

Chairman DiSalvo called the regular meeting of June 14, 2008 of the Washington Township Planning Board to order at 7:30 p.m.

MEMBERS PRESENT

CLASS IV: Mark Bauerlein, Charles DiSalvo, William Leavens, Kathleen McGroarty, Eric Trevena  
 ALTERNATES: William Beute, Sam Akin  
 CLASS I: Tracy Tobin  
 CLASS II: Patrick Monahan  
 CLASS III: Howard Popper  
 OTHERS ABSENT: Mont  
 STAFF PRESENT: Clerk Kesper, Engineer Hall, Planner Banisch, Attorney Buzak

Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 18, 2008 and posted on the Bulletin Board on the same date. Two notices were mailed, as there were two requests.

**\*\*NO NEW CASES OR WITNESSES SHALL BE HEARD SUBSEQUENT TO 10:30 PM\*\***

Pledge of Allegiance

**MINUTES**

1. Minutes from the June 25, 2008 Regular Meeting

Adjourned to the August 11, 2008 meeting

**RESOLUTIONS**

None

***The meeting was opened to the public for items not on the agenda. There were no questions or comments from the public and the meeting was closed to the public.***

**PUBLIC HEARING/APPLICATIONS -**

1. Bacchetta – Block 34.01, Lot 33 – 12 Sierra Drive – R-5 Zone – 3.257 acres – Request for Conditional Use Home Occupation for accounting office and minor site plan approval

Vincent Bacchetta, Applicant

Vincent Bacchetta was sworn in by Attorney Buzak.

Mr. Bacchetta stated that he has been a resident in the township for twenty years and has been an account - CPA for twenty years as well. He has submitted an application to have a conditional use home occupation.

Mr. Banisch reviewed the conditional use home occupation ordinance, which is a permitted use in the zone, if he meets the conditions of the ordinance.

Mr. Bacchetta stated that he would like to set up an office in the existing in-law suite of his home, which is less than 25% of his home. He proposes to provide the required passing zones for a flag lot that are not in place at this time. He stated that he meets the 17 items of the conditional use standards. He also explained that he had the fire department bring a fire truck to his property and the fire department has issued a letter that they do not object to the application. The e-mail from the fire department was submitted and marked A-1. He referred to the delivery and appointment logs of his business that he made during his busiest season. He stated that he had installed driveway markers this weekend.

Mr. Bacchetta reviewed his submission on the 17 conditional use standards and stated:

- a minor site plan had been submitted
- the home occupation will be subordinate to the residential use
- the home occupation would be run by himself
- the square footage of the home office would be 23% where 25% is allowed
- no outside storage of goods
- no retail sales
- this is not a multi-family dwelling,
- the business will not generate more than three clients at one time
- no offsite nuisances,
- he submitted an actual delivery list and he will not have more than three deliveries a day,
- he does not plan to have a business sign at the road by his driveway
- he has provided adequate parking as shown on the site plan without any additional paved area
- he would supply handicapped parking
- there would be no alterations to the home other than changing a closet to a file storage area

- hours operation will comply with the 8 – 8, but his current hours are 8:30 to 4:00.
- he submitted a copy of a letter he sent to his neighbors in addition to the one sent with the required certified mail which was marked A-2
- he has approval from the Board of Health
- he will only have one home occupation, which is the accounting office
- he submitted a calculation of his home which included his basement which was marked A-3

He referred to Mr. Banisch's memo of today. To referred to the rear parking spaces number 5, 6, and 7 and pointed out his septic system and that he could not put trees in this area. He did not object to adding the other trees as suggested.

Mr. DiSalvo stated that a site walk was done today and he concurred with the applicant that there was a very thick evergreen buffer to the rear of his yard.

Mr. Hall reviewed his letter of July 3<sup>rd</sup> and stated that a driveway permit would be required for the driveway improvements.

Mr. Bacchetta submitted a garage plan which was marked A-4 which showed the dimensions of the garage which parks four cars. He will have three drivers in his home.

Mr. Hall stated that he was satisfied with the garage plan submitted. He explained that one parking space must be ADA compliant. He stated that the applicant's calculation of his home confirmed the 23% use for home occupation. The fire department letter satisfied the access issue.

Mr. Bacchetta presented photographs of his home which were marked A-5-1 and A-5-2 which showed his back yard.

Mr. Buzak stated that the approval goes with the property owner, not the land.

Mr. Bacchetta stated that the fence was put in at the request of the health department to protect the septic bed. He explained each of the photos.

