony. Mr. Raday stated that the majority of the variances requested are due to the unusual shape of the property. Mr. Raday commented there have been site specific discussions based on need. Mr. Petrongolo stated that he no objection to the variances and waivers requested. He added that the applicant has worked with him regarding the variances. Mr. Petrongolo asked for testimony for the waiver of the 30 % fenestration requirement. Mr. Marcus replied for patient privacy they are asking for a waiver. Mr. Petrongolo stated that due to the use, he had no objection to the waiver. Mr. Petrongolo asked for testimony regarding the trash enclosure. The applicant stated that no trash enclosure is proposed. The applicant explained that a cleaning service will take the general trash away daily and a separate company will take away medical waste. Mr. D'Ariano asked if appropriate screening would be provided. He was also concerned about headlights shining in neighbors homes. The applicant replied that vinyl fencing, plantings and shade trees would be installed to provide screening. Mr. Campbell and Mr. Fratalli questioned Mr. Babore about recycling. Mr. Babore stated that recyclables would be carried away. The applicant clarified that the first floor would be office use and the second floor would be used for storage.

Mr. Fini addressed his 6/29/11 review letter. Mr. Fini stated that the Environmental Impact Worksheet has been received as well as the Environmental Impact Statement. The Phase I Environmental Assessment report was received. Mr. Fini noted that the report is more than 180 days old; a Phase I update must be submitted. Mr. Fini stated that the Tree Planting and Removal Permit application was received, but not the fee. Mr. Fini commented that the site is heavy with landscaping. He noted that the Environmental Commission is recommended a \$4900.00 contribution to the Township Tree Trust Fund. Mr. Fini asked the applicant for a report of cut and fill quantities to determine the need for a soil removal permit. The applicant will comply. Mr. Fini recommended a conservation easement to preserve trees and all buffer areas.

Mr. Bryson addressed his 5/27/11 review letter. Mr. Bryson noted that the

plans should be revised to show bearings and dimensions for the proposed drainage easement. Mr. Bryson stated that the lighting

Mr. D'Ariano asked if the no left turn has been addressed. Mr. Raday stated that in 2004, the County made no restrictions. Mr. Bryson agreed that the County has not commented on this. Mr. Bryson asked for testimony for hours of operation. The applicant stated that the hours of operation would be 8:30 am. to 7:30 pm. Monday thru Thursday and 8:00 am to 4:00 pm. on Friday with no weekend hours.

Mr. Boyer entertained a motion to open to the public. A motion was made by Mr. Campbell and 2nd by Mr. Fratalli. All in favor.

Leon Lakritz, Environmental Commission Chairman was sworn in by Mr. Pierson. Mr. Lakritz stated that the Commission is not receiving applications, plans and documents from applicants. The Board agreed to review the Land Development Checklist of the Washington Township Ordinance to ensure that the proper documents are received.

Mr. Boyer entertained a motion to close to the public. A motion was made by Mr. Fratalli and 2nd by Mr. D'Ariano. All in favor.

Mr. Petrongolo noted that signage was not included in the application for Smyle, LLC. The applicant would be required to apply for signage in a separate application.

Mr. Boyer entertained a motion to approve preliminary and final major site plan approval with variances and waivers for the applicant, Smyle, LLC. A motion was made by Mr. D'Ariano and 2nd by Mr. Fratalli.

Roll call was taken as follows:

In favor: Mr. Campbell, Mr. Morley, Mr. D'Ariano, Mr. Fratalli, Mr. Boyer, Mr. Reed and Mr. Christy

Opposed: none

Abstained: none

Application Approved: (7-0)

2. E & R Properties
263 Blackwood-Barnsboro Rd.
6/2.04
Work Session/Major Site Plan

Vincent D'Elia, Esq. represented the applicant, E & R Properties. Mr. D'Elia noted that the applicant originally proposed two uses for the site. The office use was eliminated from the plans. The applicant is now proposing one use, a 10,000 sq. ft. childcare facility.

Mr. Petrongolo addressed his 6/23/11 review letter. Mr. Petrongolo reviewed the outstanding submission items. The applicant agreed to show the sight triangle easement and drainage easement on the plans. Mr. Petrongolo reviewed the requested variances and waivers. Mr. Petrongolo asked the applicant if there is another measure to provide irrigation since the applicant is requesting a waiver of this requirement. The applicant agreed to look into it. Mr. Petrongolo asked that the trash enclosure be compatible with the building. Mr. Petrongolo commented that freestanding signs are limited to 32 sq. ft. whereas 55.8 sq. ft. is proposed. He added that a proposed façade sign is not shown on the plans. The applicant will comply.

