

October 28, 2010
Planning Board

PLANNING BOARD MINUTES - BOROUGH OF BERNARDSVILLE
October 28, 2010
7:30 PM - Public Meeting

1. Statement of Adequate Notice read into the record by Chairman Lawrence.

Roll Call: Members present: Chairman Lawrence, Vice Chairman Graham, Mr. Knudsen, Ms. Rochat, Ms. Paluck, Ms. Foster and Ms. Thompson.

Members absent: Ms. Totten and Mr. Simoff

Professionals present: Attorney Barry Hoffman, Engineer Robert Brightly, Planner P. David Zimmerman, Environmental Consultant James Cosgrove and Assistant Engineer Michael Mondok.

2. Approval of Minutes - July 22, 2010; July 29, 2010; Aug. 26, 2010.

Motion to approved three sets of Meeting Minutes: Ms. Thompson

Second: Ms. Paluck

Voice Vote: All eligible members voted in the affirmative.

3. Communications not Related to Agenda.

Mr. Mondok reported that there have been numerous from the applicant Meehan to be heard.

Previous requests have been postponed. Board agreed to schedule this matter for the November 18 meeting.

4. Business of Visitors not Related to Agenda

None

5. Pending Applications/Public Hearings:

A. Tentative - Memorialize H & J McWilliams Property Trust, 155 Claremont Road; Block 32, Lot 18; R-4 & R-5 zones; Minor Subdivision Appl. #635.

Mr. Hoffman reported that the Resolution is still being addressed and will be available for the next meeting.

B. DiNapoli Sr., LLC (Bernardsville Car Wash) -36 Quimby La.; Block 71, Lot 5; B-1 zone. Appl. #SP-216 for roof-top solar panels.

The time is 7:40 PM

Joseph Fell, attorney for the applicant addressed the Board and provided a summary of the application. Mr. Frank DiNapoli, Sr. the property owner and applicant was called to testify. Mr. DiNapoli was sworn as a witness and stated that he has been the property owner and business proprietor since July 1984. The purpose for solar panels is environmental benefit and these panels will be more efficient use of energy with an anticipated 60% savings of electrical consumption.

Ms. Thompson noted that this is the first commercial solar installation and is very appreciative that Mr. DiNapoli was willing to bring this to the full Board for consideration as an effort to educate the general public about solar energy.

Mr. Knudsen inquired about tax incentives and Mr. Napoli explained the State Rebate program.

The next witness called is Tom Voss, owner and principal for VironConsulting Group, Basking Ridge, New Jersey. Mr. Voss was accepted as an expert witness and testified about the installation and technology of solar panels. The panels will generate excess energy which will be returned to the grid. There is no battery storage for this systems, because it is an off grid type system.

The panels will be fixed and maintenance is minimal. Peaks times to collect solar is between 8:00/9:00 AM and 2:00/3:00 PM. Ideal times of year are the winter months.

Installation inspections are not solely municipal, there are also inspections conducted by the State and electrical utility.

No further questions from the Board. Questions from the Public.

Mr. Peter Miller, Environmental Commission Member, questioned about placement pattern of roof panels and later commented that the Board should endorse this application.

Ms. Sherry Frawley, Environmental Commission Chair, commented that the Commission supports this application and also requests that the Board grant endorsement.

No further questions or comments from the public. Before taking a vote, Mr. Graham suggested that future solar applications be reviewed and comment solicited from the fire department. Mr. Mondok questioned if the applicant was willing to waive County approval as a condition to expedite the approval process. Mr. Fell stated that this client is willing to seek such a waiver and understands the risk. General discussion highlighted that there was no anticipated opposition from the County, for there are have other commercial applications approved is other parts of the County.

