

POHATCONG TOWNSHIP LAND USE BOARD

Regular Meeting

Tuesday, June 13, 2017

Municipal Building, 50 Municipal Drive, Phillipsburg, NJ 08865

NOTICE

In accordance with N.J.S.A. 10:4, adequate notice of this meeting has been provided by mail to the Star Gazette and the Express Times; a notice of this meeting and all other regular meetings of the Land Use Board of Pohatcong Township, which notice sets forth the time, date and location of this meeting by prominently posting said notice on the bulletin board in the municipal clerk's office.

The meeting opened with a moment of silent prayer followed by the flag salute.

The meeting was called to order by Vice-Chairman Melvin at 7:30 P.M. with the following members present: Emrick, Melvin, Mirenda, Mitschele, Smith-Bohn and Swinicki. Also present were Anthony Sposaro, Board Attorney, Wayne Ingram, Board Engineer and Wendy Acevedo, Board Secretary. Mr. Babinsky, Mr. Vergalito, Chairman Willever and Mrs. Frey were not present. Mayor Kern arrived at 8:12.

PUBLIC COMMENTS ON AGENDA ITEMS

None.

APPROVAL OF MINUTES

Mr. Mirenda made a motion to approve the minutes for the April 11, 2017 meeting as written seconded by Mrs. Smith-Bohn. The motion carried with the following roll call vote.

Ayes: 4 Melvin, Mirenda, Mitschele, Smith- Bohn,

Nays: 0

Abstaining: 2 Emrick, Swinicki

Absent: 5 Babinsky, Frey, Kern, Vergalito, Willever

Mr. Emrick made a motion to approve the minutes for the April 24, 2017 meeting as written seconded by Mr. Mitschele. The motion carried with the following roll call vote.

Ayes: 5 Emrick, Melvin, Mitschele, Smith- Bohn, Swinicki

Nays: 0

Abstaining: 1 Mirenda

Absent: 5 Babinsky, Frey, Kern, Vergalito, Willever

Mr. Emrick made a motion to approve the minutes for the May 9, 2017 meeting as written seconded by Mr. Swinicki. All were in favor as meeting was cancelled.

NEW BUSINESS

R & F Phillipsburg, LLC (Aldi) – Preliminary/Final Site Plan/Variances

Mr. Michael Selvaggi came forward as attorney for the applicant. Raymour and Flanigan is the owner of the property and Aldi Supermarkets is the supposed end user. In 2007 this Board voted to approved the site plan for Raymour and Flanigan which was built. Adjacent to that there was a pad site for a 14,000-sq. foot building, which was also approved. They recession hit and that site was never developed. Aldi Supermarket would like to come to that site. This site is Block 75 Lot 3 in the business district and this is an approved use.

Mr. Sposaro commented that the Board should deal with completeness issues. There were three reports done by the Board Engineer, May 5, 2017, May 23, 2017 and June 11, 2017. In the May 23, 2017 report, the recommendation was to grant certain waivers that are identified in that report and to then deem the application complete.

Mr. Emrick made a motion to deem the R & F Phillipsburg, LLC (Aldi) complete subject to waiver identified in them Engineer's report dated May 23, 2017, seconded by Mr. Mirenda. The motion carried with the following roll call vote.

Ayes: 6 Enrick, Melvin, Mirenda, Mitschele, Smith- Bohn, Swinicki

Nays: 0

Abstaining: 0

Absent: 5 Babinsky, Frey, Kern, Vergalito, Willever

Rory Garr Director of real estate for Eastern Pennsylvania and Northern New Jersey was sworn in.

Mr. Garr stated that he has worked for Aldi's for 12 years. They are one of the fastest growing discount grocery store in the United States. They have over 900 stores and in the next 5 years they will be making a 3.4-billion-dollar capital investment. Their stores are much smaller than a tradition grocery store. The store they are proposing is approximately 19,000 sq. feet and about 12,000 of that is the actual sales floor. This is about 5 aisles of product. They carry mostly their own private label brands, which they can sell at a much lower price. It is a very efficient business and they control their costs very well so they can pass the savings onto the customers. They will try to be 20 – 50% less than the competition. Having them here will be a bonus to the residents.