Mr. Fini addressed his 6/29/11 review letter. Mr. Fini stated that the Environmental Impact Statement and the Environmental Impact Worksheet must be submitted. If the applicant is requesting a waiver of these documents, a written request should be submitted to the Environmental Commission for their recommendation. Mr. Fini also noted that a Phase I Environmental Site Assessment must be submitted. Mr. Fini stated that deed restrictions, easements, protective covenants should be submitted. Mr. Fini commented that a license is required for daycare centers by the New Jersey Department of Children and Families (NJDCF). Mr. Fini requested copies of or asked any correspondence from the Department of Environmental Protection (DEP). Mr. Fini stated that a Tree Planting and Removal Plan have been received, but an application and fee must be submitted. Mr. Fini recommended a conservation easement to preserve trees and all buffer areas. He also recommended that testimony be provided for their recycling plan at the preliminary hearing.

Mr. Bryson addressed his 6/28/11 review letter. Mr. Bryson requested that the applicant's Engineer touch base with the County Engineer to confirm that there is no need for a handicap ramp at the intersection of Blackwood - Barnsboro Rd. and Barnsboro-Good Intent Rd. Mr. Bryson noted that as they are proposing new sidewalks and curbing, a ramp should be there. Mr. Bryson commented that, as there are two handicap ramps to be provided for the access aisle, depressing the whole area should be considered. Mr. Bryson asked for clarification of a drop off area on site and whether or not school buses would be utilized on site. The information should be provided at the preliminary meeting. Mr. Bryson asked the applicant's Engineer what type of surface would be used in the play area. The applicant's Engineer stated that it would be grass. Mr. Bryson noted that there would be no impact to the drainage calculations. Mr. Bryson stated that the ingress of trash trucks conflicts with vehicles exiting the site. He noted that the turning radius could be shifted 5 ft. to the east to avoid the conflict. He asked that the applicant's Engineer review this issue. Mr. Bryson asked that the copies of the deed and legal descriptions be provided to his office and the Board Solicitor's office for their review.

Mr. Boyer asked if the applicant had any questions. Mr. D'Elia asked when the applicant could be heard for site plan. Mr. Boyer stated that the next meeting date is 8/2/11. The Board Professionals agreed to a two-week deadline for their review. Mr. Petrongolo noted that the applicant has not submitted all their signage information. The applicant agreed to submit revised site plans and signage two weeks prior to the 8/2/11 meeting. Mr. Fini recommended that the applicant contact the Environmental Commission to be placed on their agenda. He noted that the Commission meets the first and third Thursday of the month.

Mr. Pierson announced that the application for WP Plaza LP, 5901 Route 42, Block 195, Lot 23 for signage is being carried to the 8/2/11 meeting at the applicant's request.

**3. Kennedy Memorial Hospital - University Medical Center
Medical Drive & Egg Harbor Rd.
117/13**

Site Plan Waiver

Robert Mintz, Esq. represented the applicant, Kennedy Memorial Hospital - University Medical Center for a site plan waiver. Mr. Pierson swore in James Huynh, R.A., Duane Spencer, Director of Jeff STAT and Larry DiVietro, P.P. Mr. Mintz stated that this is one lot that is a medical campus with several existing buildings. It sits on 24.22 acres and is in the Institutional Zone, which permits acute care and its functions. Mr. Mintz marked an aerial of the overall site as Exhibit A and aerial of the site plan as Exhibit B. Mr. Mintz noted that helicopters and helipads are a permitted use in the zone. Mr. Mintz stated that this is an application to establish a previous, periodic use of a helipad on a more permanent basis. The applicant would like to provide a fence around the helipad as well as a 10' x 16' x 8' shed and a 4' x 4' flammable liquids locker. The FAA requires that certain tests be done daily on every helicopter. Mr. Mintz commented that helicopters and ambulances noises are not considered a nuisance. Mr. Mintz stated that the pad sits 150 ft. from the roadway with considerable distance from the side yard. He added that the dense and heavy foliage in the area would not be removed. Mr. Mintz explained that there is currently a helipad on the roof of the hospital, which is used for emergencies. With the enhancement of the emergency room, it has allowed the hospital to provide a much more sophisticated service. They can now function with emergency responses that would otherwise have gone elsewhere. The helipad will be a 24/7 operation. Mr. Mintz stated that an operator, an EMS technician and a pilot would be stationed in an office on the campus in one of the existing buildings. There will be approximately fifteen employees, three to a shift.

Mr. Petrongolo addressed his 6/27/11 review letter. Mr. Petrongolo stated that as per the criteria for a site plan waiver, it is appropriate for the Board to consider a site plan waiver as opposed to a site plan. Mr. Petrongolo asked if the applicant would comply with the Fire Marshall's comments in his review letter. Mr. Mintz replied that the applicant would comply. Mr. Petrongolo noted that shrubs are proposed for screening along Egg Harbor Rd. Mr. Mintz agreed to work with Mr. Petrongolo to bring them out closer to the curb line and to provide taller shrubs. Mr. Mintz asked for the sidewalk requirement to be deferred as there is no construction for this project. The Board agreed. Mr. Petrongolo stated that he had no objection to the waiver

of site plan.

