

WEST WINDSOR TOWNSHIP PLANNING BOARD
REGULAR MEETING
NOVEMBER 7, 2018

The regular meeting of the Planning Board was called to order at 7:07 pm on Wednesday, November 7, 2018 by Chair O'Brien in Meeting Room A of the Municipal Building.

STATEMENT OF ADEQUATE NOTICE

Pursuant to the Sunshine Law, a notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the township bulletin board and filed with the municipal clerk on October 31, 2018.

ROLL CALL AND DECLARATION OF QUORUM

Linda Geevers
Curtis Hoberman
Michael Huey
Andrea Mandel
Hemant Marathe
Simon Pankove
Michael Karp
Gene O'Brien
Allen Schectel-Alt I
Anis Baig-Alt II

CONSENT AGENDA

Minutes of April 4, 2018

Page 3, paragraph six; Ms. Geevers requested adding "LG was suggested", at the end of the first sentence and adding a sentence that states "Applicant will provide central air rather than new residents having to buy window air conditioning units."

Page 6, fifth paragraph; Mr. Hoberman asked for an update on the recommendation to council on the matter of the road way being owned by the Homeowner's Association.

The dedication of the road way and open space were discussed by Mr. Surtees and the Mayor. It has not been brought to council's attention yet.

Ms. Geevers made a motion to approve the April 4, 2018 minutes with revisions; seconded by Mr. Karp. Voice vote, minutes unanimously approved.

Minutes of August 1, 2018

Page 5, second to last paragraph; Ms. Geevers requested that "she" be replaced with "the board member".

Page 7, Affordable Housing, Ms. Geevers requested the following changes:

- "Will meet" replaces "were meeting" in the first sentence.

- Change the second sentence to read “She said she testified before the assembly committee along with councilwomen Jyotika Bahree and Virginia Manzari on affordable housing matters. She made comments about COAH needing to be reinstated in order to provide clarity on obligations, rather than having the courts decide these matters”.
- Fourth sentence; change “a cap” to “the cap”. Remove “per township” and add “for the third round” at the end of the second sentence.
- Fifth sentence, change “has” to “have”. Add “and need to get more state school aid. She said that what has been recently worked out at the state takes you in to 2025, but growth is coming now and increased aid is necessary. Other school districts with declining enrollment should get less state aid”.

Mayor Marathe made a motion to approve the August 1, 2018 minutes with revisions; seconded by Mr. Schetel. Voice vote, minutes unanimously approved.

Closed session minutes of September 26, 2018

Ms. Mandel made a motion to approve the September 26, 2018 closed session minutes; seconded by Mr. Pankove. Voice vote, minutes unanimously approved.

APPLICATIONS

a) PB18-05 N&K Premier Builders, Inc.

James Mitchell, attorney for the applicant explained that the applicant is seeking approval for a minor sub-division to create two lots that are almost double the required size. A reverse frontage waiver is required because the frontage is on a collector road.

Mr. Daniel Doran, PE, PLS, and PP, described the site as Lot 21.04 Lot 4 that is located on the east side of South Mill Road. It is 3.9 acres with an existing dwelling and detached garage located on the southwest corner of the property. Both of these structures will be removed if the sub-division is approved, giving the applicant the ability to construct two new houses on the individual lots.

The site abuts the single-family residences on the southerly boundary and easterly boundary known as Princeton Ivy East. South Mill Road is on the west side of the property. A commercial lot with a professional building is located at the intersection of Slayback Drive and Route 571 on the north side. The northwest corner is where PSE&G lands are located and there is an existing utility and access easement located in that corner. On South Mill Road there is a pedestrian crossway and walkway that runs north along South Mill Road and comes in a northeasterly direction through the easement. It proceeds in a northerly direction parallel to PSE&G grounds towards the Community Park on Route 571.

The site receives service for water and sanitary sewer through the municipality. A majority of the site is a grass area with tree lines bordering the property. A small outcropping of vegetation on the south side extends almost to the center of the property. Even with construction of the homes, the applicant anticipates maintaining as much of the existing vegetation as possible.