Time is 8:25 PM

Motion to approve: Mr. Knudsen

Second: Ms. Thompson

Roll Call:

Aye: Mr. Graham, Mr. Knudsen, Ms. Rochat, Ms. Paluck, Ms. Foster, Ms. Thompson and Mr. Lawrence

Nay: None

- C. Bernardsville Centre, 80 Morristown Road; Block 64, Lots 1.01 & 23; Site Plan Appl.#SP-213 for proposed addition; site development - continued from 3/4; 3/25; 4/22; 5/27; 6/24; 7/22; 8/26; 9/30.

Prior to the start of the hearing, Mr. Zimmerman inquired about his recent communication whereby he advised that this application should be forwarded to NJDOT sooner rather than later. Mr. Hoffman advised that it is the applicant's risk to continue and later submit to NJDOT. Mr. Lieberman, legal counsel for tonight's hearing stated that the driveway configuration is the applicant's choice, the application does not exceed the trip count and therefore the applicant will not submit for consolidation and therefore makes no application to NJDOT.

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Mr. Lieberman then stated the applicant is very comfortable with securing the necessary NJDEP permit and regarding the C1 Stream, Mr. Mark Harris at NJDEP has written that this is not a C1 stream. The NJDEP mapping was in error. Board Environmental Consultant James Cosgrove confirmed that this stream classification was an error and the GIS section at NJDEP is correcting the map.

Mr. Lawrence then called Mr. Carl Kemp, attorney for Village Supermarkets [Shop Rite]. Regardless of C1 non classification, Mr. Kemp stated that his client has other concerns with this application.

Mr. Kemp called again Traffic Engineer Joseph Staiger to continue with his testimony.

Mr. Staiger stated that he concurs with Mr. Zimmerman and that this application is within NJDOT jurisdiction and that it is not advisable that the applicant continue to circumvent NJDOT. Mr. Knudsen questioned is it not typical for majority of similar applications to strive for trip counts under 100? Mr. Staiger agreed it is very likely, but in his experience Boards tend to solicit from the Professionals and Agencies and therefore Mr. Steger concurs with Mr. Zimmerman's recommendation.

There were no further Board questions and no questions from the public for Mr. Staiger

Mr. Kemp called his next witness, John Palus Engineer/Planner with the firm Dynamic Engineering. Lake Como, New Jersey. Mr. Palus was qualified by the Board and accepted as an expert witness. Mr. Palus stated that he will address four aspects of the application: Completeness, Site Layout, Storm water and Environmental.

Completeness Highlights:

Various items not included with the application were pointed out by Mr. Palus. This then was followed with lengthy discussion regarding what qualifies completeness.

Site Layout Highlights:

Exhibit V4 was marked – Existing Site Plan vs. Loading Patterns dated March 9, 2010 prepared by Dynamic Engineering. Truck turning template and under sized parking spaces are areas of concern for truck turning. Also, to improve safe traffic circulation there should be separate driveways for cars and trucks.

Storm water Highlights:

Questions were raised regarding the calculation of run off amounts and the preservation of nature vegetative area is not indicated on the plans. It was agreed that Mr. Cosgrove would examine these issues and communicate with Mr. Quinn from EKA Engineering and Mr. Palus.

In addition Mr. Palus reported that the pre-treatment and basin maintenance manuals were not available for review. Mr. Quinn agreed that as application progresses, hence the development of the manuals. Copies will be made available. Mr. Palus would appreciate copies for the application vote.

Time is 9:50 PM. Board entertained a five minutes recess.

Environmental Highlights:

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Mr. Palus challenged the non classification of C1 stream. Mr. Lieberman objected and agreed to provide Dynamic Engineering with copy of correspondence. Mr. Palus also requested current survey, site plan and storm water management report.

This concluded Mr. Palus's testimony.

Given the late hour, Dr. Souza from the Great Swamp agreed to defer his questions until the next meeting.