Mr. Bryson addressed his 6/28/11 review letter. Mr. Bryson noted that Mr. Mintz has indicated that they will work with the Planner regarding the plantings for this application. Mr. Bryson requested detailing on the fence. Mr. Bryson stated that a bond should be posted for the buffer plantings. Mr. Bryson asked if the original FAA approval is still in effect. Mr. Mintz replied that he will make a new application. Mr. Bryson stated that documentation of approval should be provided as a condition of approval. Mr. Bryson stated that he had no objection to a waiver of site plan.

Mr. Boyer entertained a motion for a site plan waiver with variances, waivers and conditions for the applicant, Kennedy Memorial Hospital - University Medical Center

A motion was made by Mr. Fratalli and 2nd by Mr. D'Ariano.

Roll call was taken as follows:

In favor: Mr. Campbell, Mr. Morley, Mr. D'Ariano, Mr. Fratalli, Mr. Boyer, Mr. Reed and Mr. Christy

Opposed: none

Abstained: none

Application Approved: (7-0)

The Board took a break at 8:44 pm.

The meeting resumed at 8:53 pm.

4. Robert Maloney
460 Greentree Rd.
80/1.09

Mr. Pierson swore in the applicant, Robert Maloney. Mr. Maloney stated that he was before the Board to request a site plan waiver to lease a vacant building to a professional photographer.

Mr. Petrongolo addressed his 6/27/11 review letter. Mr. Petrongolo noted that the applicant is requesting a waiver of site plan to utilize an existing building on site for a photo studio. Mr. Petrongolo noted that as per 199-4B, the criteria for a site plan waiver have been met. He suggested to the Board

that as a condition of approval, they should consider that the parking stalls be improved to conform to ADA requirements. Mr. Petrongolo added that federal regulations require 12' x 20' stalls. Mr. Maloney testified that the parking has been paved with asphalt. He added that the parking stalls would be striped when the asphalt has cured. Mr. Petrongolo wanted the applicant to be aware that there are several uses on this site. This could become a creeping major site plan if any other future uses or additions to the site. The site would have to be brought into compliance. Mr. Petrongolo stated that he had no objection to the site plan waiver.

Mr. Boyer entertained a motion for a site plan waiver for the applicant, Robert Maloney.

A motion was made by Mr. Fratalli and 2nd by Mr. Campbell.

Roll call was taken as follows:

In favor: Mr. Campbell, Mr. Morley, Mr. D'Ariano, Mr. Fratalli, Mr. Boyer, Mr. Reed and Mr. Christy

Opposed: none

Abstained: none

Application Approved: (7-0)

DISCUSSION:

1. Ordinance # 12-2011

An ordinance rezoning the property known as Block 101, Lot 1 from its current zoning, to HC - Highway Commercial

Mr. Petrongolo stated that this ordinance has been to Council for first reading. The purpose of Ordinance #12-2011 is revise Block 101 Lot 1 from its current zone Neighborhood Commercial (NC) to Highway Commercial (HC). Mr. Petrongolo explained that this site known as Tuscan Village came before the Planning Board several years ago. At that time, it was considered to be within the HC zone and that was the approval granted to the applicant. Apparently, there was some confusion as the property was actually in the NC zone. Mr. Petrongolo noted that recently there have been applicants coming in the Zoning office for different uses at this site that were not in conformance with the NC zone but in conformance with the HC zone. The owner of the property has made a request to Council to change the zone from NC to HC. Mr. Petrongolo stated that he has reviewed and compared it

to the Master Plan and the Re-Exam Amendment, which was adopted 5/18/10. Mr. Petrongolo noted that part of the amendment was to have properties along Route 42 rezoned to Highway Commercial. Mr. Petrongolo added that there is no negative and it is appropriate for this zone. Mr. Pierson suggested that the Board adopt Mr. Petrongolo's recommendation and forward it to Council as the Board's recommendation.

Mr. Boyer entertained a motion to adopt Mr. Petrongolo's 7/5/11 letter recommending to Council the zoning change as per Ordinance #12-2011.

Roll call was as follows:

In Favor: Mr. Campbell, Mr. Morley, Mr. D'Ariano, Mr. Fratalli, Mr. Boyer, Mr. Reed and Mr. Christy

Opposed: none

Abstained: none

Recommendation Approved: (7-0)

2. Giralda Properties

115.01/27 & 28

American Blvd.