Mr. Michael Selvaggi presented a collection of photos that were marked Exhibit A-1

- * Photo of Prototype of proposed Store
- * Photo of Corner view
- * Photo of inside of store
- * Photo of Refrigeration area
- * Photo of fresh produce area
- * Photo of inside store

Mr. Garr explained that their stores are built to be efficient and they try to make sure that their store has as little impact on the area as possible. All of their products are displayed in ready to display casing. Mostly everything gets recycled so they have very little waste. They typically get one delivery per day of their product and then 3 to 5 from outside suppliers. They carry a full line of fresh meat that are all prepackaged from national suppliers. They also have organic line that is mixed in with all of their products. They have a fresh produce section and carry between 90 to 120 fresh produce items. They do try to do some local sourcing for their produce. The store appears to be larger because they keep the ceilings open but the sales floor is only approximately 12,000 sq. feet.

Mr. Garr continued and stated that they anticipate this store having between 16 to 20 employees. The average per shift is between 4 to 6 employees. Their hours of operation are 9:00 am to 8:00 pm Monday through Saturday and Sunday 9:00 am to 7:00 pm. To be efficient they are only open peak hours. All of their deliveries are on full size semi-trailers to cut down on the amount of deliveries.

To answer Mr. Selvaggi's question, Mr. Garr stated that 85 parking spaces were more than enough for this store. It is their requirement that they try to get at all of their stores. The employees would park in the back of the parking. They only have one garbage container picked up per week and that is just for spoiled produce items because they recycle everything that they can. They even use a quarter deposit for their shopping carts so that they customers return them to the front of the store. He explained that they customer would put in a quarter to unlock the cart when they return the cart to relock their quarter is returned to them.

Mr. Ingram commented that it looked like there were 7 checkout counters on the architecture plans but they have stated that there will be 4 to 6 employees per shift,

Mr. Garr explained that they normally do 5 checkout lanes. Their associates are by far the fastest checkout people in the industry. Their whole checkout system is designed to be as friendly as possible. The items are scanned and placed back into a cart then the customer takes them and bags themselves at the bagging area. They normally do not run

more than 2 to 3 checkout lines at a time. The other two are usually in case they have a breakdown. They pay above average for their associate level and are very hard workers. Part of their efficacy is that their store associates are able to do every task within the store and not just checkout.

Mr. Ingram asked if there was any agreement with Raymour and Flanigan about using their parking. If they ever needed more than the 85 is there any restriction from them parking in the other spots.

Mr. Garr commented that they believe they will only need the 85 spaces but that it would not be a problem if they did

Vice Chairman Melvin asked if there were any questions from the public.

Dr. Hernandez asked if to see the pictures. He also asked if they sell organic products.

Mr. Garr answered that they have organic and gluten free.

Mr. Robert Streker, Engineer came forward for the applicant and was sworn in by Mr. Sposaro.

Mr. Streker presented Exhibit A-2 (Aerial Photo June 7, 2017 w/ property marked in yellow). Exhibit A-3 (Copy of Site Plan previously approved and exhibit date is 12/12/2006). This shows what was approved with a portion that has been constructed at this time and portions that are proposed to be modified by this application. Exhibit A-4 (Current Proposed Plan dated 6/7/2017). This exhibit provides an overlay of the existing R & F store and parking area with the proposed improvements colorized with landscaping. It shows what the site would look like with the improvements.