Mr. Hall stated that his concerns have been addressed by the applicant.

Mr. Banisch reviewed the property, which is a flag staff that is shared by two other property owners. He read the definition of home occupation from the Township Ordinances. He stated that the applicant has submitted testimony and a log which stated that he would not have more than three deliveries a day. He requested a lighting survey for the existing and proposed lighting.

Mr. Bacchetta stated that he was not adding any lighting other than what exists at the garage, rear and front doors and rear stairs. He agreed to a lighting inspection to make sure there is no off site glare.

Mr. Banisch agreed that for parking spots 5, 6 and 7 no additional evergreen trees would be required, but perhaps the board may wanted small shrubs.

Mr. Bacchetta stated that his hours of operation are 8:30 to 4:00 except for January, February, March and April which would be to about 6:00 p.m.

Mr. Banisch referred to the client visit log which appears to meet the ordinance requirements. All conditions should be made part of any approval including a statement that a change in ownership would require a revisit to the board.

Mr. Banisch stated that based on the information submitted it appears that the applicant complies with the 17 conditions of the home occupation ordinance.

Mr. Bacchetta answered Mr. Popper that he will live at the address and the business will never occupy more than 23% of the home. He does not plan to have a sign at this time but if he does he will apply to the zoning officer for one. He confirmed the hours of operation. There will be no exterior alterations to the home unless more lighting is required by the Township Engineer.

Mr. Bacchetta stated that his current office is in Bartley Square and he would like to bring the business home for quality of life. His client and delivery log submitted to the board was during the tax season, which is his largest client visit period. He explained that he visits the majority of his clients. He reviewed his log from February through May which showed there were 40 client visits during that time period.

The board complimented the applicant on his complete and thorough application.

Mr. Buzak reviewed the Planning Boards' responsibility in the review of this ordinance and that they are governed by the Ordinances of the Township and the applicant's compliance with the ordinance.

The meeting was opened to the public for questions and comments.

Charles Sterling- 9 Sierra Drive was sworn in by Attorney Buzak and asked the definition of a single family home. He was concerned that the addition was not attached to the house. He was also concerned about the number of parking spaces. He stated he would not have bought in the area if he knew there would be a commercial use in the area. It was his opinion that this was not an appropriate use. He was concerned about this opening up other commercial uses in the area.

Ms. McGroarty stated that based on the site walk it is all one unit.

Mr. Bacchetta stated that he will not need or use 10 parking spaces, but he needed to show that many to comply with the ordinance. No new impervious coverage is being added to comply with the parking requirements.

Philip Berg – 10 Walden Road – stated that he supports the applicants right to operate a home office business. Mr. Berg was sworn in by Attorney Buzak. He asked about the approval going only to the current property owner, and ADA spaces. He did not want to see a handicap sign on the property. He asked about passing lanes. He would like to see minimal parking spaces. He would like screening if the additional spaces are required.

Mr. Hall explained the ADA requirement and that parking space 5 on the plans would be the appropriate spot.

Mr. Bacchetta stated that he did not feel that the passing zones were necessary, and if the board were willing to waive it he would agree to that.

Mr. Banisch stated that the board can waive all the spaces being stripped at this time given the demonstration of the number of people on site at any one time.

Mr. DiSalvo stated that they Board would waive the parking requirements of 8, 9 and 10.

Joe Perno – 6 Walden Road – was sworn in by Attorney Buzak. He stated that he was vehemently opposed to this application. He questioned that this use was compatible to the property and neighborhood and it was his opinion that this home occupation is not compatible to the neighborhood and to his knowledge there were no other home occupations in the area. He noted that at another timer there was one that moved out of the area. He was concerned in during the winter months they will see car lights up and down the flag lot. He stated that the Blue Spruce trees along the driveway are cut up approximately 5'. He was concerned that one of the passing lanes would be in his backyard.

Mr. Banisch read the ordinance section and stated his opinion that based on the testimony presented this application is compatible under Township ordinances.

Mr. Hall stated that the widening is on both sides of the current driveway and the widening would be done on the applicant's property.

Mr. Hall stated that passing zones for a driveway cannot be waived by this Board or the Township Committee and the passing lanes must be constructed. The spacing is dictated by the ordinance.

Mr. Bacchetta stated that none of the driveway improvements would be made without his property being staked out.

Mr. Banisch referred to the aerial photograph submitted with his memo. Some trees will come down. He suggested that the Board may require new trees to be planted.

