

# **West Windsor Township Zoning Board of Adjustment**

## **Minutes – Regular Meeting**

**January 3, 2019**

The regular meeting of the Zoning Board of Adjustment was called to order at 7:00 p.m. on Thursday, January 3, 2019 by Edwin Schmierer, Esq., in Meeting Room A of the Municipal Building.

### **STATEMENT OF ADEQUATE NOTICE**

Pursuant to the Sunshine Law, a notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the Township bulletin board and filed with the Municipal Clerk as required by law.

### **ROLL CALL AND DECLARATION OF QUORUM**

Present: Susan Abbey  
John Church  
Michael Garzio  
Curtis Hoberman  
Henry Jacobsohn  
Daniel Marks  
John Roeder  
Carl Van Dyke

### **SWEARING IN OF MEMBERS**

The following member was sworn in by Edwin Schmierer, Esq.: Michael Garzio, Carl Van Dyke and Susan Abbey.

### **REORGANIZATION**

- a. Election of Chair - Motion was made by H. Jacobsohn and J. Roeder seconded the motion to elect S. Abbey as Chair. The vote was 7-0 in favor. Motion carried.
- b) Election of Vice Chair - Motion was made by J. Roeder and S. Abbey seconded the motion to elect C. Hoberman as Vice Chair. The vote was 7-0 in favor. Motion carried.
- c) Appointment of Administrative Secretary - Motion was made by S. Abbey and J. Roeder seconded the motion to appoint Barbara Watson as Administrative Secretary. The vote was 7-0 in favor. Motion carried.
- d) Appointment of Recording Secretary - Motion was made by S. Abbey and J. Roeder seconded the motion to appoint Kerry Philip as Recording Secretary. The vote was 7-0 in favor. Motion carried.
- e) Appointment of Zoning Board Members to Site Inspection Review Subcommittee (3) - Motion was made by J. Roeder and C. Van Dyke seconded the motion to appoint J. Church, H. Jacobsohn and D. Marks to the Site Inspection Review Committee. The vote was 7-0 in favor. Motion carried.

### **CONSENT AGENDA**

- a) Declaration of Schedule of Regular Meetings (1<sup>st</sup> & 4<sup>th</sup> Thursdays)

- b) Declaration of Official and Other Newspapers to Receive Meeting Notices (Princeton Packet; The Times)
- c) Authorization for Chairman or Vice Chairman to approve bills and vouchers

Motion was made by J. Roeder and J. Church seconded the motion to approve the above noted consent agenda items. The vote was 7-0 in favor. Motion carried.

- d) Mason, Griffin and Pierson - Ed Schmierer (Board Attorney)
- e) Van Cleef Engineering - Ian Hill (Board Civil Engineer)
- f) Van Cleef Engineering - Chris Jepsen (Board Environmental Engineer)
- g) Turek Consulting - Fred Turek (Conflict Civil Engineer)
- h) Burgis Associates, Inc. - David Novak (Board Planner)
- i) Arora and Associates - James Kochenour (Board Traffic Engineer)
- j) Landscape Architect - Daniel Dobromilsky
- k) Fire Marshall - Jim Yates
- l) Traffic Safety Officer - Sgt. Francis Bal

Regarding consultant rates, Chair Abbey stated that typically we do not give raises two years in a row but for the years 2017 and 2018 we have had two new consultants who have had minimal raises. The increase proposed is therefore acceptable.

Motion was made by J. Roeder and H. Jacobsohn seconded the motion to approve all remaining consent agenda items. The vote was 7-0 in favor. Motion carried.

### **CHAIR'S COMMENTS & CORRESPONDENCE**

No comments were provided.

### **PUBLIC COMMENT**

No comments were provided.

**REPORTS:** End of Year for 2018 pursuant to NJSA 40:550-70.1

Motion was made by J. Roeder to approve the End of Year Report for 2018 as amended, motion was seconded by S. Abbey. The vote was 7-0 in favor. Motion carried.

