

# BOARD OF ADJUSTMENT MINUTES

August 21, 2006

A complete record of this meeting is contained on the audio tape of the meeting which may be listened to at the Bernardsville Municipal Building. Information on how to obtain a transcript can be had by contacting the Administrative Officer of the Zoning Board of Adjustment.

Call to Order

Statement by Presiding Officer: Adequate Notice

Roll Call: Members present were Mr. Berman, Mr. Biba, Ms Buchanan, Mrs. Dee, Mr. Foster, Mr. Greenebaum, Mr. Hagen, Mr. Negri, Mr. Salisbury and Mrs. Shea. Mr. Fell was absent. Mr. Berman left at 8:25 p.m. due to a conflict.

Also present were John T. Lynch, Esq., Board attorney; Robert Brightly, P.E., Ferriero Engineering, engineering consultant; and P. David Zimmerman, P.P., planning consultant.

Communications - distributed to Board members

Supplement #10 - Zoning Ordinance

Letter from J. Pidgeon, Esq. - Markouts on Site

Letter from G. Czura, Esq. - Omnipoint date

5. Minutes

September 20, 2005, March 6, 2006, June 19, 2006, July 31, 2006 - (new page 5 of September 20, 2005 - distributed at meeting)

Mr. Biba moved approval of the draft minutes and Mr. Berman seconded. The motion was approved by voice vote.

February 28, 2006, March 20, 2006, April 17, 2006 - distributed at meeting

Mrs. Shea moved approval of the draft minutes and Mr. Negri seconded. The motion was approved by voice vote.

Vouchers

P. David Zimmerman, P.P.: Rylocat, Appl. #06-06 (escrow) \$593.75; Hogan, Appl. #06-03 (escrow)\$31.25 for a total of \$625.00.

Mr. Greenebaum moved that the Council be asked to pay the vouchers out of the escrow accounts. Mr. Negri seconded. The roll call vote was:

Mr. Berman yes Mr. Greenebaum yes

Mr. Biba yes Mr. Hagen yes

Ms Buchanan yes Mr. Negri yes

Mrs. Dee yes Mr. Salisbury yes

Mr. Foster yes Mrs. Shea yes

7. Resolutions

#05-26 Schlott, 211 Douglass Avenue; Block 28, lot 60, R-1 Zone -

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subdivision - 3 lots - Memorialization of Approval

Mr. Lynch read a draft resolution. Michael Patsalos-Fox, a neighbor, asked for a clarification. Mr. Negri moved approval of the resolution and Ms Buchanan seconded. The roll call vote was:

Mr. Biba yes Mr. Hagen yes

Ms Buchanan yes Mr. Negri yes

Mr. Foster yes Mrs. Shea yes

Mr. Greenebaum yes

B. #06-02 Isabella Jazz, LLC, 450 Claremont Road; Block 4, lot 4, R-1-10

Zone - Memorialization of Approval

Mr. Lynch read a draft resolution. There was a discussion. Mr. Salisbury moved approval of the resolution with one change and Mr. Negri seconded. The roll call vote was:

Mr. Berman no Mr. Foster yes

Mr. Biba no Mr. Negri yes

Ms Buchanan yes Mr. Salisbury yes

Mrs. Dee yes

Pending Applications

A. #04-20 Weichert Realtors, 67 Morristown Road; Block 64, lot 1 and 1.02; Block 67, lot 9, C-1 & R-4 Zones - use variance /bulk variances - new plans. Carried from May 1, 2006 to August 21, 2006

Vincent T. Bisogno, Esq., applicant's attorney

John Chadwick, P.P., applicant's planner

Peter Miller, Superintendent of Schools

Elizabeth Dolan, Traffic Engineer for the applicant

Daniel Somers, Esq., Great Swamp Watershed Association

Sherry Frawley, Chair, Environmental Commission

Maurice Rached, P.E., P.T.O.E., Traffic Engineer for the Bernardsville Centre

Rosalie Ballantine, Environmental Commission

Exhibits: A-1 of 8-21-06 - agreement between the school system and Weichert

Mr. Bisogno reviewed the revised application and the variances/exceptions

requested. The building has been reduced and the location moved back, with 68 parking spaces on-site (77 spaces are required). The agreement concerns the shared driveway, including cost, maintenance and use by school employees and Weichert employees. As to trees to be removed, the applicant has agreed that if replacement trees cannot be

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planted on-site, a contribution will be made to cover the cost of trees being planted elsewhere.

Mr. Chadwick was sworn and accepted as a witness. He reviewed the variances, beginning with the use variance, terming it *de minimus*. As to the joint relationship between the applicant and the Board of Education, he referred to a citation of “public-private partnership” in the MLUL. He supports the changes in the application, i.e.: changing to a smaller building further back from the road with the landscaping and pocket park. Using the submitted plans, Mr. Chadwick pointed out the setback and other variances. He reviewed the setbacks of the various businesses along Rt. 202. Overall, he supported the application.

There was a discussion about when the property was subdivided and sold by the Board of Education to Weichert. Mr. Negri, then a member of the Board of Education, said the idea was to make the property useful since it is in the commercial zone.

