

**TOWNSHIP OF ROBBINSVILLE SPECIAL ZONING BOARD OF ADJUSTMENT MEETING  
TOWNSHIP OF ROBBINSVILLE, MERCER COUNTY, NJ  
MONDAY, APRIL 14, 2008 7:30 P.M.**

**MINUTES**

**Present:** *Chair Perhacs, Mr. Gibeault, Ms. Carbone, Mr. Bihl (arrived at 7:48 p.m.),  
Mr. Kirkpatrick, Mr. Siekerka (arrived at 7:38 p.m.)*

**Absent:** *Mr. Kreig, Mr. Griffin, Mr. Lynch*

**Also Present:** *Mr. West, Township Engineer; Ms. Doobrajh, Esq. (on behalf of Mr. Herbert,  
Esq., Board Attorney); Ms. Kooper, Planning Consultant; Mr. Wilson,  
Architectural Consultant; Ms. Post, Board Secretary; Ms. Persicketti, Recording  
Secretary*

Roll call for the above Board members was called and the Flag Salute took place.

**“Adequate notice of this meeting has been provided as required under Chapter 231 P.L. 1975 specifying the time and place with such notice as being sent to the *Times of Trenton* and the *Messenger Press* and posted in the Municipal Building Public notice meeting bulletin board.”**

**PUBLIC COMMENT**

No public came forward.

**BOARD COMMENTS**

Chair Perhacs remarked that he was surprised with respect to the cancellation of the last meeting. Ms. Post stated that everyone was notified of the cancellation of the meeting. Chair Perhacs mentioned that he has a conflict with the Frank Matteo application because he is a secretary for the Woodside at Washington Homeowners Association, whose property is within 200 feet of this application. Chair Perhacs notified Mr. Gibeault that he would have to chair the meeting for that application. The hotel and veterinary hospital will be heard the same evening because they are located next to each other and testimony will be tied into each one of the applications.

**BUSINESS TO DISCUSS**

**Discussion with Board Architect Regarding Architectural Issues**

Chair Perhacs said that the Board has been seeing different kinds of applications. There are different areas of town such as Windsor historic, Town Center, etc. Mr. Kreig was the one who really pushed to have an open discussion with Mr. Wilson regarding what works in the different areas of the Town and the Master Plan.

Mr. West introduced Edmund Wilson, who is the Board's Architectural Consultant. He performs the architectural review of the applications. Mr. West stated that architectural standards can be enforced in Town Center, but not anywhere else in the Township. In most cases, the applicant agrees to do what the Board requests. However, the matter cannot be enforced.

Mr. West stated that as professionals, they need to hear from the Board what direction they want to go for the application. The professionals try to steer the applications basically the way the Board wants. The professionals follow the ordinance to make sure the applications are in compliance, but there are a lot of areas in the ordinance that are gray. With architecture, it can be anywhere. The special meeting being held tonight stems from the Crossroads Storage application in which the applicant tried to make the buildings appear like barns to fit into the rural character of the area. He heard from some of the Board members that it may not have been appropriate. Mr. West would like the Board to tell him if they would like more or less information in the review memorandums. Except for the Town Center ordinance, there is not much guidance regarding architecturals.

Ms. Carbone asked Mr. Wilson if the Planning Board had offered any guidance to him as to what to do in certain areas of the Township.

Mr. Wilson commented that except for the Town Center ordinance, which is very specific in terms of architecturals, there was very little. He welcomed the opportunity to meet the Board tonight. He receives an application and he reviews it. He has his own opinions. He stated that the Roma Bank is a handsome building. He takes responsibility for the Crossroads Storage application. The site is located in the Rural Residential (RR) Zone and also a gateway. He thought the horse farm barn look was appropriate and keeping with the rural character of the zone.

Ms. Kooper said the Master Plan Reexamination mentions maintaining the rural feel of the gateway.

Mr. Kirkpatrick said that it is less about standards and more about feel. It is important to take the zoning map and make recommendations. For example, this area needs to be transitional. You need to look at sections. He didn't think the barn look was a bad idea, but he also didn't know if the barn look was appropriate.

With respect to the Wittenborn property, Mr. West stated that the Mayor has asked that the Planning Board conduct a (re)re-examination of the Master Plan and look at two (2) gateways: Wittenborn and Gateway South – Tamarro as to whether the uses should be expanded.

Mr. Siekerka suggested getting the Planning and Zoning Boards together to discuss how they are potentially going to plan out the zones within the township and carry the consistency into the Master Plan.

Mr. Gibeault stated that architecture should not be tied to style or flavor. Good architecture is physically pleasing, materials chosen, and massing of the building. The mass of the buildings being broken down would have been better for Crossroads Storage. He cited the example of the

modern looking barn that Michael Graves designed in Lancaster, Pa, which has a nice window glazing.

Mr. Kirkpatrick suggested the Zoning Board send a memorandum to the Planning Board who will take the reexamination of the reexamination and expand the reexamination to include looking at the specific above-mentioned gateways, but also identify the other key gateways to the township and architecture aspects. The Zoning Board would like to have one of their members serve on the (re)reexamination subcommittee.

Due to the Crossroads application, the Wittenborn property will be looked at to better define the limits of the Wittenborn gateway. (To mean, is the Wittenborn gateway only the Wittenborn property or is it other properties, e.g. Crossroads properties.) Gateway South - Tamarro was in an area of redevelopment (redevelopment has been dropped for the Tamarro piece). The Tamarro site has not been rezoned; originally, it was going to be highway/commercial. Currently, it is zoned Town Center, and was left Town Center because it was going through the redevelopment process. Mr. West said that the reexamination is only a recommendation.

