

**MONTGOMERY TOWNSHIP PLANNING BOARD
MONTGOMERY TOWNSHIP, SOMERSET COUNTY, NEW JERSEY
REGULAR MEETING
OCTOBER 1, 2018**

MINUTES

Chairman Cheskis 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 Cheskis; Vice Chairman Wilson; Mr. Campeas; Mr. DeRochi; Mr. Mani; Mr. Matthews; Mr. Sarle; Mr. Trzaska (left at 7:45 p.m.); Mr. Glockler, Alternate #1; Mr. Conry, Alternate #2

ALSO PRESENT: Francis P. Linnus, Board Attorney; Jason Cline, Board Engineer; Ms. Goldman, Board Planner; Ms. Savron, Planning Director

I. SALUTE TO THE FLAG

II. PUBLIC PARTICIPATION - None

III. CONSISTENCY REVIEW

Land Development Ordinance 18-1593

An Ordinance Prohibiting the Growing, Cultivation, Production, Manufacturing, Distribution and Sale of Recreational Marijuana Within the Township of Montgomery

Mr. Linnus explained that this is a two section ordinance with the Planning Board looking at Section II which pertains to use. The ordinance deals with the Township's proposal on a prohibition on non-medical marijuana.

Ms. Savron testified that from a planning perspective it is not inconsistent with the Master Plan because it has never been a contemplated use.

Mr. Trzaska explained that the ordinance is about the banning of businesses that sell recreational marijuana and the production of it within the Township.

Mr. Campeas said the only issue he has a problem with is prohibiting the cultivation and telling farmers they can't grow something that might be legal.

A motion to find the ordinance is not inconsistent with the Master Plan was made by Mr. Matthews and seconded by Mr. Sarle. The motion was carried on the following roll call vote:

Ayes: Cheskis, DeRochi, Mani, Matthews, Sarle, Trzaska, Wilson and Glockler

Nays: Campeas

IV. APPLICATION

Case PB-05-18 **Applicant: Tuladhar Educational Services, Inc.**
Block 28006 Lot 67 – Route 518 and Vreeland Drive
Amended Preliminary and Final Major Site Plan and Conditional Use
Expiration Date – 12/14/18
Affidavit of Notification and Publication Required

Sal Anderton, Esquire represented the applicant. Notice was in order.

Mr. Anderton summarized the application. Approximately 6 months ago the Board granted approval for the construction of a Goddard School. The subject property is 3-acres and is within the REO-3 zone. The REO-3 zone permits a child care center as a conditional use. The amended proposal satisfies the conditional use requirements. A bulk variance is required for the height of the trash enclosure fence and gate and the height of the play area fence. The only change to the approval is a reduction of the building footprint and the number of students. The prior approval was a 12,331 square foot facility with a maximum of 176 children. The amended approval is for an 8,925 square foot facility with a maximum of 136 children. A waiver is requested from providing information within two hundred feet (200') of the tract boundary. An exception from the tree planting

ordinance is required since they are deficient in the required number of trees to be planted. They will make a contribution to the tree fund.

Chairman Cheskis asked why the size of the facility is being reduced.

Mr. Anderton explained that that the larger facility was a bigger cost. The building will look the same. The applicant may come back to the Board for an expansion but it is not contemplated at this time.

In response to Mr. Matthews, Mr. Linnus said if the Board approves the reduced site plan the original site plan approval is abandoned. Any expansion would require Board approval.

Mr. Anderton discussed the Board Planner's comment about the required number of parking spaces. Since the size of the building has been reduced, the required number of parking spaces is also reduced. The requirement for the amended application is 38 spaces. The Board previously granted approval for 49 spaces. Since a variance is needed for 49 spaces because it is over 10% of what is required, the applicant will reduce the number of parking spaces to 41 to eliminate the variance.

Gerard Gesario, 42 Okner Parkway, was sworn in. Mr. Gesario gave the Board his qualifications. Mr. Gesario referenced the colored rendering of the proposed site (Site Exhibit E-200) dated October 1, 2018 which was marked as Exhibit A-1. The plan shows the detention basin and parking lot layout which is the exact same as the prior approval. The building has been reduced. The play area has been reduced to 13,600 square feet. The clearing limit at the rear of the site is now less. The parking lot will be reconfigured to widen the islands at the end of each of the parking rows and eliminate the two spaces at each end of both rows.

