

MONTGOMERY TOWNSHIP PLANNING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
MAY 7, 2012
7:30 pm

Chairman Some called the meeting to order at 7:30 p.m. and read the opening statement that adequate notice of the meeting had been posted and sent to the officially designated newspapers.

BOARD MEMBERS PRESENT: Chairman Some; Vice Chairman Matthews; Mr. Conforti; Ms. Davis; Ms. Dyer; Mr. Mason; Mr. E. Willson; Mr. Glockler, Alternate No. 1; Mr. DeRochi, Alternate No. 2

ALSO PRESENT: Francis P. Linnus, Esq., Board Attorney; Jason Cline, Board Engineer; Kathy Elliott, Board Engineer; Cindy Coppola, Board Planner; Richard Bartolone, Board Landscape Architect; Ms. Savron, Secretary

I. PUBLIC COMMENT – 5 MINUTES PER PERSON

Chairman Some read the public comment statement. There was no public comment.

II. APPLICATIONS

Case PB-01-12	Applicant: KDC Solar GRQ, LLC
Block 1001 Lot 45	
Waiver of Site Plan	
Expiration Date – 5/31/12	
Affidavit of Notification and Publication Required and Previously Submitted	

Vice Chairman Matthews stepped down. Richard Schatzman, Esquire represented the applicant. The application was heard on April 2nd and carried. Mr. Schatzman summarized what happened at the last meeting and the changes the applicant has made to address the concerns.

Mr. Lukasik remains under oath. Mr. Lukasik referenced a marked up site plan which was marked Exhibit A-1. The prior proposal is shown in orange, the green represents the unchanged routing and blue shows the current proposal. The existing poles which carry both electrical and communications wiring which are approximately 30' tall will be replaced with new poles that are 52' tall. All the wires will be mounted on the blue route. Once it reaches the green highlight it remains the same as before. Where the blue route makes a sharp left turn is the end of the collocated wires. There are existing wires that will carry on in a northerly direction from where the blue highlight jogs but that serves the electric equipment for all the crushing operations. Mr. Lukasik showed photographs of the overhead wire route. The consolidated collocated route requires the filing of an application with NJDEP for a General Permit 21 to place the new taller utility poles in the buffer. One native steep slope was identified at the Board Engineer's site visit. A maximum span of the wire was used along with a heavy gauge pole to get the sags to the maximum amount practicable. Annotations have been placed on the plan, which limit the amount of movement that can be done to get those poles in place and use the prior route which is largely free of any trees. The area of collocation will not require the removal of any trees. The area where it splits from the collocation they will be using 40' poles that are 34' above grade. They are parallel through the active area of the processing area. A lot of the slopes in this area are a result of stockpiling and activity that has occurred over the years. A couple pole locations have been shifted to minimize the steep slopes to get it as easily accessible as possible from the gravel roads on the property. There is a location that will require trees to be cleared to facilitate the electrical connection to the array. An existing outlet channel from one of the sedimentation basins associated with the fines pile has impacted the trees in the area. Their crowns and root structures are largely below the rock fill that was placed to make the channel. In accordance with the tree summary that was performed, 37 trees will be removed. Some are either backfilled, diseased or dying and there would be 22 healthy trees which justify replacement.

Mr. Bartolone read his May 3rd memo. The applicant has agreed to post \$6,000.00 in the tree replacement fund.

Mr. Lukasik said the applicant will work with PSE & G to provide proper signage to warn of the electrical hazard that will be placed on the fencing for the existing switchyard. Sixty percent (60%) of the tree clearing proposed in the previous plan has been reduced. The total amount of clearing is 13,144 square feet. Additional silt fences have been added to improve sediment control. Any areas that were in a wooded area would be seeded. The length of the construction fence has been increased along the wetland buffer.

Chairman Some asked about the status of the application in Hillsborough. Mr. Schatzman said there was a hearing which was continued. The applicant will comply with the comments from Hillsborough and the County.

Ms. Coppola asked about the amount of clearing that is shown on the plans. Mr. Lukasik said the soil erosion and grading plans will be updated to show the clearing to be 13,144 square feet.

Mr. Cline said that his concerns have been addressed. Mr. Cline summarized his conversation with the County who was concerned with the drainage that was going into the basin. The County wanted the drainage design to be revised to be more of a sheet flow. The applicant has agreed. The application will be conditioned on outside agency approvals.

Chairman Some opened the meeting to the public.