The reexamination looked at the Master Plan, but focused on two areas: Route 130 corridor and the Wittenborn tract. All of the issues in the 2000 Master Plan were addressed. Currently, there are five to six zones with different uses allowed. The ordinance streamlined all of the oddball zones into a consistent highway/commercial zone with the exception of the Village of Windsor, which is in the village/commercial zone (gas stations and drive-thru restaurants are not permitted). Permitted uses: OC-1. The permitted uses were made specific. Hotels are allowed; auto repair is allowed in conjunction with a parts store, and 50% of the business had to be the sale of parts and 50% be repair. There is no residential on the highway/commercial. A node is a cluster of development at a particular lot, which the town looked upon and this is achieved at the traffic signals. There was a lot of discussion regarding design standards in the Master Plan. The question was whether to rezone the Wittenborn tract, currently zoned residential. Ms. Kooper stated that the definition of "gateway" needs to be defined because they are currently symbolic. Arbor Walk residents spoke against the zone change because the current buffer would be changed from 150 foot buffer to 100 foot buffer. The concern of the residents is the multiple buildings on a lot. The way the ordinance is written put a doubt as to whether multiple buildings are permitted per Mr. West. The flex space is still a not a permitted use; therefore, a use variance is required. (A brief discussion took place regarding the Master Plan, historic overlay, open space and green area.) The slate open is the Kushner tract, which the township owns. A memorandum will be drafted to the Planning Board and Mr. West will address that the Zoning Board would like to participate at the next meeting.

(2) The Overview of the 2007 Master Plan Reexamination & Land Use Element Amendment was discussed in detail with the Zoning Board members (see above). Ms. Carbone indicated that when the Planning Board revisits the reexamination issues of the Master Plan, she would like another presentation telling the Zoning Board what the conclusions were, what the gateways are, etc.

(3) Discussion of Rules of Procedure for Hearings came about as a result of an application (Crossroads Storage) in which a third party (attorney) was present. Mr. Herbert aided the Board

in the review of the Rules of Procedure and the Board made minor modifications to the Zoning Board By-Laws document. Chair Perhacs had concerns regarding Ms. Donato's cross examination of the witnesses and reexamination. Ms. Carbone said that the Board started with one witness, then the next witness. The first witness was not cross-examined until hours after the given testimony and it was difficult in following what Ms. Donato was trying to achieve. Ms. Carbone would like to see a more traditional legal proceeding in that a witness gives the testimony, questions are then asked, and then the following witness will follow the same procedure.

The attorney's responsibility is to advise the Board on legal matters as to what the Board can and cannot do. The Board makes certain calls and not the attorney. If a question is repetitive, the Board can stop the examination. Chair Perhacs said that Ms. Donato was bringing in evidence the applicant had not seen and had not reviewed. It is unfair. The Board has the option to go into Executive session. The attorney asks the questions and not any individuals. A line needs to be drawn as what the role of the Board's attorney will be because there is one role where the attorney is the advisor (what is/is not legal), and also have the Board attorney ask questions of the applicant's attorney/applicant/witnesses. The Zoning Board has to decide what role they want the attorney to hold.

Section 4, Letter K was read out loud to Board, which deals with the Board being allowed to suspend the application because it feels necessary to visit the site in question or require more information. (If the applicant's attorney refuses, then what is the Board to do per Ms. Carbone.) Copies should be submitted to the Board ahead of time and the Board can make the request. If an applicant brings material the evening the application is being heard, the Board does not have to accept the report. The Board can mark the document for identification, but they do not have to accept the document as an exhibit. A given time has to be set for testimony. Mr. Kirkpatrick said that Mr. Dasti, Esq., (current Planning Board Attorney) and Mr. Balint, Esq., (previous Planning Board Attorney) were both active attorneys, who sat next to the Chairs. Mr. Kirkpatrick feels that the attorney is an advisor to the Board. Mr. Kirkpatrick feels that the attorney is not sitting up with the Board and feels that the attorney is not part of the Board (this is due to lack of space in the trailer court facility).

Executive Session is when the Board wants to discuss an application. Executive Session is usually at the beginning of a meeting and the door is open. The public can still come in and out, but the Board is not hearing testimony on an application. The Board can express their concerns; however, the meeting is still open to the public. Litigation matters can be addressed in executive session and the members of the public are not privy to hearing what is being said. An agenda session can take place prior to the meeting (meeting starts at 7:30 p.m., agenda session commences at 7:20 p.m.).

People proffer case law during their testimony. Ms. Carbone would like to see the case to make sure the argument is what the case, in fact, says. In addition, this would allow for a Board member to make his or her own interpretation of what the case says. Ms. Carbone would like a copy of the case. The Board can request the case citation. One cannot get a copy of a case in advance. Mr. Kirkpatrick feels that it is the attorney's responsibility to defend or object to the case being cited in question.

Mr. Kirkpatrick addressed the space question of where the Zoning Board meetings are being held. Also, the attorney is not seated with the Board. Therefore, Mr. Kirkpatrick suggested the meetings be held at the Senior Center.

Chair Perhaps feels the decision has to be laid out, and if the applicant agrees with Mr. West and Ms. Kooper's memorandum, he feels more at ease with the decision he is making.

If an applicant comes in and changes their case, (each case is looked at individually) or changes their plans, the town professionals need time to review the application and the applicant has to come back the following month.

Mr. Kirkpatrick indicated that the Board comments need to be made prior to the motion being made. Also, the attorney sums a detailed review of the conditions, which takes place after the discussion and prior to the motion.

The next Zoning Board meeting will take place at the Senior Center.

With not other business coming before the Board, a motion was made by Mr. Bihl and seconded by Ms. Carbone to adjourn the meeting. All in favor. Meeting adjourned at 9:50 p.m.

Respectfully submitted,

Phyllis Persicketti  
Recording Secretary

**ADOPTED: JUNE 4, 2008**