The applicant proposes to cut the site in half. Each of the lots will conform to the bulk requirements of the R30 zone. The lots will be three times larger than what is required in the zone. There is a small strip of ground dedicated to the County for the purpose of widening South Mill Road.

In regards to the waiver for a driveway coming out on a principle collector road, with all of the land being developed around the property, South Mill Road is the only access for the lots. The existing driveway will be removed and a shared driveway for both lots is proposed. The driveway will come out near the existing utility pole and pedestrian crosswalk, avoiding the vegetation east of the crosswalk that separates the property from the pedestrian trail. Also, there are single-family homes on the north side of the property from the site out to Route 571. These homes are directly across the street in a southerly direction to the next intersection on the westerly side of South Mill Road and have driveways coming out onto South Mill Road.

The applicant will submit an application to the Mercer County Planning Board and is asking the West Windsor Planning Board to defer any required improvements along the frontage of the property until they deal with improvements required by the county.

Mr. Burgis said that the land use plan shows the site is in a medium density residential designation and does comply with standards for R-30A zone.

The trolley line, walking path and easement will not be affected by the application.

Testimony was provided concerning tree removal of any trees having trunk diameter of five inches or more and measure 4.5 feet above the ground. On the proposed Lot 4.02, trees come out to almost the center of the property. The applicant is proposing to construct homes in that area but has every intention of maintaining as many of the mature trees as possible, only removing what is needed to construct the dwelling.

Mr. Guzik's memo item 1.03 asks for a letter of interpretation to verify if there are wetlands on the property. If there are, the township requires a conservation easement to preserve the wetlands or a permit to fill them.

Mr. Mitchell said that the applicant is fine with that condition. He also said that the presence of wetlands on the DEP website is likely an artifact of DEP mapping. None of the three criteria for wetland identification, soils, vegetation and hydrology of site, are present.

Mr. Guzik also said that since this is a sewer service area, the amount of property in wetlands is not as critical as it would be if it were in a septic area where more yard area is needed.

Item 2.01 recommends that applicant revise the portion of the sidewalk that is on the trolley line trail connection and crosswalk across South Mill Road. This is a county right of way and the applicant cannot touch this until county approval is received. Mr. Guzik said the county typically agrees to the township request concerning sidewalks, so he is fine with deferring this.

Item 2.02 concerning Storm Water Management requirements, a minor sub-division creates the potential for two lots to be developed with a net increase of impervious as well as a lot area disturbance. This can trigger storm water management requirements under the residential site improvement standards. If applicant is not going to address that as part of the project, there is a recommendation that there be a deed notice on the properties advising future owners that storm water management measures meeting Township requirements of the land use ordinance be provided at time of application for building permits.

Mr. Guzik and Counsel Muller agreed to modify this condition to include “in the event it is transferred prior to building permits being pulled”. The intent is the applicant will build the houses to the order of the future purchasers. This is fine as long as the developer and owners are aware.

Ms. Mandel questioned the Green Development checklist where it mentions the applicant is not proposing storm water basins. Mr. Doran said if something is required, rain gardens can be implemented since they are recommended through the storm water regulations.

Mr. Guzik said he was not aware of the shared driveway to South Mill Road. Normally with a shared driveway there is an access easement agreement defining ownership and responsibility for maintenance. Mr. Guzik asked for clarification of where the driveway will be built so it does not interfere with the trail system.

Mr. Doran said that the shared driveway would be in between the existing utility pole located south of the crosswalk and the crosswalk, which is about 50 feet north of the driveway that exists now.

Mr. Hoberman asked about minimum standard for distance the driveway should be from the crosswalk.

Mr. Guzik felt that this plan would be an improvement to visibility of the crosswalk. He asked that when the driveway is put in that there be a delineation of clear sight requirements. Also, additional vegetation that requires clearing as a result of location should be included in the removal.