Daryl Graulich – 4 Waldon Road – stated that she would be very upset if trees that back up to her yard are taken down. She was concerned for the children in the area. She asked about signs. She asked about the number of visitors. She stated that she was opposed to the application.

Mr. DiSalvo – stated that no signs are proposed with this application. The log stated 35 client visits between February 2<sup>nd</sup> and May 7<sup>th</sup>, 2008, which is approximately 65 days which is about 1 every other day.

Stephanie Murray – 1 Walden Road was sworn in by Attorney Buzak. She asked about weekend hours. She was opposed to weekend hours.

Mr. Bacchetta stated that they would be working Saturdays during tax season. He noted that he has built his practice over the last twenty years.

Mr. Banisch stated that the ordinance is silent on the days of the week a business could be run out of a home.

Mr. Bacchetta stated that he would not have client visits on Sunday. He stated that he does have Saturday clients. He stated once his employees arrive they are there for the full work day. He answered the board that the individual vs. his corporate clients is minimal.

The board discussed restricting Saturday hours for clients. They reviewed the log of 35 visits over 65 days.

Pat Berg – 10 Waldon Road was sworn in by Attorney Buzak and stated she was vehemently opposed to the application. She asked that she would like to see the entire flag lot screened from the back yards of Waldon Road. She stated that the logs had not been done by an independent third party. She asked for posted speed limits or speed bumps on the driveway.

Mr. DiSalvo stated that based on the site visit and the number of client visits proposed, he did not see the need for a requirement of additional landscaping.

Mr. Buzak stated that the applicant is under oath and it must be accepted as credible testimony unless the objector had information to the contrary to dispute the applicants' testimony.

Mr. Bacchetta stated that the flag staff is 750' long.

Mr. Popper stated that some additional landscaping may be appropriate.

The board reviewed the log again and noted that 90% of the business is before 4:30 p.m.

Bob Rhodes – 7 Sierra Drive was sworn in by Attorney Buzak and stated that his house is opposite the flag lot driveway. He was concerned with the traffic and snow removal coming off the flag lot. He was opposed to this application for commercial use in a residential area.

Janet Bacchetta – was sworn in by Attorney Buzak. She stated that there is a 6' fence on lot 30, which also sits lower than their driveway.

Maryanne Schaudenecker - 8 Sierra Drive was sworn in by Attorney Buzak. She was concerned with the children who live on the street.

Charles Sterling - 9 Sierra Drive was concerned and requested that the public interest be respected.

Ellie Sterling – 9 Sierra – was sworn in by Attorney Buzak stated that she has resided here since 1980 and asked about the frequency of ordinance amendments.

Mr. Banisch answered that at the time of Master Plan re-examination they make recommendations to the Township Committee. Also the Township Committee amends ordinances as well.

Mr. Berg – Waldon Road noted that six and half of the 8 households are opposed to the application and seven are direct property owners with the applicant.

Joe Spano – 12 Waldon Road was sworn in by Attorney Buzak, he is lot 28 and has two young children, he does not see what has been proposed detracts from the neighborhood, his only concern is with the traffic and what happens if there is more traffic than testified to in the future. He asked that Mr. Bacchetta make his clients aware that there are small children in the area.

Mr. DiSalvo stated that if anything is inconsistent with the testimony heard or an approval resolution it should be brought to the attention of the Township Zoning Officer.

Mr. Tobin explained that he has been serving the township for 28 years and over time he has heard vehement opposition to many things, including the Sierra Drive development. He noted that the State of New Jersey mandated that home occupations be allowed. He explained property owner rights that have been upheld in court and the Township's role and the Planning Boards charge to uphold the township ordinances and state laws.

There were no further comments and the meeting was closed to the public for questions and comments on this application.

Mr. DiSalvo made a motion to instruct the board attorney to draft a resolution of approval of the application presented tonight for conditional use application and minor site plan including compliance with letters from the fire department, Mr. Hall and Mr. Banisch, a lighting inspection as detailed by Mr. Banisch, hours of operation to be 8:30 am – 4:30 pm for client visitation except for tax season February 1 through April 15), additional landscaping, a passing lanes if determined necessary by the township engineer, no signs, difference of parking spaces and approval vacated at sale of property, Seconded by Mr. Leavens. A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, Leavens, McGroarty, Monahan, Popper, Tobin, Beute, Akin Nays: None Absent: Mont, Trevena

The public was made aware that the resolution of approval would be read on August 11<sup>th</sup>.