Time is 11:05PM

Motion to extend meeting to 11:20 PM: Mr. Knudsen

Second: Ms. Thompson

Voice Vote: All members present voted

This matter will continue November 18

6. Report of the Subdivision & Site Plan Review Committee - Draft Report attached.

7. Report of the Evaluation Committee- Draft Report attached.

Motion to approve Committee Reports: Mr. Knudsen

Second: Ms. Thompson

Voice Vote: All members present voted in the affirmative.

8. Old Business

None

9. New Business:

Payment of Vouchers:

Motion to approve bills in the total amount of \$6,574.05 – Ms. Thompson

Second: Ms. Paluck

Roll Call:

Aye: Mr. Graham, Mr. Knudsen, Ms. Rochat, Ms. Paluck, Ms. Foster, Ms. Thompson and Mr. Lawrence

Nay: None

Bernards High School Driveway:

It was agreed that Mr. Mondok schedule a meeting to discuss recent concerns regarding the driveway. Interested parties to participate in the meeting include members of the Neighborhood Association, Members of the School Board and Police Chief Valentine. Suggested meeting date is December 2nd.

10. Business of Visitors, Second Opportunity

None

11. Adjourn to Executive Session, if necessary, to discuss pending litigation or personnel matters.

No Executive Session

12. Reconvene; perform any relevant action as needed.

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13. Adjournment of public meeting.

Time is 11:20 PM

Motion to adjourn: Mr. Knudsen

Second: Ms. Foster

Voice Vote: All members present voted in the affirmative.

Respectfully submitted,

Teresa Lyons, Recording Secretary

Minutes approved: 11/18/10

Keywords:minutes-planning-board-h-j-mc-williams-property-trust-155-claremont-road-m-635-dinapoli-bernardsville-car-wash-36-quimby-lane-sp-216-bernardsville-centre-80-morristown-road-sp-213

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CC: Barry Hoffman, Esq.- agenda only by fax, full package mailed.
Robert Brightly, PE.- agenda only by fax, full package mailed.
P. David Zimmerman, PP. - agenda only by fax, full package mailed.
James Cosgrove, PE. - agenda only by fax.
Henry Ney, PE. - agenda only by fax, FYI, attendance not necessary.
Susan Rubright, Esq, agenda only, by fax 973-618-5557 [Please advise client & professional(s)]
Stuart Lieberman, Esq., agenda only, by fax, 732-355-1310 [Please advise client & professional(s)]
Joseph Fell Esq., agenda only, by fax, 696-1900 [Please advise client & professional(s)]
Vincent Bisogno, Esq., agenda only, by fax, 766-7809
Carl Kempf, Esq., agenda only, by fax, 636-2376 [Please advise client & professional(s)]
Howard Cohen, Esq., agenda only, by fax, 609-896-9023 [Please advise client & professional(s)]
Historic Committee, agenda only, by fax.
Anthony Suriano, agenda only, by e-mail

Distributed with the October 28, 2010 Agenda:

1. Draft minutes: July 22, 2010; July 29, 2010; Aug. 26, 2010.
2. Aug. 25, 2010 zoning report - Car Wash.
3. Sept. 20, 2010 Environmental Committee report - Car Wash.
4. Series of photos of subject property from various streets/properties - Car Wash.
5. Photographic simulation of solar panels on subject building - Car Wash.
6. Photo of another car wash with solar panels installed - Car Wash.
7. October 18, 2010 letter report by Princeton Hydro, LLC - B'ville Centre.
8. Sept. 14, 2010 NJ DEP Verification letter to Dynamic Engineering.
9. Draft report of the Subdivision & Site Plan Review Committee.
10. Draft report of the Evaluation Committee.
11. Ordinance Supplement 16, for those who wanted paper copy.