Mr. Guzik said the size of the lots would allow for an oversized driveway for cars to turn around and come out forward. The applicant agreed to that condition.

Mr. Schectel asked about the width of the driveway opening.

Mr. Doran said that the width will accommodate emergency vehicles but would be no wider than the township standard of 24 feet.

Mr. Guzik thought that a 40-50 foot opening that narrows to 24 feet would be appropriate for two-way traffic entering and exiting the driveway.

Ms. Geevers was told there is a fire hydrant across the street for use by emergency vehicles.

Mr. Guzik said that the trees and bushes on the portion of the right of way coming from the north along the trail and traveling along South Mill Road needs to be cleaned up to be in compliance with EPA.

Item 2.04, metes and bounds description must now include shared driveway easement and potentially a wetlands easement.

Item 2.06, in addition to Mercer County approval, may also need Delaware and Raritan Canal Commission approval because net increase potential for improvement coverage on this project and letter of no intent.

Mr. Guzik explained that no variance is needed, because indication on the sub-division plan was based on measurement of lot width along the front property line. The township land use code defines lot width as distance between side property line measured parallel to the front line but setback at minimum front yard setback. The measured width conforms at 156 feet, slightly above the required 150 feet.

Chair O'Brien asked that the applicant prepare a revised plan for the shared driveway showing the location and measurements.

Mr. Doran explained to Counsel Muller that the applicant did not want to agree to the township's request that there be a sidewalk across the entire frontage until they are informed of the county requirements. However, after some discussion between the applicant, board members and the professionals, the applicant is willing to construct a sidewalk across the entire frontage of Lot 4.01. There was no objection from the board. However, the request for reconstructing a portion of the trolley line trail exceeds the cost of regular sidewalk and the applicant would like consideration for that.

Mr. Guzik said that this would be replaced to the standard for sidewalks and should comply with crosswalks and ADA standards.

Counsel Muller said there is no reason to go beyond the house with sidewalk.

Christopher Ryan, resident of 22 Slayback Drive, is encouraged by how conscientious everyone is being and wanted this to be on the record.

John Church, member of the Zoning Board of Adjustment, wanted the applicant to be aware that PSE&G is going to do a lot of work on the trolley line trail that is adjacent to their property starting next year. They will be removing towers, installing new towers and removing the existing paved trolley line trail to redo it. The zoning board approved a height variance.

Mr. Guzik said that the portion of the trail Mr. Church is referring to is not in the PSE&G right of way.

Margaret Duncan, resident of Slayback Drive, does not want sidewalks along South Mill Road in back of her property. She is concerned that if it snows, there is sidewalk that will need to be shoveled.

Lisa Rubin of 20 Slayback Drive, said that years ago the woods behind her house were destroyed to build office buildings that were never fully built. Residents were given assurance that the woods would be somewhat restored, which never happened. She would like to know how residents will be kept informed while the project moves forward. There is a big tree line behind the homes and Ms. Rubin wants to make sure this is not disrupted.

The board will make it a condition that if the tree line along the property line is not preserved, the applicant would have to include a buffer in the plot plan.

Mr. Mitchell said that the applicant has no issue with retaining the rear or side buffers. He also added that they will voluntarily notify adjoining residents when they apply for building permits.

Gene Dixon-Anderson of 20 South Mill Road, asked who built the part of the trail not on PSE&G property. He also wanted to know who is responsible to maintain the easement because the whole easement needs to be maintained.

Mr. Dobromilsky said the people that built the Dataram properties built that part of the trail. Landscaping is not complete because they are not done yet. Typically the property owner maintains the easement unless it specifically says the township should.

Mr. Dixon-Anderson said that there is a 90-degree angle and a steep slope off the trolley line trail that is dangerous for cyclist. He recommends that it be realigned so it goes more parallel to the easement to prevent kids from skidding into the road coming off the trail.

Motion made by Mr. Pankove to close the public hearing, seconded by Mr. Karp. Roll call, approved 10-0.