2. Target Corporation – Block 4, Lot 7.05 – Route 46 – C-2 Zone 29.27 Acres – Request for Amendment to Resolution 06-25,07-11, 07-15, 07-16, and 07-17 to allow for overhead utilities along Route 46 and request for Temporary Certificate of Occupancy

Nancy Lottenville, Applicant's Attorney  
Joe Mele, Applicant's Engineer  
David Godin, Applicant  
Todd Hamilton, Applicant

Mr. Tobin stepped down due to a conflict of interest.

Ms. Lottenville stated that two of the poles have been removed. They are asking that the pole closest to the road be allowed to remain. She stated that JCP&L took down the other two poles, but left the one that they are asking permission for because it was their opinion that it was in their easement, which it was, but also on the Target property. The other issue is a need for a temporary certificate of occupancy.

David Godin, Joseph Mele and Todd were sworn in by Mr. Buzak.

Mr. Godin stated that he is an employee of Target and site manager. He stated that he has been involved in the project since December 2007. He explained that he was aware that JCP&L put the poles on the Target property and the subsequent denial to keep the poles. He explained that JCP&L came out and removed two of the three poles and the third one was left in a utility easement. He is only on site a few hours a week. JCP&L showed up without notice to remove the poles and he was not on site at the time to require the third pole to be taken down.

Mr. Mele received a copy of the easement between Target and JCP&L and he was not aware of it until the end of May 2008 and he was not previously aware of it. The easement was marked A-1. The easement recites that there would be overhead poles. If he had seen this earlier he would have known of the difference between the plans. He explained that two days after the April meeting on a Wednesday there were quite a few people from JCP&L, Mr. Hall, Mr. Godin and R& R contractors at a meeting on site. It was noted that there were two poles on site and one pole in the Route 46 right of way and it was agreed that JCP&L would take the two poles down and leave the one in the right of way. The electricity would go underground from the pole remaining on site to the other side of the stream. Several weeks later they found out the remaining pole was not within the right of way but on the Target property by 15' - 18'. JCP&L put the pole further into the site for safety reasons, but that it was not the intent to put it on Target property. He stated that when he spoke to Lynn Gieger of JCP&L and told her that the pole may have to be moved or removed she explained the fact that re-splicing of the wires is not ideal for a new location. Ms. Gieger informed them of five other sites in the area where overhead poles have been brought in. He referred to the photographs submitted with the application.

Ms. Lautenville answered the Board that they have not been able to obtain a written statement from JCP&L.

Mr. Godin stated that they do have the e-mail and a location map and photographs of the other sites. Some are in Long Valley; at Dunkin Donuts at 62 East Mill Road and the photo was marked A-3 and he pointed out the telephone poles. The service pole is 10' - 11' off the road.

Mr. Hall stated that on East Mill Road the pole is in the ROW. The applicant's position is that if the pole was in the right of way the Planning Board would not have jurisdiction over the pole.

Ms. Lautenville stated that if they had better communication with JCP&L it would have been put underground, but through a series of mis-steps they are back before the board. She stated that if this is denied Target is going to undertake the very expensive process of putting the lines underground under Route 46. She noted that JCP&L has run all the power on the opposite side of Route 46 from Target. JCP&L elected to take the power over the road instead of under the road.

Mr. Mele stated that at the meeting with JCP&L they knew what had to be done. At the time they have no question that the remaining pole was within the right of way.

Mr. Hall stated at the meeting the Board wanted the three poles remain and he told Target that the third pole would have to get approval from the Board.

Mr. Mele stated that was correct, but everyone thought it was within the right of way.

Mr. Hall stated that the site plan does not show any poles on site.

Ms. Lottenville read from the ordinance regarding overhead/underground lines. She noted that Route 46 is covered with poles and it is common to take lines overhead to the property in question and then underground. The electricity is coming from an off tract site.

Mr. Hall stated that the utility plan is very clear and it does not show any poles of any kind in or out of right of ways. It includes bringing the electric lines under Route 46 to the site. He referred to photograph number 11 which showed the pole in relation to Route 46 and stated that photograph 10 gives a perspective to the entire development. From a safety perspective it is probably in a safe location.

Mr. Mele stated that based on the presumption that the third pole was in the right of way the applicant told them to take down two of the three poles.

The board reviewed the testimony presented.

Mr. Leavens made a motion to grant the request to amend the resolution to allow the utility pole on Route 46 as presently sited. Seconded by Ms. McGroarty.

