

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
April 15, 2010**

A. Chairperson Fort called the meeting to order at 7:40 p.m. announcing that all laws governing the Open Public Meetings Act had been met and that the meeting had been duly advertised.

Mrs. Fort	present
Mrs. Flynn	present
Ms. Hendry	present
Mr. Hendrickson	absent
Mr. Simon	absent
Mr. Stettner	present
Mrs. Goodwin	absent
Mr. Thompson	present
Mr. Denning	absent

**Donald Moore, Esq., Kelleher & Moore
Michael Sullivan, Clark, Caton & Hintz
Nelson Caparas, Jacobs, Edwards & Kelsey
John Hansen, Ferriero Engineering**

B. APPROVAL OF MINUTES:

1. March 18, 2010 Ms. Hendry made a motion to approve the minutes. Mr. Stettner seconded the motion. *Motion* was carried with a vote of *Ayes all, Nays none recorded*.

C. CORRESPONDENCE: No comments.

D. TECHNICAL REVIEW COMMITTEE:

- 1. T-Mobile (formerly known as Omnipoint Communications)
Block 13, Lot 74
93 Old Rt. 28
Variance & Preliminary Site Plan
Action date: April 22, 2010**

Mrs. Flynn stated that this matter is incomplete.

E. RESOLUTIONS:

None

F. VOUCHER APPROVAL: (sent electronically to Board)

Mrs. Flynn made a motion to approve the vouchers. Mr. Thompson seconded the motion. *Motion was carried with a vote of Ayes all, Nays none recorded.*

G. PUBLIC HEARINGS:

- 1. Mark Hartman
Preliminary-Final Site Plan
Use and Bulk Variance, Minor Subdivision
US Rt. 22
Block 36, Lot 47 & 48
Action date: April 15, 2010**

Geoffrey Soriano, Esq., stated that he represents the applicant. The last meeting was held on March 18, 2010. At the last meeting there were some concerns raised by the applicant's traffic expert, Gary Dean. Those items will be discussed this evening.

Attorney Moore swore in the board's professionals.

Gary Dean testified that he prepared two different reports since the last meeting that was held on March 18, 2010. He stated at the last meeting, there was some information that they erroneously omitted. To remedy that and to summarize the discussions at the hearing, on March 22, 2010 he submitted a point by point response to the board, and in response to the Jacob's Engineering review. Almost simultaneously with his March 22, 2010 letter, Jacob's Engineering submitted a report dated March 24, 2010. Therefore in response to this letter, they issued a supplemental report dated April 9, 2010 that addressed the lingering issues and memorialized the discussions that took place with the board's professionals at their meeting that took place on March 26, 2010.

Exhibit A-18 Revised Bohler Plans dated April 1, 2010.

Mr. Dean testified that the plans reflect the modifications to the internal signage.

The shared parking rule is a technique to review the parking requirement as it fluctuates over the course of the day. During an afternoon time, when the retail shopping might be at its peak, the restaurant activity is less. During evening hours when the restaurant activity reaches its peak, retail parking is less, and residential parking starts to increase. The shared parking concept reviews different times of the day, and even days of the week to determine if there is enough parking. On the March 22, 2010 analysis they revised the shared parking to include the outdoor

seating area. This is located on the southerly side of Building B. The shared parking analysis that considers the different times of the day, yielded a total on site requirement of 193 spaces and they are proposing 194 parking spaces.

Mr. Caparas informed the board that if this development is reviewed as a planned commercial development, and not look at as shared parking, the parking demand would be less than 90% of the 162 parking spaces. One hundred sixty two would be designated for the retail and 32 would be assigned for the residential.

Mr. Thompson wanted to know if Mr. Dean took into consideration the potential for additional traffic on Lamington Road. Mr. Dean answered that they did not look at that.

Mr. Caparas stated that if the 32 parking spaces are removed from the 194 spaces, the anticipated demand would still be satisfactory. They should have one designated parking space for each residential unit.

Mr. Caparas wanted clarification that the curbing along Coddington Road would be adjusted to the widening on the westerly side. Mr. Dean confirmed.

Elizabeth C. McKenzie was sworn by Attorney Moore. She stated her credentials for the record.

Ms. McKenzie stated that there are 3 fairly unique aspects to this application. The first is that in addition to the business, they are seeking permission to construct 16 residential units. These units will include one superintendent unit. The remainder will be COAH units. The second aspect of this application that is unique is the way the commercial space is being designed. This development will have an internal courtyard space. Instead of building one building, this development will have 4 buildings, one of which will be purely residential. The other three will contain the non-residential space. Many of the commercial store spaces will not be visible from Route 22. The third matter deals with the improvement to the site.