Questions about the parking spaces and how the full-time employees of the two buildings will be required to park on the “upper” 27 spaces and walk down were asked and discussed. The idea of assigned spaces was explained. Concern was expressed about whether the spaces will be fully accessible during business hours. Mr. Bisogno said the agreement says those are Weichert spaces. The Board of Education can only use them on special occasions, i.e., graduation, etc, but not for sporting events.

Mr. Somers questioned the jurisdiction of the Board due to deficient notice (not all neighbors notified). Mr. Bisogno said all neighbors were noticed. The Administrative Officer said she received proof of notice to all the neighbors. Mr. Somers reviewed Mr. Chadwick’s testimony on the use variance and special reasons and on slope disturbance.

Mr. Miller was sworn and accepted by the Board. He explained why the Board of Education has made the agreement with the applicant regarding the driveway. The agreement has been signed and a copy was marked Exhibit A-1. The driveway will be a benefit to the school system because it will allow the staff to access its new parking lot (staff only) without going through the bus drop-off area and student parking lots, a safety issue. Neither students nor buses will be allowed to use this driveway. There will be gates at the top of the driveway and another one on school property to regulate traffic to the new parking lots.

Mr. Miller explained the school system is completely changing the traffic patterns on its property in conjunction with the Police Department. Signs will be placed on the streets entering the school property designating who is to use the entrances. Teachers and staff will have assigned parking spots in the new parking lot just as students have assigned spots in the school building lot. The idea is to get everyone onto a school lot

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and off the streets. Arrival and departure times are staggered by school activities. For special events the parking will be adjusted.

Mrs. Frawley reminded the applicants that while the Environmental Commission has received a copy of Weichert’s stormwater runoff report, it has not received one from the school. She asked if there is such a report, will it be amended to the Weichert report and has Mr. Brightly reviewed it. Mr. Bisogno said the applicant’s engineer has seen the report but he does not expect Mr. Brightly to review it. It is part of a private agreement between the school system and Weichert. Mrs. Frawley said she had hoped to see final numbers for the entire project, both the school and Weichert. She feels it is one system.

Mr. Bisogno said while Weichert is tying part of its system into the school system, it is not all of the drainage, part of the drainage is separate and taken care of by Weichert alone. There will be no net increase in stormwater run-off. It will all be directed into a system.

Mr. Somers again asked about jurisdiction. He believes the school should be a joint applicant with Weichert. There was a discussion on all aspects of having the school system as a co-applicant. Mr. Somers asked about the agreement, who signed it, how long it would be in effect and what would happen if someone buys the Weichert property. The agreement runs with the property. There was a discussion about whether the Board of Education could have used the lot for parking instead of selling it to Weichert.

Mr. Rached asked how many special events would be held. Mr. Miller said about 6, all in the evening. Asked how students will be able to walk to the shopping center, Mr. Miller said the school has constructed steps down the retaining wall to allow that. The school system would like to discuss a possible access at that point to the shopping center. Mr. Rached said the shopping center would agree. It would also like to see an access from the Weichert property to the center.

Mr. Rached asked if the school would object to the Board putting a limit on the number of access cards. Mr. Miller said he sees no problem with access cards since all of the school's spaces are assigned and so are Weichert's. Access will be by card on both sides. Maintenance of the gates is in the agreement. The school buses will be stacked in the school parking lot with new curbing. No buses will be going through the gates.

Mr. Zimmerman asked several questions on who would be using the 27 spaces. It would be the daily staff from Weichert and the staff from the present building. As to why, it was explained that the spaces would be assigned and it would be up to employers to make sure the spaces are used properly.

There was a discussion about how emergency equipment could get to the lower

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fields as well as the new school building extension and the rear of Bernardsville Centre by using this new driveway. The Fire Prevention Bureau asked for a certain width of the gates to allow large emergency vehicles entry.

Mr. Somers asked several questions on the drainage system and permits. Mr. Miller said the school system has obtained all of the necessary permits. The construction is more than 50% through. This section does include some of the Weichert drainage and has been reviewed by the DEP and DCA.

Ms Dolan was sworn and accepted by the Board. After outlining her traffic report, Ms Dolan answered questions from the Board and professionals, noting the report was done in 2002. Questions were also asked by Mr. Rached and Ms Ballantine. After further discussion, the Board asked the traffic report be updated.

This matter is held until October 23, 2006.

B. #05-03 PCJ Associates, LLC, 79 Bernards Avenue; Block 100, lot 2.01, I-2  
Zone - allow continued use as storage facility. Carried from Nov. 7, 2005/Dec. 13,  
2005; Feb. 14, 2006 ; April 3, 2006; carried to Aug. 21, 2006

Held to October 2, 2006. Mr. Bisogno gave a time extension to October 31, 2006.

Old Business - None

New Business - None

Comments from Members - None

Comments from Staff - None

Adjournment

Mr. Negri moved the meeting be adjourned at 11:30 p.m. and Ms Buchanan seconded. The motion was approved by voice vote and the meeting ended.

Respectfully submitted,

Joy W. Vavrek

Administrative Officer

keywords -

weichert-pcj-schlott-isabella-jazz

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