Mr. Cline asked Mr. Gesario if the circulation through the site would be improved if the islands were moved towards the centerline of the property rather than increased in size. Mr. Gesario said he doesn't believe they need more than the 24 foot aisles they provide.

Mr. DeRochi suggested they move the whole line of the asphalt up 20 feet. Mr. Wilson agreed. Mr. Cline noted that by shifting the parking area to the west there will be less of an impact on the existing Black Walnut trees.

The Board suggested the eight spaces be eliminated from the east side of the parking area and the asphalt and driveway moved to the west.

There was discussion as to whether the basin size could be reduced. Mr. Gesario testified that it may be able to shrink a little since it is a de minimis change in impervious. Mr. Cline said he did not have an opinion on the size of the basin. The design cost to change the basin is akin to the cost savings for a smaller basin. The Board decided the basin should remain as is.

Mr. Gesario testified that all site utilities have not changed. The utilities will run off Route 518 into the utility room on the west side of the building. Sewer will come down Vreeland Drive, along Route 518 and into the site. The applicant tried to get utility easements for the sewer from the adjoining owners with no success.

Mr. Gesario testified about site lighting. The prior plan was approved with 20 foot poles. After discussions with the Board Planner the poles have been reduced to 14 feet to account for the trees in the islands. The lighting has been supplemented with additional 9 foot wall mounted fixtures. The minimum averages that the ordinance sets are exceeded. The new design is an improvement but they still require some relief. There is a façade sign with gooseneck lighting to light the lettering. The lighting from the sign does not spill from the building and does not provide ground lighting. The monument sign and temporary sign will not be lit. There is considerable landscaping on the site. The applicant will address the comments in Mr. Bartolone's memo. The site is well screened to the east with existing vegetation. The grading has been revised to save the vegetation along the west side. The four Black Walnut trees are being saved and are supplemented with street trees and numerous screenings around the basin.

There was discussion about an exception for the sign illumination levels and hours. The ordinance requires sign lighting to be turned off at close of business or 11:00 p.m. whichever is later. The applicant agreed that the gooseneck lights for the sign will be turned off at 11:00 p.m. so an exception is not needed.

Mr. Gesario testified that in accordance with the prior approval 50% of site lighting will be turned off during nonbusiness hours for security and liability reasons. An exception is needed for the site lighting illumination

levels. The ordinance requires an average of 0.3 footcandles in the area to be illuminated. The proposal is 1.78 footcandles with an average illumination level of 5.2 footcandles.

Mr. Anderton said they are requesting a waiver for topographic details within 200 feet of the tract boundary. An exception if necessary from the tree planting requirements; they will make a contribution to the tree bank. There is no exception required for sign illumination hours. There may be an exception required for illumination levels on the site. The applicant will reduce the illumination on the site to 50% after business hours.

Ms. Goldman read from the site lighting ordinance 16-5.4b2d which states “except for any lighting determined by the Planning Board to be necessary or advisable for security purposes all other lighting is to be controlled by circuit timers so that the lights are automatically turned off after business hours”. When all the lights are on, the light intensity shall average not less than 0.5 footcandles at intersections and 0.3 footcandles elsewhere and in any case not more than 1 footcandle throughout the entire area to be illuminated. It does not talk about illumination levels for security.

Mr. Gesario said 0.3 footcandles for a daycare use is pretty low especially when it is dark in the winter. There would be a very small window of time when they will exceed the requirement (6:00 a.m. to 7:00 a.m. and 6:00 p.m. to 7:00 p.m.) after which time the lighting would be reduced to 50%.

Ms. Goldman testified the wall mounted lights near every doorway which is needed for access and security exceeds the requirement. The Board granted the exception to allow the increase in lighting levels during business hours as part of the original approval and is granting the exception as part of this approval.

The Board discussed the after hour lighting. Some members felt the security lighting around the building was appropriate but did not think the parking lot needed to be lit.

Mr. Campeas suggested imposing the standards that would be permitted during normal working hours (1 footcandle average max).

A lighting plan for the overnight lighting will be prepared and is subject to the review and approval of the Board Engineer.