A roll call vote was taken:

Ayes: Bauerlein, DiSalvo, Leavens, McGroarty, Popper, Beute, Akin

Nays: Monahan

Absent: Mont, Trevena                      Ineligible: Tobin

Ms. Lottenville stated that Target is looking for a Temporary Certificate of Occupancy prior to opening to the public.

Todd Hamilton stated that he is the new store Target Manager. He explained that on September 4<sup>th</sup> Target will want a certificate of occupancy to take position of the building for five days of fixturing the store with everything except merchandise. Then they would start accepting merchandise trucks, one truck a day starting September 10<sup>th</sup>. Grand opening is October 12 with a silent opening for invited VIP guests the night of October 8. During the week of September 4<sup>th</sup> they will have 250 people for three days – they will be feed on site, no one would be leaving mid day. There would be only one trip in and one trip out each day.

Mr. Mele produced a list of items that would not be done by September 4<sup>th</sup> the following items would not be done. The list was marked by A-4.

- All route 46 NJDOT improvements  
Mr. Godin stated that they cannot start until Verizon removes their poles in the medium, which they state would be done by the end of July.
- Pavement - some of the top course of pavement because of possible construction vehicles still using the site -
- Dead or missing landscaping improvements - subject to a cash bond -  
Mr. Godin stated that all landscaping would be installed by the grand opening in October.  
Mr. Mele stated that a meeting has been set up for this Friday with Dr. Keller to go over outstanding and problem landscaping

Ms. McGroarty left the meeting.

- Retail A- structure  
Mr. Mele stated that Retail A - is not being built with the pertinences - except they will have the handicapped parking spaces and walkway to the Target
- Bank pad  
Mr. Mele state that both pads will be maintained as grassed area until the buildings get built
- Miscellaneous items and minor changes to the plans made during construction, such as planters, cart parking

Mr. Hall supported the change from wood fence around the detention basin to vinyl coated black chain link with consultation with Mr. Banisch and himself.

Mr. Hall did not object to any items on the list for temporary CO.

Mr. Buzak reviewed the condition of the resolution that the applicant was seeking an amendment.

Mr. Hall did not object to any items on the final co exception list.

Mr. Hall stated that he must have a letter from Harold Maltz - Traffic consultant signing off prior to either a TCO or CO.

Mr. Buzak stated that the first list was for a TCO for non-public use - prior to October 8<sup>th</sup>.

Ms. Lottenville agreed.

Mr. Hall stated that during the three days that the 250 people are coming to the site that police be on site and beyond that if the police departments (local and/or state) require a presence that they be there.

Ms. Lottenville agreed.

Mr. Hall that he and Mr. Maltz will require a written acknowledgement from NJDOT that they are aware of the TCO and do not object.

Mr. Mele stated that they will work with Mr. Hall and Mr. Maltz as to what is going to be acceptable. I.E. – would a meeting suffice

Mr. Hall stated that the NJDOT Project Manager, Frank Cole, would have to be at the meeting, not just a field person. Also, some physical improvements should be made before the TCO, he referred to page ten (some work is on going) guide rail removed and relocated, radius of the driveways to the design radius, traffic control plan submitted prior to TCO subject to his approval, also Mr. Maltz and Lieutenant Monahan would also need to sign off.

The meeting was opened to the public for questions and comments, there were no questions or comments and the meeting was closed to the public for questions and comments.

Mr. DiSalvo made a motion to approve the modification of the condition of the resolution to set forth the specific items that can be incomplete for TCO for merchandising and the list of items that can remain incomplete for CO to open to the public as discussed this evening. Seconded by Mr. Leavens

Ayes: Bauerlein, DiSalvo, Leavens, Monahan, Popper, Beute, Akin

Nays: None

Absent: Mont, Trevena, McGroarty

Ineligible: Tobin

***DISCUSSION /  
CORRESPONDENCE***

1. Public Hearing of the Morris County Master Plan – Farmland Preservation Plan – July 17, 2008

Noted for the record.

2. NJDCA – June 3, 2008 correspondence re: Readoption of State Planning rules without Amendment

Noted for the record.

3. NJDCA – June 19, 2008 correspondence re: Proposed repeal and proposed new rule for plan endorsement

Noted for the record.

## 4. Vouchers

Mr. Leavens made a motion to approve the vouchers reviewed by the Chairman and found in order and send same on for payment. Seconded by Mr. Mont. A voice vote was taken; all were in favor and the motion carried.

Mr. McGroarty made a motion to adjourn, seconded by Mr. Bauerlein. A voice vote was taken; all were in favor and the meeting was adjourned at 11:20 p.m.

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Virginia R. Kesper, Clerk