

**READINGTON TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
April 16, 2009**

A. Chairperson Fort called the meeting to order at 7:34 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	present
Mr. Stettner	present
Mr. Shepherd	present
Mr. Thompson	present
Mr. Denning	present

**Donald Moore, Esq., Kelleher & Moore
Michael Sullivan, Clark, Caton & Hintz
John Hansen, Ferriero Engineering
Dr. Stephen Souza, Princeton Hydro
Scott Parker, Jacobs, Edwards & Kelcey**

B. APPROVAL OF MINUTES:

1. March 19, 2009 - Mr. Denning made a motion to approve the minutes. Mr. Simon seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.*

C. CORRESPONDENCE: Board had no comments regarding the correspondence.

D. TECHNICAL REVIEW COMMITTEE:

**1. Omnipoint
Block 96, Lot 2
806 Route 202 North
Variance
Action date: April 25, 2009**

Mr. Denning made a motion to deem the application complete and to grant all waivers that were requested by the applicant for completeness purposes only. Mr. Simon seconded the motion. *Motion was carried with a vote of Ayes all, Nays none recorded.*

E. RESOLUTIONS:

None

F. VOUCHER APPROVAL: (sent electronically)

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

G. EXECUTIVE SESSION:

**RESOLUTION
(Open Public Meetings Act – Executive Session)**

WHEREAS, N.J.S.A. 2:4-12, Open Public Meetings Act, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist:

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment, the Township of Readington, County of Hunterdon, State of New Jersey, as follows:

The public shall be excluded from discussion of the hereinafter specified subject matters. The general nature of the subject matter to be discussed is as follows:

1. Potential litigation

It is anticipated at this time that the contents of the above discussions will remain confidential.

This Resolution shall take effect immediately.

Certified to be a true copy of a Resolution adopted on April 16, 2009.

Linda Jacukowicz, Coordinator

Mr. Denning made a motion to enter executive session at 7:40 p.m. Mrs. Flynn seconded the motion. *Motion* was carried with a vote of *Ayes all, Nays none recorded.*

Mr. Denning made a motion to enter open session at 8:36 p.m. Mrs. Flynn seconded the motion. *Motion* was carried with a vote of *Ayes all, Nays none recorded.*

H. PUBLIC HEARINGS

- 1. Winfield Management Corp.
Preliminary-Final Site Plan &
Use Variance
Block 8, Lot 3
Action date: April 16, 2009**

Mark Peck, Esq., stated for the record that he represents the applicant. This is a continued hearing. Pursuant to Michael Sullivan's letter dated April 8, 2009 and John Hansen's letter dated February 23, 2009 the applicant is in total agreement and will abide by the provisions set forth in those letters. Regarding the traffic a consensus has been reached as to which option, out of several options that were presented, is the best and they will abide by whatever option the Board recommends. Ultimately, this decision is a NJDOT matter. Mr. Peck informed the Board that he did not intend to place additional testimony on the record.

PUBLIC COMMENTS:

Daniel Pepper, Esq., stated that he represents a number of the merchants that are located in the Bishop's Plaza, as well as a number of the residents located in the surrounding area off of Lake Drive. A number of economic concerns have been raised by his client's regarding the traffic flow and the continuation of the median opening at Lake Drive and Route 22.

Madam Chair stated that when this application was received, the applicant went to NJDOT and asked for guidance. They were informed that the median closure should have occurred when the daycare center was built. However, the entrance to this daycare is not off of Route 22, and therefore, NJDOT was unaware of the application.

Scott Parker, Jacobs, Edwards & Kelcey was sworn in by Attorney Moore. Mr. Parker testified that working with Gordon Meth, Traffic Expert for the applicant, it was agreed that they would contact the NJDOT because something had to be done at Haver Place and there were concerns about the safety regarding the queuing of even existing traffic. The response from NJDOT was that even though it was not a

formal agenda of theirs, they do have a practice of not endorsing uncontrolled median openings on State highways. They would prefer to have the opening closed. Their preference was to have the U-turning movements accommodated at the traffic signal at Oldwick Road for the one direction and the west bound left turn and u-turning movements would be accommodated at the next down stream location. Mr. Pepper wanted to know if the NJDOT would entertain any other options. Mr. Parker answered that in his experience they are always willing to listen to new ideas.

Mr. Peck stated for the record that it would be the Township Committee who is responsible party for signing the application to NJDOT.

Mr. Parker informed the board that this condition cannot be left open ended by the Board. If the Board approves this application, conditions would have to be placed on the record as far as what the initial application is going to contain. Mr. Moore recalled that there were three proposals. The preferable one to date was the full closure. This should be included in any approval that the board might grant. The applicant's engineer will prepare the proposal package to the Township Committee for signature and then in turn it will be forwarded to NJDOT.