Peg Van Patton, Zion-Wertsville Road, was sworn in. Ms. Van Patton discussed the concerns about runoff. She asked if the application is denied or revised in Hillsborough if it would affect any approval granted by Montgomery. Mr. Linnus said it would not affect this approval because this approval would be subject to all other approvals. Ms. Van Patton asked if they will be filling under the General Permit. Mr. Lukasik responded that all they would be doing is replacing 4 utility poles within the buffer. Ms. Van Patton asked what the steep slopes are. Mr. Lukasik said they would be any slope in excess of 15%. Ms. Van Patton asked what kind of disease is affecting the trees.

Heather Gracie, 50 Holland Road, was sworn in. Ms. Gracie gave the Board her background and was accepted as an expert. The area of the potential array is an over mature forest where there is a lot of decline of trees. At the site visit they took a 20% sampling of the whole site and the individual trees were inspected within each of the sample site. It was found that a lot of the larger more mature trees were subject to windthrow and there was mortality of trees, which are indicators of a maturing forest.

Mr. Bartolone agreed that a fair number of those trees are either dead or in poor condition.

There being no further public comment, the Board voted unanimously to close the public hearing.

Mr. Conforti said all the issues that were raised at the last meeting have been addressed.

A motion to approve the application subject to conditions was made by Mr. Conforti, which was seconded by Ms. Dyer. This carried on the following roll call vote:

Ayes: Conforti, Davis, Dyer, Mason, E. Willson, Glockler, DeRochi and Some

Nays: None

Vice Chairman Matthews returned to the meeting. Mr. DeRochi stepped down.

Case PB-05-08

Applicant: East Country Development

Block 16002 Lot 9

Amended Final Major Subdivision for Phasing

Expiration Date – 5/30/2012

Affidavit of Notification and Publication Required and Previously Submitted

Michael P. O'Grodnick, Esquire and Kevin Hayes represented the applicant. The meeting was carried at the April 16th meeting to allow for Mr. Bartolone to do a site visit and to provide some information and photographs of the site in its current condition. The applicant is proposing to phase in the construction of the 54 residential lots in 5 distinct phases. All of the major infrastructure will be completed in or before Phase I including the gas mains, electric, retention basins, sewer pump station, sanitary sewer mains, storm sewers, roads, curbs and open space. The Landscaping and Lighting Plan Westwinds Farm dated 3/12/12 was marked as Exhibit A-1.

Mr. Hayes, who remains under oath, said he met with Mr. Bartolone and they walked the entire perimeter. The neighbor came out and met with them as well.

Mr. Bartolone showed the Board photos of the perimeter of the property. The buffer area needs to be regraded; it will be dropped a couple more feet. The applicant has asked that they not be required to re-grade that now because there is some significant grading and drainage work to be done. There is a large area that has not been disturbed behind the second house. A photo of Mr. Dunzik's back yard was shown. The silt fence is staked out per the Engineer. Mr. Dunzik had planted some trees in the buffer on the applicant's property. Mr. Dunzik's property line is about 15'-20' back from the silt fence.

Daniel Dunzik, 370 Burnt Hill Road, was sworn in. Mr. Dunzik confirmed that he planted the trees and was not aware that he planted them on the applicant's property.

Mr. Bartolone confirmed that Mr. Dunzik was correct at the last meeting and there was an 18"-20" break in grade. The applicant came back and smoothed out the grade. It has not been seeded but will be once the weather allows. The basin on Burnt Hill has been seeded and the grass is starting to come up. The house on the corner of the entrance off Burnt Hill has minimal buffer. Some of the owners of the existing lots that border the development did not know where their property line was and cleared and installed structures on the applicant's property. There are some sections that a full buffer can't be planted because of the existing trees. The buffering can be put where it is most needed.

Mr. Hayes said that the plan has always been for Mr. Bartolone to come out and tell the applicant where to install the planting. The planting will be installed during that particular phase.

Ms. Coppola said there is a drainage swale located in the 40' open space area between the rear of the residential lots. Mr. Hayes said the drainage swale is mostly contained on the residential lots and only encroaches very little on the open space. The 40' is not completely open for planting because of the swale. Ms. Coppola said the monuments installed as part of this subdivision will not be at the tract boundary line and will be internal to the new lots.

Mr. Bartolone said the swale is to be constructed on the inside part of the silt fence shown in the pictures.

Chairman Some asked if the applicant would stake the property properly so that the homeowners know where their property line is. Mr. Stein replied they would stake the properties that are in question.