For: Abbey, Church, Hoberman, Jacobsohn, Marks, Roeder, Van Dyke  
Against: None  
Abstain: None

### **RESOLUTION**

- a) **ZB18-06**  
**Daniel R. Mandell**  
**"c" Bulk Variance**  
**2 Coventry Circle; Block 6.03, Lot 11**

Motion was made by J. Roeder and J. Church seconded the motion to approve the resolution for ZB18-06 as amended of those eligible to vote. The vote was 7-0 in favor. Motion Carried.

## **APPLICATION**

- a) **ZB18-05**  
**VCC Princeton Junction, LLC**  
"d" Use Variance and Concept Plan for Day Care Center  
47 Princeton-Hightstown Road  
Block 12.04, Lot 18  
Property Zoned: RP-7 District  
MLUL: 4/2/19

Ed Schmierer, Esq., legal counsel for the board, stated that proof of notice is in order and the Board has jurisdiction.

Kevin Moore, Esq., legal counsel for the applicant, stated that the proposal is an inherently beneficial use, use variance and site plan approval is required therefore the application is bifurcated and only use variance approval is being sought. The concept plan is for two buildings, a driveway and a parking lot with additional parking in the rear. Retail is being considered on the first floor of a two-story building with apartments above and a child care facility in the one story building.

Brian Birks, Director of Real Estate Development - Everbrook Learning Center, was sworn in and stated that daycare will be provided for children ages 0 to 18 months and teaching is provided for the older children. The hours of operation are 6:30am to 6:30pm Monday through Friday, the center will not be open on weekends. There will be one toddler room for ages 24 to 36 months, maximum capacity of 18; pre-school rooms and a junior pre-K room for children up to 5 years old.

Mr. Birks stated that a 158 student capacity is proposed. The drop off and pick up schedule for the children is 6:30 am - 9:30 am drop off and 3:30 pm - 6:30 pm pick up. Typical pick up timing is a 10 minute duration.

Chair Abbey asked if there will be children older than five attending an after school program? Mr. Birks responded that this is not proposed but if there is a need then this will be done.

C. Van Dyke asked if a parent must park to pick up a child and Mr. Birks confirmed this.

Chair Abbey asked if there will be any buses. Mr. Birks stated that he does not believe so but if there is one then it would be a small bus. There will be 23 staff members including 19 teachers. Lunch will be provided to the students, the meals will be brought on site by a van. No cooking is proposed to take place on site.

Samuel Surtees, Land Use Manager/Zoning Officer, was sworn in and stated that according to the ordinance, the maximum number of students permitted in the RP-7 zone would be 158; the maximum number permitted in a commercial zone is 100 students. The proposed use is not permitted in this zone so a use variance would be required, it is not a separate variance request.

Chair Abbey asked if all 23 staff members will be on site at one time and Mr. Birks responded that it will be staggered. Pick up is typically four cars at a time every 10 minutes. J. Roeder noted that that equation results in 80 people per hour assuming that it is evenly spaced. Chair Abbey stated that the circulation for pick up and drop off is the biggest concern.

Julia Algeo, Engineer for the applicant, was sworn in. Exhibit A-1, aerial photograph of the site dated 1/3/19, was distributed to the Board. Ms. Algeo stated the property is in a redevelopment district and is 2.18 acres in size. C. Van Dyke asked about the area behind the property. Ms. Algeo advised that it is private property, it is a paved roadway but it is not public. Regarding access to Carlton Place, there is no direct access from this parcel, a cross access easement would be needed from the adjacent property owner, Princeton Ascend, to access Carlton Place.

Ms. Algeo presented Exhibit A-2, Use Variance Plan dated 1/3/19, and stated that an L shaped building (12,870 sq.ft.) is considered for the daycare facility along with a fenced in play area. Over 6,000 sf is considered for the turf space, Mr. Birks stated that 8,000 to 10,000 sq.ft. of turf area is provided for their other facilities located in Wayne, New Jersey; Washington, DC and Chicago, IL. The second building will contain 10,800 sq.ft. of mixed-use retail on the first floor and residences on the second floor.