Mr. Gesario summarized the variances needed for fence height where a maximum of 4 feet is permitted. The trash enclosure fencing will be higher to provide more screening and the fencing around the play area is proposed to be 6 feet for security reasons.

The prior approval included a maximum import of soil of 1,500 cubic yards. The applicant would like to include the request in this approval.

Mr. Gesario said the applicant will comply with all the comments in the review letters. There were two concerns raised. One was plowing snow into the emergency access. The applicant agreed to provide signage to prohibit snow being placed in that area. The other concern was related to the species locations between the basin and parking lot because of potential snow removal.

Mr. Cline discussed the sidewalk along the property frontage. The applicant will need to establish a small five foot passing segment for ADA/PROWAG (Public Right of Way Accessibility Guidelines).

Mr. Gesario testified they are working with the County on the sidewalk. They do not object to putting signage or pavement markings for the loading zone and installing no idling signs. He confirmed that the area under the play equipment will be grass and not synthetic turf.

Mr. Anderton confirmed they have no issues with Mr. Cline’s September 27, 2018 report, Mr. Bartolone’s September 19, 2018 report, Health Department memorandum dated September 17, 2018, Environmental Commission review dated September 28, 2018 and the Shade Tree Committee memo dated September 28, 2018.

Mr. Anderton discussed Ms. Wasilauski’s report dated September 17, 2018. Mr. Gesario would like the condition from the prior approval that required the applicant to provide the quantity square footage and acreage of trees to be removed to carry to this approval so they do not have to count the individual trees.

With regard to the Clarke Caton Hintz memo, Mr. Anderton confirmed the applicant does not want to provide a conservation easement. Ms. Goldman said when an exception is granted for the tree planting requirement the Board could request a conservation easement for the remaining vegetation to be remain. It was not a condition of the prior approval. Mr. Anderton explained the applicant does not want to grant the conservation easement since this application was somewhat hamstrung by the existence of the conservation easement to the east of the property. The conservation easement makes it difficult to access the site with construction vehicles because they are limited to use the one driveway. The conservation easement also prohibits running the utilities from Vreeland Drive. The Board decided not to require a conservation easement.

Mr. Anderton said there are no changes to the architectural plans other than the reduction in the size of the building.

Mr. Anderton described the suitability for the conditional use. The application meets the conditional use standards. There are additional developments approved for construction in the area and there is a demand for childcare. The lot is commercially zoned and is an appropriate location for this conditional use. The State license requirement of the conditional use standards will be complied with prior to the issuance of a Certificate of Occupancy.

Mr. DeRochi suggested the applicant eliminate the entire outboard bay of parking to reduce the amount of asphalt by about 5,000 square feet while retaining the amount of spaces the applicant wants. The applicant is concerned that would require re-engineering the rest of the site plan.

Chairman Cheskis opened the meeting to the public.

David Cook, Director of Enrollment Management Association at 862 Route 518, said he came to see the proposal. He once spoke to the applicant about sewer access across EMA property and told the applicant he wanted to see engineering plans but he never heard back.

There being no further public comment, a motion to close the public hearing was made by Mr. Conry and seconded by Mr. Sarle. The motion carried unanimously.

Chairman Cheskis said the current application is smaller than what was previously approved and all the changes discussed are in line with what the Township goals are.

Mr. Linnus confirmed that if this application is approved any remaining conditions the applicant has not complied with in the prior plan that are not conflicting with the conditions that were just discussed would have to be complied with.

A motion to approve the amended site plan and continuation of the conditional use approval subject to the conditions was made by Mr. Wilson and seconded by Mr. Mani. The motion carried on the following roll call vote:

Ayes: Campeas, Cheskis, Conry, DeRochi, Glockler, Mani, Matthews, Sarle and Wilson

Nays: None

V. MINUTES

September 17, 2018 – Regular Meeting

A motion to approve the minutes was made by Mr. Mani and seconded by Mr. Sarle. The motion carried on the following roll call vote:

Ayes: Wilson, Campeas, DeRochi, Mani, Matthews, Sarle, Glockler and Conry

Nays: None

There being no further business to come before the Board, the meeting was adjourned at 8:55 p.m.