Mr. Linnus asked what the applicant's position on the encroachments on their property. Mr. Hayes said they have surveyed all the encroachments and will notify the property owners and ask them to remove them.

Mr. Glockler asked Mr. Bartolone if the property owners along Burnt Hill Road are in any trouble or vulnerable as a result of what he saw. Mr. Bartolone opined they were not.

Mr. Hayes referenced Item 7a in the Coppola memo. The only objection was to the timing of the pavement overlay of Burnt Hill Road but was inaudible. Ms. Coppola said she had no problem. Mr. Hayes said all the bonding information has been provided to the Township Engineer and Board Engineer. The final plat will be revised to show the blanket easement.

Chairman Some opened the meeting to the public.

Daniel Dunzik, Burnt Hill Road, remains under oath. Mr. Dunzik read from the ordinance regarding buffering. The contractors work on Sundays when they are not supposed to and they violate the noise ordinance. His biggest problem now is the amount of red clay dust that is all over his property. He proposed that the trees he planted remain and he will maintain them and replace them if necessary. He asked if the applicant would plant compatible trees to fill the rest of the width of the property.

Mr. Hayes said he does not want to plant the trees at this time. Mr. Bartolone did not think the ordinance requires the applicant to plant the trees at this time. Ms. Coppola said it would be by phase and the provisions would not kick in until that phase is developed.

Mr. Glockler asked Mr. Hayes if he would object if Mr. Dunzig planted the continuation of the row of trees which are on the applicant's property. Mr. Hayes said he is concerned with the liability if he permits it.

Mr. Bartolone suggested that Mr. Dunzig request permission to remove the trees and move them back on his property. Mr. Hayes granted permission.

A motion to approve the phasing plan subject to conditions was made by Mr. Conforti, which was seconded by Ms. Dyer. This was carried on the following roll call vote:

Ayes: Conforti, Davis, Dyer, Glockler, Mason, Matthews, E. Willson and Some

Nays: None

Mr. DeRochi returned to the meeting.

Case PB-02-12

Applicant: King Interests, LLC

Block 28005 Lot 65

Amended Major Site Plan with Bulk Variance

Expiration Date – 7/6/2012

Affidavit of Notification and Publication Required and Previously Submitted

Richard Schatzman, Esquire represented the applicant. The applicant is seeking an amended preliminary and final site plan approval to enlarge the sign along Route 206 which identifies the Village Shopper III center. The sign is proposed to be 81.7' which is slightly larger than the 75' maximum so a variance is required. The property is in the HC zone.

William King, III, 219 Nassau Street, was sworn in. Mr. King distributed a copy of a plan of the sign revised 5/4/12 which was marked as Exhibit A-1. The "Village Shoppes at Montgomery" in the low base of the sign is externally illuminated. It is externally lit because it is not easily visible when it is internally illuminated on the lower base. The illumination is provided by KIM T8 low temperature fluorescent fixtures. They are located 9" above the grade and 18" from the sign. There is approximately 4'8" of space between the two of them. They are fully cut off fixtures on the top and side so they will not illuminate higher on the pylon and won't spillover to the passing motorists. They are designed at 40 watts. A line has been added between "At Montgomery" and "Village Shoppes" to give more definition and separation. The upper sign area still remains 74.4' but St. Peter's has been added on the sign. The total number of sign panels may be 13 depending on the final configuration of the tenant is in the addition but they will all fit within the 74.4'. The font for the address is slightly thicker and easier to read.

Mr. Schatzman and Mr. King discussed the Coppola memorandum dated April 6, 2012. The sign on the stone base is 18.75 square feet. Since the proposed sign identifying the name of the shopping center will help the public easily locate the shopping center the Board many find that the additional signage promotes one of the purposes of zoning. There are no grading changes under the sign. The sign lighting will be turned off ½ hour after the last store closes. The applicant meets Section 16-5.13 d.6.(b) subsections 1, 2 and 3 so a design waiver is not needed.

Ms. Coppola questioned the applicant about Exhibit A-1. It appears the overall height of the sign is now 17' high and the stone base is shown at 7'. The prior submission showed the base at 4'8" and the overall height of the sign at 16'6". Mr. King said they are proposing a 17' high sign but the base is to be 4'8". A variance for the height of the sign is required.

Chairman Some asked what the height allowed by ordinance is. Ms. Coppola replied that it is 8' but a variance for 16'6" was granted.