Mr. Surtees told Ms. Geevers that affordable housing fees will be collected.

Mr. Guzik clarified his comment on Item 2.02 concerning storm water management. The applicant did not want any restrictions if the applicant develops the property. The deed notice is going to be unavoidable, because the deed notice will have to address the fact that any storm water management features put in on property will have to be preserved and maintained even if the applicant is developing the lot.

Mr. Mitchell responded that they have no problem with that.

Counsel Muller went over the three waivers:

1. Waiver from the requirement that major collector roads should not have connection to driveway;
2. Submission waiver on location of percolation test;
3. Submission waiver of concept landscape plan.

Summary of the conditions:

- Will maintain as much vegetation and mature trees as possible.
- Frontage improvements for shared driveway will be deferred until county states their requirements.
- Trolley line and easement not affected. If there are wetlands on site a conservation easement or DEP field permit is needed.
- Shared driveway will be a turn around and requires an access easement agreement.
- Driveway will be 24 feet wide and continue that width for 50 feet.
- Sidewalks will be constructed on the entire lot frontage when driveway is built.
- Buffers will be maintained or restored to setback line.
- Payment of Affordable Housing impact 4 ½ % of which 50 % is due at Zoning Board and 50% at certificate of occupancy.
- Formal report from Mr. Doran about presence of wetlands.
- Sidewalk must meet ADA guidelines.
- Sidewalk will remain concrete and part along trolley line will be asphalt.
- Storm water management required with respect to impervious coverage. Applicant will receive credit against the increase on Lot 4.02 by the amount of existing impervious coverage that is to be removed.
- Metes and bound description required.
- Approved plans must be provided in hard copy and electronic form.
- Plot plan must show trees that are being preserved.

Motion made by Mr. Schectel to approve application PB18-05 subject to conditions and necessary waivers. Seconded by Mayor Marathe. Roll call vote, approved 9-0.

b) Application PB-07

Chair O'Brien said this is a concept review for updates to the 162.470 acre Nassau Park Pavilion Shopping Center on Nassau Park Boulevard between US Route 1 and Quaker Bridge Road.

Phase One is the construction of two, 4,500 square foot buildings and shared outdoor 200 square foot seating area in the gateway portion of the center between Pet Smart and Home Goods. Also, 9,214 square feet of Building 5, which was Sam's Club, will be demolished.

Phase Two is the construction of an 8,000 square foot building in the former Kohl's parking lot. Also, 7,400 square feet from southeast side of Building 4 will be demolished.

Phase Three is upgrading the center streetscape.

Variance for maximum improvement coverage and waivers are requested.

Kevin Moore, attorney from Sills, Cummis and Gross, represents the applicant. He introduced three witnesses. Michael Fowler is a Civil Engineer with Langan Engineering and Environmental Services Inc. Frank Campione is an Architect with Create Architects. Karl Pehnke is a Project Traffic Engineer with Langan Engineering and Environmental Services Inc.

A brief review of the floor area ratio (FAR) of the center and justification that the planning board has proper jurisdiction was requested. Mr. Moore will also clarify the maximum improvement coverage (MIC).

Mr. Novak noted that the proposed FAR of 15.73% is higher than the base 10% FAR ordinarily permitted by ordinance in the B3 Zone for section 200-203.D of the Land Use Ordinance for the center as a whole.

On October 22, 2003, the maximum FAR was increased as part of the Babies R Us phase three application for Nassau Park, pursuant to Section 200-203.F of the Land Use ordinance. The increase in FAR was because the applicant contributed to a regional contribution agreement for affordable housing.

The same approval further increased the FAR to 15.62% pursuant to Section 200-239 of the Land Use ordinance, because the applicant purchased recreation preservation development credits through the township program.

Then on November 13, 2013, the Zoning Board of Adjustment increased the overall maximum permissible FAR for the whole center to 15.78% when Wegman's was approved. The applicant is not seeking to decrease the actual FAR.