Ms. Algeo stated that the improvements proposed along Route 571 were obtained from the County and road widening will occur 15 feet from the current property line therefore a right-of-way dedication is needed for 158 feet of road frontage, she advised that this will be dedicated to the County. She advised that the building will be setback 10 feet from the property line, the actual setback building lines will vary because the roadway is not a straight line and covered patios and walkways are also being considered.

C. Van Dyke asked about the height of the retaining walls by the playground area. Ms. Algeo stated that the height will be an average of five feet with a six foot high fence above it. A four foot privacy fence may be better suited, this will be discussed during site plan review. An underground basin is proposed to pick up storm water. All deliveries for the kitchen shall take place during off peak hours, a designated space for deliveries will be shown on the plan. The applicant is not concerned about timing since it will take place during off peak hours this should not impact the parents dropping off their children.

She stated that the second building is a two-story mixed use building. The first floor will provide retail with 12 residential units on the second floor.

Ms. Algeo stated that the applicant was advised today that the setback of this building will be in compliance with the code therefore they will not be requesting a variance for setback during site plan review. A total of 83 parking spaces (9' x 18') are proposed, whereas 80 spaces are required. There is a plan to eliminate some parking spaces for a landscape aisle and also to provide a turn-around area.

Mr. Moore stated that two refuse areas are proposed, one for the commercial building and the second behind the daycare facility. C. Hoberman stated that the dumpster for the commercial/residential building is close to the main entrance of that building. Mr. Moore stated that the applicant will take this under advisement.

C. Van Dyke asked about a separate entrance for the employees closer to the parking area in the rear, this is needed especially in inclement weather. Chair Abbey expressed concern about having the entrance on Route 571 and suggested putting the entrance in the rear.

M. Garzio asked about gates in the fence in other areas beside the kitchen. Mr. Birks stated that there will be emergency gates in the fenceline.

Karl Pehnke, traffic engineer for the applicant, was sworn in. James Kochenour, traffic engineer for the Board, was sworn in. Mr. Pehnke referenced the traffic study dated 11/16/18 and stated that traffic counts were taken at the critical intersection of Cranbury Road and Princeton-Hightstown Road and those numbers were compared to counts taken in this area over the past several years. The results are all consistent with the findings that the use of the building as a daycare is consistent with other uses in this area, it is no more intensive because of occasional deliveries that take place off peak and the use is less intensive from what is permitted. He stated that two curb cuts are eliminated and a single driveway is proposed to provide future connectivity to the property to the south creating a future main street. One hundred (100) vehicles are anticipated to access the site, during peak hours most of the traffic is considered pass-by traffic. A decent level of service will result for the critical intersections. The realignment of the driveway also cleans up this section of the road.

J. Church asked about the standards for daycare centers. Mr. Novak stated that for conditional use application, there cannot be another daycare center within a quarter mile but this application is for a use variance, not a site plan with conditional use. The same standards do not apply.

Mr. Pehnke stated that the number of parking spaces set aside for this use should be sufficient, the busiest times will be between 4:30 and 6:30 pm. No parking is needed in the evening or on weekends for the daycare facility and granting the use variance will not intensify the traffic on site. For the redevelopment zone, the municipality is trying to come up with a design for the main street and parking in the rear becomes secondary. The parking design for the surrounding uses also fit in with a design for a main street. Mr. Pehnke stated the parking standards for each apartment is typically 1 space per unit. Chair Abbey and C. Van Dyke corrected Mr. Pehnke and advised that it is 1.5 parking spaces per unit. Chair Abbey stated that the number of parking spaces provided are correct but the spaces are not in the right area. She expressed concern about tenants parking in front of the commercial space.

Mr. Pehnke advised that full movement, with left turns in and out of the site, is proposed. J. Roeder stated that he drives past this area nightly at 6:45 pm and there is always bumper to bumper traffic and he cannot envision another 100 vehicles on the road.