Regarding Bernardsville Centre, the following items were previously distributed & are **not attached - advise if you need copies:**

1. Feb. 24, 2010 report by Robert Brightly, PE.
2. Zoning report revised March 2, 2010.
3. Feb. 9, 2010 report by P. David Zimmerman, PP.
4. Feb.16, 2010 report by Henry Ney, PE.
5. Feb.11, 2010 (rec'd 2/16/10) letter from Thomas J. Quinn, PE.
6. Jan. 29, 2010 memo/report from Lou Matlack, Shade Tree Comm.
7. Revised Comments from Environmental Comm., dated 2/23/10.
8. Feb. 24, 2010 letter from Susan Rubright, Esq.
9. March 3, 2010 email/report of the Fire Prevention Bureau.
10. March 3, 2010 letter from Howard Cohen, Esq. With 3/3/10 report of Princeton Hydro.
11. Fax of 3/17/10, Barry Hoffman, Esq. to Carl Kempf, Esq. with copy of Mr. Kempf's fax.
12. Traffic Impact Study by Maser Consulting dated Feb. 23, 2010.
13. March 5, 2010 letter from John Jahr (Maser) to Henry Ney, PE.
14. March 23, 2010 letter/report from Henry Ney, PE.
15. Excerpt, 3/26/09 resolution, appl. #SP-205, ShopRite, 9' wide spaces w/hairpin striping .
16. Excerpt [conditions 8(j) & 8(k)], 9/12/02 resolution, appl. #SP-187, ShopRite, hours.
17. Excerpt, 1/25/07 resolution, appl.#SP-203, Starbucks (findings - hours & deliveries)
18. April 2, 2010 letter from Susan Rubright, Esq., alleged deficiencies
19. April 2, 2010 letter from Susan Rubright, Esq., Escrow, Planning & Traffic Consultants
20. April 5, 2010 letter from P. David Zimmerman, PP., response to above
21. April 6, 2010 letter from Susan Rubright, Esq., response to above response
22. April 7, 2010 letter from James Cosgrove, PE.
23. April 20, 2010 letter from Carleton Kempf, Esq.
24. May 14, 2010 letter from Thomas Quinn, PE, of EKA Assoc.

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25. May 19, 2010 letter from Howard D. Cohen, Esq./GSWA.
26. May 19, 2010 email from Susan R. Rubright, Esq. regarding above letter.
27. May 27, 2010 letter from Barry Hoffman, Esq.
28. June 8, 2010 letter from Stuart Lieberman, Esq., representing B'ville Centre on 6/24/10/
29. June 9, 2010 letter from Barry Hoffman, Esq., regarding above letter and related emails
30. June 11, 2010 letter from Susan Rubright, Esq., regarding representation
31. June 17, 2010 letter/report from James Cosgrove, PE.
32. Zoning report revised June 15, 2010
33. June 3, 2010 fax of May 7, 2010 letter of intent of to grant easement behind Friendly's
34. First 5 pages (ie: remainder of report is appendixes) from Stormwater Management Report revised 2/11/10.
35. Environmental Impact Report dated July 9, 2010.
36. July 16, 2010 comments of James Cosgrove, PE on the EIR.
37. July 22, 2010 response/comments by Thomas Quinn, PE, of EKA Assoc. on 7/16/10 Cosgrove comments.
38. July 7, 2010 letter from Henry Ney, PE. - DOT mtg.
39. Sheet 3 of 12, Site/Utility Plan, by EKA Associates, dated 12/21/09, revised thru 8/13/10
40. WB-62 Truck Maneuvering Plan, 1 sheet, by EKA Associates, dated 8/10/10
41. Traffic Impact Study by Maser Consulting, dated Feb. 23, 2010, revised Aug. 13, 2010.
42. August 22, 2010 emailed letter/attachments from Henry Ney, PE.
43. August 23/24, 2010 emailed comments/attachment of Robert Brightly, PE.
44. Sept. 13, 2010 letter/partial plan from Maurice Rached, PE., transmitting concept plan to NJ DOT.
45. 11"x 17" portion, sheet 6 of 12, landscape plan , by EKA Associates, revised thru 9/20/10
46. Sept. 28, 2010 letter from Barry Hoffman, Esq. - B'ville Centre