Since there were numerous proposals previously submitted to the board, Mr. Moore stated that the condition that the board finds most acceptable will be addressed in the resolution, and that if the NJDOT does not agree with that proposal, then the resolution will state to go to the second proposal, and so on.

Attorney Pepper requested that the board allow his client to have 30 days to make an application to NJDOT. Mr. Denning stated that he did not think that that request was reasonable. The application has been ongoing for several months.

Mr. Flath stated that he needs an approval from the Board of Adjustment, before he can go to the Township Committee to seek their approval. Mr. Flath invited Mr. Pepper's client to participate in the presentation that he makes to the Township Committee. All of the traffic information will be forwarded to Mr. Pepper's client. There is no reason to hold up this application.

Mr. Parker indicated that there were a number of options discussed. The NJDOT opted for full closure of the median opening in front of the site. Mr. Moore will include all of the options that were proposed. That way, if the NJDOT does not approve option (1), then there would be three other options to choose from.

Mr. Thompson wanted to know if during the discussions with NJDOT did they determine that this cut-through should be is closed. Or could they propose to go further west and directly opposite the entrance, install a new cut-through. Mr. Parker answered that he did not have that discussion, however, it is something that he could explore.

PUBLIC COMMENTS:

Cheryl Filler, Chairman of Environmental Commission - stated that recommendations were made by the Environmental Commission in concert with Dr. Souza regarding the stormwater management on the site. Her concerns are that the stormwater on the site is being treated mostly as waste water, rather than recharge water. Recommendations were made for the installation of "rain-gardens" to mitigate the runoff from the roof. She recommended that the applicant must comply with the recommendations of Dr. Souza and the Environmental Commission. Another issue was the underground water containment. She suggested using curbside bio-treatment filters.

Dr. Souza stated that he did address this matter. He had a conversation with the landscape architect to use the roof-top runoff and routing it into the perennial planting beds that are proposed for the site. The site does not provide a great opportunity for recharge. He stated that his position has been that you should reduce the volume and re-use the water in a beneficial manner. Dr. Souza's remaining concern is the amount of runoff from the roof and to utilize the water on the site.

Robert Zederbaum stated that with regard to the use of the water the solution was to install a sump area on the bottom of the collection storage area. He designed the site to use as much of the water as possible for recharge.

Dr. Souza stated that Mr. Zederbaum is correct and the system is designed correctly, but if you can reduce the amount of stress on the system, this would be an easy solution.

Mr. Peck agreed to have the gutters directed to the perennial planting areas.

CLOSE PUBLIC COMMENT.

Mr. Moore stated that the board would be voting tonight for a form of preliminary approval which if favorably would incorporate all of the professionals' suggestions. If it is approved, he stated that he will prepare the resolution to include all those conditions and will circulate it. The board at the next meeting would vote for final and memorialize the resolution.

Mr. Parker suggested that the applicant will advance an application to the NJDOT consistent with the recommendations in the letter expressed of January 14, 2009 authored by Scott Parker or in the alternative solution that is developed and agreed to by all professionals and acceptable to the Township Committee.

Mrs. Flynn made a motion to approve the application with the conditions already stated by Attorney Moore and in agreement with all of the board's professional's

reports, additionally to work with Dr. Souza to develop a plan to treat the roof runoff to water the plants. Mr. Shepherd seconded the motion.

Mr. Shepherd – stated that he was in favor of the application. He felt that the applicant had addressed all of the Board’s concerns. It appeared as though all of the professionals have worked out the technical issues and given that the affordable housing units that the applicant is proposing to build are included in the Township’s COAH plan he was in favor of the approval. Mr. Shepherd voted yes.

Mrs. Flynn – stated that looking at the negative criteria, the intensity of the site is a fact, however, the split use will mitigate the problem. There are several bulk variances required but they are a result of the Board’s suggestions. The impervious coverage variance is mitigated by the applicant’s stormwater management plan and he also agrees to install the roof runoff option. The buffer is dense and it will shield the residents. Having resident’s live above the retail stores will help security. For the positive criteria, she felt that the site had a modest density for the size of the site. The scale, the number of units and the size of the retail/commercial space is appropriate for the site and for the township. The proximity of the site to Whitehouse Village suits the property. The applicant has met every single criterion that the board has asked him to do. The building is very aesthetically pleasing. The height variance that is required is a result of the board requesting the cupola. It provides affordable housing on a small scale. A playground and picnic area is provided. The parking is situated in the back of the building and is screened well. This development will trigger NJDOT safety improvements to Route 22. Mrs. Flynn voted yes.

Ms. Hendry stated that she had a lot of concerns about the application. One of those concerns is the mixed use which she felt is a negative impact. She felt that the increase in the FAR is a negative criterion and that the traffic conditions with the NJDOT are negative criteria. She believes that the applicant has been very responsive to the concerns of the board. The negative criteria that she mentioned is on a small scale and the objectives of the mixed use and increase FAR and traffic are on a relatively small scale. Ms. Hendry voted yes.