Mr. Streker explained where the property is located and that they are in the B-3 district and consists of 6.85 acres. There was dedication given to the DOT with the original application. Raymour bought the property and demolished the existing hotel that was there and came to the Board for site plan approval. That approval was for the Raymour & Flanigan store of 64,080 sq. feet and a drive thru pharmacy consisting of approximately 14,736 sq. feet. This was approved and was going to be phased. The pharmacy would have been phase 2 but no tenant was obtained at that time. They had obtained the required FAR and setback variances. The engineering and site layout were all approved. The applicant is now proposing to remove the retail pharmacy and replace it with the Aldi building. This would be in the northwest corner of the property, generally in the same location as the retail pharmacy. They are simply taking the phase 2 portion, the parking area between the pharmacy building and Route 22 and modifying that area. When they eliminated the drive thru, they pushed the building further back away from Route 22. He further explained that the Dunkin Donuts property next door is unique and is C shaped. In pushing Aldi further to the west, it now creates a setback variance that they didn't have before. A 75-ft. rear yard setback is required and they are proposing 26.5 ft. The portion that they will be next to is the portion of the Dunkin property that is undevelopable and has their stormwater detention basin. They see this having little or no impact to the surrounding properties. 85 parking spaces are being proposed. They had a significant amount of banked parking spaces with the original application, which means they designed more parking than what was needed. These

spaces were calculated in their stormwater system, but they were never built because Raymour didn't need them. If an issue came up where Aldi's needed the additional parking they could select and build some of those spaces. Right now, there is a need for a parking variance. Based on the total square footage of 83,134 that is proposed for the property, 416 parking spaces are required. The banked parking that is shown on this plan is the same banked parking on the approved plan.

Mr. Sposaro asked if they feel that they even need that banked parking?

Mr. Strecker answered that right now, no but he does not know what could happen in the future with tenants. He thinks that it makes sense to hold on to it especially since all of the calculations take it into account. He went on to explain that they are reducing the amount of impervious as part of this application to what was previously approved. They are reducing it by 4.5%. The impervious coverage that is on the bulk table does not take into account the banked parking.

Mr. Ingram commented that since they are asking for a impervious coverage variance now, if the bank parking is ever constructed they would need to come back to the Board.

Mr. Strecker stated that they would like to modify that number now. Including the banked spaces they are proposing 65.2% impervious coverage. The Board had previously approved 69.7%.

Mr. Ingram asked if they had any objection to the comment in their review letter with regard to removing some of the banked parking in the location that they designated for safety issues. Things are functioning a little different in this case and he has a concern with having the 15 stalls that are right in the main aisle with cars coming in and out. He does not feel that the 5 stalls located by the entrance to Route 22 is the best location.

Mr. Strecker commented that none of the banked spaces would be built without the Township's approval. He suggested keeping them and building them out last if needed. They will do a pedestrian crosswalk if the Board feels that it is necessary. They would like to keep the banked parking spaces for flexibility in the future.

Mr. Ingram agreed that the crosswalk would help in that one area but still had an issue with the few banked spaces by the entrance.

Mr. Sposaro confirmed for they would be removing 4 stalls by the entranceway.

Mr. Strecker stated that the applicant will agree to remove 4 of the banked parking stalls off of the main entrance way of Route 22 on the left hand side as you enter the site. If they need to build out the banked parking stall the 15 noted in the Engineers report by the center aisle would be built last along with some kind of traffic control. He went on to explain that they will be using the same light fixtures that are out there today. Five new poles are proposed which is a rearrangement of the fixtures that were approved with the prior approval. They do need relief from the Uniformity Calculation. The code requires 6 to 1 ratio and they are at 6.47 to 1. 515 plants are proposed just around the Aldi location and out of the 18 are trees. They are focusing the planting around the perimeter of the parking field to screen headlight glare. The loading and trash area will also be screened. The plan is short 9 shade trees but they do not feel providing that amount of trees in the

parking area is good because they would affect the lighting and underground utilities. They would like to do around the perimeter of the property.

Mr. Sposaro felt that the Engineer or Planner could make those decisions in the field during construction.

Mr. Emrick stated that he also sits on the Township's Environmental Commission and they had requested that they do native plants and not invasive species.