Ms. McKenzie recited the variances on the record that the applicant is seeking. A floor area ratio of .31 is proposed, as compared to the .20 FAR limit permitted in the B zone; the applicant is no longer seeking a variance for the height of the building; impervious coverage will be .69 of the lot, exceeding the limit of .55; a setback variance is required for the side yard of Building D, 28.7 feet is proposed and 75 feet is required adjacent to a residential zone; applicable buffering requirement include the provision of a 50 foot screening buffer adjacent to a residential zone or use and a buffer of 100 feet from Route 22; the ordinance requires a 100 foot buffer along a State highway; additionally a driveway is proposed in front of the two buildings closest to Rout 22 which will come within 29.9

feet of the front lot line, the violation of the 100 foot buffer requirement; a variance for the use of concrete curbing instead of granite block curbing, for the size of the parking spaces which will be 9 by 18 instead of 10 by 18; variance for the number of loading spaces (3 proposed); variance required for the size of the proposed freestanding identification sign; tree planting requirement; Lot 47 is considered a service station but it does not meet all of the conditional use requirements; reduction in lot area associated with the prior non-conforming use, thereby an expansion of a non-conforming use; the residential and mixed uses; granting a “c” variance necessitates that the applicant demonstrate either that there is a hardship or practical difficulty to the developer to comply with the standard that the ordinance is exceptionally narrow. With respect to Lot 48, there are use variances that they need in connection with mixed use development. The residential component is not allowed in the B zone. Additionally a variance is needed for the combination of residential and non-residential use in one building.

Granting the use variance to permit a mixed use affordable housing development promotes several of the purposes of the MLUL. She testified that the residential portion of the application is inherently beneficial and pointed out that the application should be subject to a “balancing test”. (Sica balancing test)

Ms. McKenzie referred to the proposed sign. The tenant names will not be placed on the sign. The sign will be 20 square feet larger than the 50 square feet that is allowed by ordinance. This will require a variance. They are proposing directional signs too. Stores that have a front and back entrance will require additional signage.

Regarding the tree planting requirement of the ordinance, the applicant will not be able to meet this condition.

Lot 47 does not meet the conditional use requirement. The existing building setback measures 14.9 feet at the front corner of the lot versus the 75 feet that is required. There is the absence of the required 100 foot buffer from State and local roads. It measures only 10.2 feet from Route 22 and 42.9 feet from Coddington Road. The driveway setback from the intersection of Route 22 and Coddington Road is 80 feet and 100 feet is required. There is no landscaping in the front yard and in the parking area. Some of the required parking spaces will be located on gravel and also there is no curbing on most of the site. The subdivision that is proposed to increase the area of lot 47 to accommodate the development will create a conforming lot.

The affordable housing that is proposed could be used to advance the objectives of the Housing Element and Fair Share Plan and there is a clear public benefit. She testified that she reviewed the Amended Third Round Housing Element and Fair Share Plan. This application is a substantially beneficial use. It does allow the possibility of the independence from municipal funding. The site is

located along the Route 22 Corridor where the township contemplates the development of affordable housing. Granting the use variance to permit a mixed use affordable housing development promotes several of the purposes of the Municipal Land Use Law.

When the board considers the application which involves an inherently beneficial use, in the 1992 Sica decision it advised Zoning Boards of Adjustment that the 1987 Medici criteria that apply to most other use variances are not applicable to inherently beneficial uses and should instead be subject to a “balancing test”. The potentially negative impacts that might be identified with this application relate to its commercial component, which is a permitted right on the property. Regarding the argument for the floor area variance, the additional floor area ratio can be accommodated on the site because of the mixed use nature of the development. The floor area ratio is directly related to the inherently beneficial COAH units. Regarding the argument for the “c” variances for side yard setback, residential buffers, Route 22 buffer, signage, parking, impervious coverage and loading spaces, the site will be improved by the retail activity and the residential environment on the site.

The board took a 5 minute break.

Ms. McKenzie continued her testimony. She addressed the proposed identification signs. Most of the individual stores will not be visible from Route 22. Allowing for a slightly oversized identification sign in an attractive format will create a sense of place.

The development will be improved and condensed and brought slightly more into compliance with the current Ordinance standards.

This matter will be carried to May 20, 2010 without further notice to the public.

2. Hunterdon Hills Animal Hospital
Block 21.13, Lot 7
Route 22 Eastbound
Variance & Preliminary & Final Site Plan
Action date: July 16, 2010

Madam Chair announced that this matter has been carried to May 20, 2010.

H ADJOURNMENT:

Ms. Hendry made a motion to adjourn @10:45 p.m. Mr. Stettner seconded the motion. *Motion* was carried with a vote of *Ayes all, Nays none recorded.*

Respectfully submitted,

Linda Jacukowicz