Chair Abbey noted more concern about traffic exiting onto Carlton Place because they would have to access the road by going through the Princeton Ascend property.

Meeting recessed at 9:00 pm and resumed at 9:10 pm with all Board members in attendance.

Tony Catana, Architect for the Applicant, was sworn in and stated that the project is in keeping with local architecture, offering a variety of heights and justifications. The proposed façade materials are stucco and hardie plank siding.

Exhibit A-3, west facade rendering of Child Care Center; Exhibit A-4 - the material board of facade treatment and Exhibit A-5, color rendering of Child Care Center facing the retail building was presented. Mr. Catana stated that decorative metal fencing will be provided but a specific fence style has not been determined. Exhibit A-6, the floor plan of the daycare facility, was presented and he stated the employees will be asked to park in the back of the site, further away from the retail spaces. He noted that many doors are proposed and all of the doors are required by code. The play area will be in the rear of the building so the children will be kept away from the street. All the mechanicals will be on the roof of the building and hidden behind a cornice parapet.

Exhibit A-7, color rendering of the entrance to the building; Exhibit A-8, color rendering of the Child Care Center entrance and Exhibit A-9, west facade of the Commercial/Residential building were presented. Mr. Moore stated that although a zero lot line is shown this will not be provided.

Mr. Catana presented the floor plans of the commercial building (Exhibit A-10) and stated that the first floor will have a pergola and will have the same façade materials as the daycare center. The entrances to the apartments will be from the parking area, each unit is approximately 700 sq.ft. in size.

Exhibit A-11, color rendering of the elevation of the facade of the two-story commercial/residential building was presented. Chair Abbey stated that the wall of the commercial building is a long and flat and something is needed to break this up such as additional overhangs or awnings.

Mr. Moore stated that the affordable units will follow the requirements of UHAC, all of the affordable apartments will be one-bedroom units and he read an email from Gerald Muller, Esq., Planning Board Attorney, dated 10/30/18 stating that Betsy McKenzie, Special Master involved with West Windsor's litigation and our fair share obligation, confirmed all three units can be one bedroom units (Exhibit A-12).

Exhibit B-1 - elevation of Princeton Ascend building (Block 12.04, Lot 25) was presented for comparison to this site.

A-13, a color rendered building facade analysis prepared by Siezle Architectural Group (undated) and Exhibit A-14, use variance plan Elevations-Commercial Building were distributed to the Board.

Paul Grygiel, planning consultant for the applicant, was sworn in. He presented the special reasons for approval and stated the zone does not permit child care use but child care is considered inherently beneficial. The proposal will not meet the use standards, a mixed-use building is proposed and will be designed to be consistent with other development in the area and the redevelopment plan and balancing the public interest with potential impacts. The only impact would be children in the playground but this takes place during the day when the area is not busy. The mix of uses proposed will service the public with little impact to the public good. The project supports other businesses in the area and there is nothing incompatible when considering the planning aspects.

Pertaining to the negative criteria, he stated that there are no negatives. The variance should be granted.

M. Garzio asked about the plan of evacuation and the exit doors for the daycare. Mr. Catana stated that two of the classrooms empty onto Route 571 but there is a retaining wall so all pedestrian traffic will be

directed to the rear of the site. M. Garzio asked what use is permitted in that space and he was advised that it would be retail.

James Kochenour, traffic consultant for the Board, presented the report from Arora and Associates dated 12/21/18 and stated that 14 of 16 comments pertain to the site plan component. Regarding the parking on site, there are three different uses but they are all complementary therefore the parking scheme will be acceptable. He asked the applicant's traffic consultant about the traffic counts performed in the past, we have historical data and he suggested this data including growth projections be used.

Mr. Pehnke stated that the traffic counts taken in 2013 are actually higher than the data collected in 2018 so the 2013 data was used and additional numbers were included from recent development in the area. Mr. Kochenour asked how the traffic generated by the proposed use compares to the permitted use. Mr. Pehnke stated that daycare traffic is lower. Mr. Kochenour stated that if the building was all retail and apartments it would result in higher parking generation and higher trip generation.