Mr. Strecker noted that it would not be a problem. It was also noted that some of the trees on site have died or are missing and that will be taken care of

Mr. Strecker discussed the drive aisles and noted that they would be keeping them the same. They will submit the truck route and turning template to the Board Engineer as they were not submitted with the original submission. The loading is located on the westerly side of the Aldi, which is basically across the aisle to where R & F is located. The truck maneuvering through there would be similar. They would enter off of Route 22 and drive down the main drive aisle and back into the loading zone. They would exit out of the loading zone and exit out onto Route 122.

Mr. Strecker explained that one of the reasons why this pad has been sitting vacant for so long is that access has always been an issue. They have an ingress only off of Route 22 and on Route 122 there are limitations. What they are proposing at Route 122 is a full movement driveway. That is under DOT jurisdiction and they have already submitted it to NJDOT and the County. The traffic engineer will be up to discuss that in further detail.

Mr. Selvaggi commented that even though that would be an outside agency approval, which would be a condition of this approval, they would like to explain and answer any questions the Board might have. He noted that this application will also need a FAR Variance.

Mr. Strecker explained that they are at 27.9% where 25% is allowed and the prior approval was for 25.8%. The increase is about 4,300 sq. feet of space. He went on to discuss the signage included in this approval. On the front entrance, which is located on the southeast corner of the building, there are four (4) signs proposed. There will be two (2) on the elevation that faces Route 22 and two (2) on the elevation that faces Route 122. Each side would be 113 sq. feet with a total of 226 sq. feet. The Ordinance limits the amount of signage permitted on a building to 40 sq. feet. They are on a major roadway and setback over 220 feet as well as the scale working well with the building. The signs are internally illuminated but will only stay lit for a certain time after closing.

Vice-Chairman Melvin asked if the signs were uniform across all of the Aldi stores.

Mr. Garr commented that the one side will face the Raymour building but will be seen from Route 122. They do not have a prototype for having the need for signs on both sides.

Mr. Strecker noted that there are two (2) pylon signs there today. There is a existing tenant plaque underneath the free standing sign on Route 22 that is 1 ½ feet tall by 8 feet wide. They are proposing to remove that and replace it with an Aldi logo. They are also

proposing to add a 32-sq. foot sign to be mounted on the same post that is out there today. It would be located under the Raymour and Flanigan sign. On the Route 122 sign they are proposing a 19-sq. foot Aldi sign which would be located under the Raymour & Flanigan sign.

Mr. Selvaggi noted that they would mark what is being presented at Exhibit A-5 (Sign 1 Route 22) and Exhibit A-6 (Sign 2 – Route 122).

Mr. Strecker answered Mr. Ingram's question and noted that the overall signage on Route 22 including the Raymour & Flanigan would total 90 sq. feet. The sign on Route 122 would have a total in signage of 59 sq. feet.

Mr. Strecker noted that they had received a copy of the letter with the Fire Department's concerns. The Fire Department has requested that the hydrant be located in a different spot, Fire Department connection be moved to the southeast corner of the building. In moving the Fire Department connection, they requested that they eliminate 3 (three) parking spaces that are right by the front door. They would like the Board's permission to discuss with the Fire Department that they have already left open some parking spaces at the front door. They would like to locate the Fire Department connection easterly face of the building so it could be easily accessible for the Fire Department and still not impact parking.

Mr. Sposaro asked that they discuss this with the Fire Department prior to the next Board meeting so that it could be included in the Resolution.

Mr. Ingram asked if they have any issues with anything in his review letter that has not been discussed? He noticed a discrepancy in the loading area with regard to the site plan and the architectural drawing. He also confirmed that no parking spaces are lost for cart storage.

Vice-Chairman Melvin asked if there were any public comments at this point. There were none.

Corey Chase, from Atlantic Traffic came forward as the Traffic Engineer for the applicant. He was sworn in by Mr. Sposaro. He gave the Board his qualifications.

Mr. Selvaggi noted that they understand that traffic is a concern and that the State of New Jersey has jurisdiction. They would like to explain to the Board what they are proposing.