Ms. Coppola asked if any planting are proposed to be installed around the floodlights that will illuminate the lower portion of the sign. The light will be visible at some point to passing motorists on Route 206. Mr. King said he would like to plant more of the floral annual planting in the front towards Route 206 and more of the perennial and permanent planting at the rear of the sign so it draws your eye towards the center of the sign itself. Ms. Coppola noted that what is proposed is seasonal and will not provide any screening of the lights. Mr. King said he will work out the details with Mr. Bartolone.

Ms. Coppola confirmed that a design waiver from Section 16-5.13 d.6.(a) is not required since it is not internally lit.

Mr. King said the reason for the pylon sign is because the larger building signs may be used by the prominent tenants in the building. They pylon is critical to give the travelling public time to make the turn into the center. The additional 6" is strictly because of what was originally thought was a grade transition problem. It allows the names on the sign to be organized so they are legible.

Ms. Coppola said she did not think the use of the building mounted signage for tenants is permitted by the prior approval. Those signs are at the roof level where the signs for the individual users along the sign strip on the center. If the building attached signs approved by the Board are not going to be used to identify the shopping center then by the prior approval nothing should be put there. The Board needs to know how many building mounted or attached signs are proposed that will identify the shopping center. Mr. King said he intends to keep the ones on the building. An application will be made to the Board if he would like to replace them with tenant identification signs. Ms. Coppola said she is concerned with the amount of signage. It is more than permitted by ordinance and variances have been granted in the past for additional signage. The Board has to weigh whether the applicant meets all three criteria of the C2 variance.

Chairman Some said he is concerned with signage in the Township. There is an ordinance and every applicant comes in and asks for variance to the ordinance so there is no standard in town anymore. If this is approved, the Board is setting a whole new standard. The issue of signage needs to be dealt with. There needs to be a standard.

Mr. King said the retail industry more than any other industry places an extremely high importance on signage.

Ms. Coppola noted that the Township did a thorough sign ordinance amendment in 2004. A big concern was the commercial areas. There are not many variance requests for office buildings. There was a lot of discussion with the business community about their concerns and some were incorporated into the ordinance. Other concerns were beyond the jurisdiction of the Township.

Vice Chairman Matthews asked about the height of the sign as shown on the plan. It was clarified that there was a mistake on the plan and the height of the sign is 17' with the base to be 4'8" above ground.

Chairman Some made a recommendation that Mr. Conforti bring to the Township Committee the difficulty with regard to the inconsistency. Vice Chairman Matthews suggested that the Planning Board request the Township to re-evaluate the ordinance. A letter is to be sent to the Township Committee outlining the Board's concern.

Chairman Some asked what will be on the two attached building signs. Mr. King said at this time they will say "Village Shoppes at Montgomery". If those are to be changed, they will come back to the Board.

Mr. DeRochi asked if the fluorescent light could be made a warmer color. Mr. King agreed and said they could use a 3000 degree temperature light. He said the height could be minimized if the decorative top was changed or the stone base were shortened but thought they were nice decorative elements and there would be no purpose served by doing that.

Mr. Glockler asked if the tenant signs will be in different fonts and colors. Mr. King said they would be in different fonts.

There being no further public comment, the Board voted unanimously to close the public hearing.

Mr. Linnus summarized the application.

Mr. E. Willson said he agreed with all the changes to the sign but did not see why it has to be 6" taller. He opined that it should stay the height it was originally approved for.

Mr. Mason agreed with Chairman Some that the ordinance needs to be reviewed.

A motion to approve the sign at a height of 17' with the stone base 4'8" above ground and a size of 2.25' x 8.33' or 18.75 square feet subject to the conditions was made by Ms. Dyer, which was seconded by Mr. Conforti. This was carried on the following roll call vote:

Ayes: Conforti, Davis, DeRochi, Dyer, Glockler, Mason, Matthews, E. Willson and Some

Nays: None

IV. MINUTES

March 5, 2012 – Regular Meeting

A motion to approve the minutes was made by Ms. Dyer, which was seconded by Mr. Conforti. This was carried on the following roll call vote:

Ayes: Some, Matthews, Conforti, Davis, Dyer, Mason, E. Willson, Glockler and DeRochi

Nays: None

April 2, 2012 – Regular Meeting

A motion to approve the minutes was made by Mr. Conforti, which was seconded by Ms. Dyer. This was carried on the following roll call vote:

Ayes: Some, Matthews, Conforti, Davis, Dyer, Mason, E. Willson and DeRochi

Nays: None

There no further business to come before the Board, the meeting was adjourned at 9:45 p.m.