J. Roeder stated that he is very concerned about traffic traveling east on Route 571, he is also concerned about the traffic congestion on Carlton Place for traffic attempting to turn left onto Cranbury in order to make a left turn at the light at the intersection with Route 571. Mr. Kochenour stated that the traffic exiting the site will take place over a three hour period so it should not be a concern. Mr. Surtees stated that County improvements are anticipated to begin this year.

David Novak, planning consultant for the Board, was sworn in and presented the report from Burgis Associates dated 12/18/18 and stated that many comments have been addressed. A bank was on this parcel but banks are not permitted in this zone so if this application is not approved and a bank is proposed then the applicant would have to return to this board for use variance approval.

C. Hoberman asked when the use standards were considered for this district, was there a reason that child care was not included? Mr. Surtees stated that there was no instruction to include or not to include this.

Daniel Dobromilsky, landscape architect for the Board, was sworn in and read his report dated 12/19/18. Regarding the use and the fit, there are existing mature trees and one-third of the trees would be removed. Forty-two (42) of the trees serve as a buffer along the rear and he stated that these could be preserved. A majority of the commercial property along Route 571 abuts residential properties, and it will be necessary to supplement the existing rear buffer to create a desirable transition between this use and the nearby residential zone and those residential lots are approximately 170 feet deep. He stated that this is one of the more uniquely suited sites for this use, daycare facilities in this area have been difficult to site and this is one of the best locations for this use. There are no landscape improvements shown but there are opportunities to provide landscaping. He suggested that the applicant consider adding a door along the Route 571 frontage (4a); providing a supplemental buffer along the roadway (4d); and comment #4f pertains to the proposed tower element and he noted that the element is taller than it needs to be. A picnic area for the residents should be considered. Comment #10 notes that Carlton Place may be incorrectly noted as a right-of-way and front yard along the rear of this property and this should be clarified in the site plan submission. Mr. Dobromilsky stated that Carlton Place may not be extended to this property because of the trees in place.

Ian Hill, Engineer for the Board, was sworn in and asked if the square footage noted in the zoning table on Sheet 1.02 is the existing square footage. Ms. Algeo stated that the existing square footage is 95,072 sq.ft.

The meeting was opened to the public.

Thomas Calabria, Chairman - West Windsor Township Affordable Housing Committee, stated that he is concerned about residential parking at 3:30 pm.

Motion was made by J. Roeder and H. Jacobsohn seconded the motion to close the public portion of the meeting. The vote was 7-0 in favor. Motion carried.

J. Church stated he was concerned about 158 students and felt that the number should be reduced, this is a great idea but it is just too much on this site. Chair Abbey stated that she is shocked at the number of students proposed and feels that perhaps it is because it is in a commercial zone.

Motion was made by C. Hoberman to approve the use variance application with a condition that there be a maximum of 158 students. The motion was seconded by C. Van Dyke.

Chair Abbey identified the reasons for the approval including that daycare centers are considered a beneficial use, 158 children is justified because the center is in a commercial zone; this use will result in less traffic because it is a less intensive use when compared to the commercial use which is permitted.

The following conditions were identified:

1. The developer must build both buildings at the same time.
2. The property owner of the property to the south must agree with the applicant's intent to connect to Carlton Place through their property.
3. The three affordable housing units are to be mixed and blended into the overall 12 apartments.

The vote was 6-1 in favor. Motion carried.

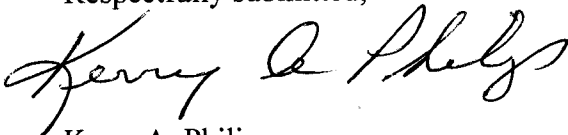
For: Abbey, Church, Hoberman, Marks, Roeder, Van Dyke

Against: Jacobsohn

Abstain: None

Being that there was no other business before the board, the meeting was adjourned at 10:40 p.m.

Respectfully submitted,



Kerry A. Philip  
Recording Secretary