Mr. Chase used Exhibit A-4 as a reference. This site was originally approved to have access on Route 122 with left turning movement restrictions. They did go back to the State in 2009 and received approval for an additional 20,000 sq. feet in retail space, so the State has already approved the sq. footage that they are proposing on the site. They recently had a meeting with NJDOT and Warren County to discuss the possibility of modifying the access point. In order to be able to attract a tenant to this site and it is a big factor in being able to attract Aldi to this site. Their meeting with the NJDOT and the County was to discuss full movement at the access point on Route 122. There is a very long turn lane that serves the Walmart property, which was designed with the original Walmart application. The utilization of that driveway is not very high and the State feels that they can shorten that length of that turning lane and they will decrease the cart way

width of the road. That will reduce the width of roadway that a vehicle has to cross to make a left-hand turn onto Route 122. They are also proposing an exclusive left turn lane. That turn lane will be 75 feet long and can accommodate 3 cars.

Vice-Chairman Melvin asked if they would actually be bumping it out or just re-lining.

Mr. Chase answered that they would actually be removing the pavement and making it grass. He further explained that the peak hours for Route 122 is 6 to 8 am. Aldi doesn't open until 9:00 am and Raymour and Flanigan until 10am. He further explained their traffic study. The County and State felt that their proposal was acceptable but wanted to see detail, which they submitted that over 90 days ago. They are waiting for comments. There was further discussion.

Mr. Selvaggi answered Mr. Swinicki's question and stated that Aldi's could not be built until the roadway changes are made since this approval will be conditioned on it.

Mr. Chase noted that usually DOT is concerned with additional square footage for a site. As he stated they are already approving more square footage for this property than they are proposing. All they are approving now is the traffic pattern changes.

Vice Chairman Melvin noted that the timing of the light at Route 22/122 was very fast and noted that by increasing the timing it would alleviate some of the traffic.

Mr. Chase explained that they have not had any discussions with DOT about the timing of the light. There was further discussion.

Mayor Kern commented that the Governing Body would be happy to draft a letter to the DOT regarding the timing at the Route 22/122 light.

Mr. Mirenda explained that the timing of the light changes depending on the time of day. There was further discussion.

Mr. Sposaro asked that a copy of the DOT submission be given to the Engineer so that he could provide feedback to DOT. He explained that DOT has exclusive jurisdiction over this. If the vote is favorable and the design DOT approves is substantially similar to what has been described, he would see no need for them to come back. If the design is substantially different they would need to come back. He thinks that they should be entitled to a little wiggle room on the design.

Mr. Selvaggi commented that they are pretty confident that the DOT will sign off on this.

Mr. Chase noted that their conversations with the County were about the same as with the DOT. The County agreed that they should proceed with the site plan application. They are just waiting for a response from them.

Mayor Kern asked that if approvals were given tonight, what would the timeframe that they would expect approvals from the State and County. When would they expect to start construction and how long would it take.

Mr. Chase answered that usually the State takes 2 to 3 months and the County 1 or 2 months after that. He thought that they would have had comments from the State already. He explained further.

Mr. Garr explained that their typical timeline for construction is 4 to 6 months and that it would depend on when they state. They would love to have the store open next year.

Mr. Justin Auciello, Planner was sworn in by Mr. Sposaro. Mr. Auciello gave his qualifications to the Board.

Mr. Selvaggi stated that Mr. Auciello would discuss the FAR Variance and the Bulk Variances.

Mr. Auciello commented that the FAR (Floor Area Ratio) is more similar to a bulk variance than a Use Variance. He wanted it noted for the record that the FAR relates to the square footage of all floors of a building with respect to the overall site. FAR from a Land Use standpoint is whether it will have negative impacts to the site. Unlike a Use Variance they do not have to show that the site is suited for the Use nor do they have to satisfy they enhanced quality of proof.