Mr. Denning stated that the affordable housing is beneficial. The site is well designed and balanced. The positives outweigh the negative. Mr. Denning voted yes.

Mr. Simon stated that the size of the structure is modest and would not be imposing on to the community. Providing affordable housing will be a benefit to the township. He reiterated the Environmental Commission’s concerns and expressed his desire that the applicant take into consideration. He was concerned about the highway traffic and how that would affect the public’s safety, however, he could not find a better way to mitigate this problem. Mr. Simon voted yes.

Mr. Thompson stated that going through the weeks of testimony, he determined that the application reminds him of an application that was before the Board several years ago. His initial concerns were about children playing in the parking lot and traffic issues. He stated that the professionals need to propose a safe alternative that doesn't deprive the business owners' ready access to their customers. He will rely on the professionals involved to work out these details. Mr. Thompson voted yes.

Mr. Stettner stated that the biggest problem he has is with the safety of the children. It is a nice looking building and a great tax ratable. Mr. Stettner voted yes.

Mrs. Fort stated that most of the variances are diminimus. The two uses on the same property is the largest variance. It is a beautiful building. It is located within the area that has been designated as a village center and fits into the plan for Whitehouse Station. It does have sewer capacity. It is part of our documented affordable housing plan which increases its value. She was concerned all along about how many things will be going on at the site. However, the applicant has been extremely cooperative and will address any problems that might arise in the future. This application does not harm the township's Master Plan. The retail portion of the application is completely conforming.

The board took a recess.

- 2. Mark Hartman
Preliminary-Final Site Plan
Use and Bulk Variance, Minor Subdivision
US Rt. 22
Block 36, Lot 47 & 48
Action date: April 16, 2009**

Mr. Thompson recused himself from this application.

Geoffrey Soriano, Esq., stated that he is the attorney for the applicant. The property is located on Route 22 Eastbound. It is located near the intersection of Coddington Road and Route 22. Mr. Soriano stated that the applicant is seeking preliminary major site plan approval; final major site plan approval; minor subdivision approval; multiple D variance relief, including bulk variances. He stated that the only witness this evening is Mark Hartman, the applicant who is under contract to purchase Lot 48 and a portion of Lot 47. The two lots will be reconfigured if this application is approved. Mr. Soriano stated that pursuant to the professionals' reports, the applicant will redesign the plans, particularly with the proposal on Lot 48. The applicant on Lot 48 proposes to have a mixed use of retail/affordable housing residential units. On Lot 47, which will be smaller in size than what currently exists, will continue to house FX Automotive. Two years ago, this owner had an application before the Board to secure D variance relief to allow for the display of horse/utility trailers. That application was denied. In Mr.

Sullivan's report, he raises the issue of *res judicata* as to whether or not this application can even move forward. Mr. Moore explained that based upon the changes to the application it was changed significantly enough that the principals of *res judicata* do not apply.

Exhibit A-1 Plan prepared by Bohler Engineering date 04-07-09

Mr. Hartman was sworn.

Mr. Hartman stated that Bohler Engineering was retained for designing the subdivision as well as the site plans on both of the properties. Mr. Hartman referred to the exhibit and stated that this is the condition of the property as it exists today.

Exhibit A-2 Prepared by Mr. Haney of Bohler entitled "Improvements to auto parts store lot rendering, sheet one of one dated 04-07-09. Exhibit A-2 is what the applicant is proposing. Mr. Hartman stated that the blacktop located in the front of the building will be removed. Grass and plantings will be placed in this area. The old hotel that is being used for storage will be demolished. A proposed cross easement will be placed on the property to connect the two lots. Mr. Hartman stated that the agreement that he has with FX Management is that he will be responsible for all of the site work.

Mr. Soriano stated that the objective that the applicant is attempting to show to the Board is that they are trying to set some site improvements on Lot 47, create the subdivision and the primary focus will be on Lot 48. Mr. Soriano felt that this application was very much like the previous application that just received approval.

Mrs. Flynn disagreed with Mr. Soriano. The scope, the scale, and the non-conformity are entirely different.

Mr. Sullivan suggested that the applicant should research a few more items prior to their return. Mr. Hansen suggested that the applicant should meet with his office too. Mr. Soriano answered that once Mr. Hartman is satisfied with the design changes, he will then get in touch with Mr. Hansen.

Mr. Soriano requested that this matter be carried to May 21, 2009.

I. ADJOURNMENT

Ms. Hendry made a motion to adjourn at 10:22 p.m. Mrs. Flynn seconded the motion. *Motion was carried with a vote of ayes, nays none recorded.*

Respectfully submitted,

Linda Jacukowicz