Robert Mintz, Esq. represented his client, Giralda Properties. Mr. Mintz explained to the Board that is seeking to retain vested rights to complete construction of a building on lot 27. Mr. Mintz stated that a subdivision plan was filed in 1996. At the time of Planning Board approval, the site was zoned Highway Commercial. The current zoning is in the Redevelopment zone. He asked for the Board's consideration and confirmation that there was a subdivision that he believes was filed in 1996. Mr. Mintz noted that the owner at the time came before the Planning Board to subdivide three lots. He stated that the first building on the site is 32,000 sq. ft. flex space, the second is 24,000 sq. ft. space and a third flag lot and main driveway. Mr. Mintz distributed aerials, location maps, utility plans and site plans to the Board. Mr. Mintz noted that it has been 15 years and no resolutions can be located to prove that the subdivision took place. Mr. Mintz stated that his client received tax abatement from Council a few weeks ago. His client is prepared to go on at his own risk. His client does not have a tenant for the 13,400 sq. ft. flex space. Mr. Mintz commented that the first building is

100% occupied, which his client owns. The second building is a national headquarters for a company with 40 to 60 employees. His client is willing to come back to the Board for the use of the third building, but with the hope of it being tied to the original regulations. If not vested, his client would have to start over. Because of the recent change to the Washington Square Redevelopment zone, flex space is not a permitted use. Mr. Frattali asked why they did not get approval for the third building. Mr. Mintz answered that it was being used at that time as a material storage yard. Mr. Petrongolo asked if they received site plan approval for the material storage yard. Mr. Petrongolo noted that if they did not, it would mean the former approval was abandoned for the new approval. Mr. Mintz stated that his client would have to go before the Zoning Board for a use variance, if granted they would have to provide all new site plans. He added that without the ability to constrain costs, his client could not move forward. Mr. Pierson stated that he had a problem with not having resolutions and that the protection of preliminary approval is long gone. Mr. Pierson noted that after reviewing what Mr. Mintz has written and Mr. Petrongolo's letter, preliminary approval was received for two of three of the three phases and final was received for two of the three and the third phase never received final. Mr. Pierson noted that it is Mr. Mintz' argument that the infrastructure was put on in Phase III, which would have given them the vested right to continue to develop. Mr. Pierson commented that he could not give an opinion that it could be done or that it is vested. Mr. Boyer stated that even though it was a long time ago, he recalled that two of the three lots had tenants when they came before the Board. He added that he remembered that Mr. Mintz was not so sure about a third tenant. The applicant at the time moved on with final for the two. Mr. Boyer added that the applicant held off and came back before the Board for the material storage lot, which was approved. Mr. Petrongolo explained that the site is in the Redevelopment zone, which makes the buildings a pre-existing non conforming use. He noted that under Land Use Law, preliminary approval is protected for three years with two extensions from zone changes. Mr. Morley asked when the zone change occurred. Mr. Petrongolo replied that it was changed to the Redevelopment zone in 2007. Mr. Petrongolo added that in 2010 Mr. Mintz' client came to the DRC (Development Review Committee) and was advised at that time that flex space was not a permitted use. Mr. Petrongolo explained to the Board that preliminary approval locks in the approval but final is to make sure

conditions and criteria are met. Mr. Mintz' feeling was that whatever the conditions were they had to have been satisfied to implement the infrascuture. Mr. D'Ariano stated that the most important thing is to protect the Board. Mr. Pierson answered that the Board could be challenged. Mr. Pierson reiterated that what information he has, he cannot give the Board the assurance they need. Mr. Mintz stated that if his client submits an amended preliminary and final site plan application, his client does not intend to meet all the current standards. Mr. Boyer felt that the lack of information is making it difficult for everyone. He added that the Board has to avoid putting the Township at risk. Mr. Boyer suggested that Mr. Mintz, Mr. Petrongolo and Mr. Pierson continue to discuss this further and possibly find more information.

MINUTES:

A motion was made by Mr. D'Ariano and 2nd by Mr. Christy to approve the minutes of June 9, 2011. All eligible members voted in favor of the June 9, 2011 minutes.

OPEN TO THE PUBIC:

A motion was made by Mr. D'Ariano and 2nd by Mr. Fratalli to open to the public. All in favor. No one in public wished to comment.

CLOSE TO THE PUBLIC:

A motion was made by Mr. Campbell and 2nd by Mr. Fratalli to close to the public. All in favor.

ADJOURNMENT:

A motion was made by Mr. D'Ariano and 2nd by Mr. Christy to adjourn the meeting. All in favor. Meeting adjourned at 9:54 p.m.

These minutes are a brief summary of the proceedings that took place during

the Washington Township Planning Board meeting held on July 5, 2011 and should not be taken as verbatim testimony.

Respectfully submitted,

A handwritten signature in black ink that reads "Diana Tutolo". The signature is written in a cursive style with a large, sweeping initial 'D'.

Diana Tutolo
Planning Board Secretary

Cc: Business Administrator
Council
Director of Community Development
Township Clerk
Tax Assessor
File