Mr. Auciello explained that the Ordinance permits a maximum of 25% FAR and that 20.3% is existing, 26.4% was previously approved and 27.9% is proposed. The Board's Planner in his review letter stated that the Board's focus should be whether site access and the additional traffic from the proposed increase causes any substantial problems and whether storm water management or other site related factors are a negative impact. The Board's Planner did state in his review letter that the increase in the FAR is nominal to what is permitted. He also noted that the Raymour and Flanigan probably has a low per square foot retail usage, as their displays take up most of the entire interior space.

Mr. Auciello felt that this use would not generate a substantial volume of traffic therefore no substantial traffic impact. The site can accommodate the increase in the FAR. He also does not see a negative impact to public safety of the area or the zone plan. He explained further. This application requires a bulk variance for minimum rear setback where a minimum of 75 feet is required and 26.5 feet is proposed. The Engineer gave testimony to the rear yard setback and he feels that there will be no negative impact to the adjacent property or to public health and safety or zone plan. With the shape of the adjacent property there is no way that they could comply with this requirement. They are constrained as to how they can position this site because of the existing improvements.

Mr. Auciello commented that they also need a variance for impervious cover where a maximum of 55% is allowed and they are proposing 60.5% which is a reduction to what was originally approve. This helps to mitigate the FAR variance and he sees this as a benefit and by reducing the impervious coverage they are improving the character of the site.

Mr. Auciello noted that for the sign variances he is going to process them under the C-1 Hardship and the C-2 where the benefits out way the detriments. The Township's Ordinance permits one sign per façade and they are proposing 2 signs per façade. They would be on the frontages facing Route 22 and Route 122. Not only are the signs for

branding but they will be a substantial distance from the roadways. The signs are scaled appropriately to the size of the building, they are understated and blend in well with the surrounding area. He feels that they are needed for the motoring public. They are aesthetically pleasing and advance the purpose of the Municipal Land Use Law with respect to creative design techniques. They are not a detriment to the public good and do not impair the intent of the zone plan.

Mr. Auciello explained that this is a permitted use that is going to provide a multitude of benefits to the community. He feels this provides a better overall plan for the site and thinks this adds light, open air and open space. They are not going to overcrowd the site and it will be able to operate safely.

Mr. Selvaggi noted that they are aware that this approval would be conditioned on outside agency approvals, which would include the DOT. They would not be before the Board if they did not think they were going to get DOT approval. The Township would be the centerpiece of a retail use that has a very ambitious growth plan in this area and in some ways put the Township on the map.

Wayne Ingram was satisfied with what was discussed and what wasn't discussed the applicant has agreed to amend.

Mr. Strecker informed the Board that to answer Mr. Ingram's question from earlier in the meeting the site plan is correct.

Mr. Ingram noted that he is more partial to the architectural plan and explained why.

Mr. Garr commented that it was a prototype change. There was further discussion.

Mr. Sposaro confirmed that the engineering plans will control and the applicant stated yes.

Mr. Mirenda made a motion to approve the Preliminary/ Final Site Plan, Use Variance and Bulk Variances to R & F Phillipsburg, LLC Application #17-03, seconded by Mrs. Smith-Bohn. The motion carried with the following roll call vote.

Ayes: 6 Emrick, Melvin, Mirenda, Mitschele, Smith- Bohn, Swinicki

Nays: 0

Abstaining: 1 Kern

Absent: 4 Babinsky, Frey, Vergalito, Willever

Mr. Emrich made a motion to approve the Memorializing Resolution to Kieffer & Co. Inc. t/a Ulta Beauty Granting Bulk Variance or Signage, seconded by Vice-Chairman Melvin. The motion carried with the following roll call vote.

Ayes: 5 Emrick, Melvin, Mitschele, Smith- Bohn, Swinicki

Nays: 0

Abstaining: 2 Kern, Mirenda

Absent: 4 Babinsky, Frey, Vergalito, Willever

PUBLIC COMMENTS

None.

CORRESPONDENCE

None.

Mr. Emrick made a motion to adjourn 9:15 pm, seconded by Mr. Mirenda. All were in favor.

Respectfully Submitted,

Wendy Acevedo
Land Use Board Secretary