With respect to the MIC, through the regional contribution agreement for affordable housing, pursuant to Section 200-203.F of the Land Use ordinance, the MIC was increased from 50% to 55%. In that same approval the board granted the then applicant a variance to increase the MIC to 57.02%. With the approval of Wegman's, the Zoning Board of Adjustment increased the MIC to 57.17% on November 13, 2013.

Michael Fowler started with Exhibit A1; Drawing CS101, Overall Site Plan of the Center. There are two phases of new development. Phase One is the development of the gateway area and demolition of Building 5. Phase Two is the addition of a multi-tenant building and partial demolition of Building 4.

Exhibit A2; Drawing CS301, Gateway Out Parcel Site Plan shows two 4,500 square foot buildings with a 1,500 square foot courtyard in between. The intention of the courtyard is to have outdoor seats and restaurant tenants in the buildings.

The buildings will face the boulevard in a northwesterly direction. The service areas will be in the rear of the building facing toward Pet Smart and the Pet Smart-Walmart service area. Each building is 75 feet wide and 60 feet deep and the courtyard is 25 feet wide and 60 feet deep.

The setback required by ordinance is 35 feet if setback to a private road. These buildings are setback 67 feet.

A concrete sidewalk and patio area surround the buildings. Sidewalks are deep to provide the option for café type seating.

The sidewalks also connect to walk from Pet Smart or Home Goods in one direction, and then travel around those buildings to the pedestrian crosswalk through the intersection toward Wegman's. There is a second connection on the Home Goods side that provides access to the existing crosswalk toward Dicks.

Currently the gateway that connects the parking area between Home Goods and Pet Smart to the boulevard is a straight roadway between the two buildings. That connection is being relocated but will be maintained as a right in, right out connection.

Access to the Home Goods and Best Buy loading area will remain as is. Separation between the two driveways is in compliance with DOT criteria for separation of driveways. Right now it is designed at 50 feet being the point of curvature of these two driveways. This layout will improve the sight distance because drivers will not have to see around a curve.

The loading area will be in the rear of one of the buildings but serve as a combined loading area for two buildings, which is located on the right side.

Most of the 12-14 foot screen wall that surrounds the Pet Smart-Walmart loading area will remain. The wall closer towards the new loading area for the two buildings will be demolished and will be reconstructed in a different area to continue the screen wall on the side. It will be screened from the public and the sidewalk that goes behind those two buildings will allow the second building to be serviced from the same loading/trash area.

Right now 124 parking spaces are provided in the parking lot. Ordinance requires 5.5 spaces/1000 square feet. Restaurants usually require more parking and more spaces are shown in that area to provide enough parking for two uses in this vicinity.

Mr. Fowler talked about the size of the islands. The plan is to maximize parking. There is one island in the middle of the parking area that will be reconfigured, resulting in the loss of only a couple of spaces.

Mr. Huey expressed concern with traffic flow at the top of the parking lot. He said sharp turns have to be made because of the protrusion of the island. Mr. Fowler said that restriping and cutting the nose off the island should address those concerns.

Ms. Mandel's asked about the continuation of the sidewalk. The existing sidewalk system will stay in place. New sidewalk will pick up in front of Pet Smart to the two new buildings and continue to the crosswalk across the boulevard.

Mr. Hoberman does not feel that the entry should be called a "Gateway" since the proposed plan eliminates the gateway.

Mr. Hoberman also is concerned with the location of the restaurants. It was explained that the location was chosen because there are a lot of no-build areas and they are subject to very extensive review by other tenants.

Ms. Mandel was concerned with safety, because the area is very crowded and is used as a short cut from Pet Smart and Best Buy to Wegman's.

Mr. Fowler said that the current width of the road is 25 feet and they are proposing a 30-foot wide road. Also, the curve will help to slow traffic.

Ms. Geevers asked about restaurant type. Since the applicant does not have a liquor license and drive-through restaurants are not permitted, they anticipate fast, casual type of restaurants.

Mr. Schectel commented that parking depends on the number of seats in the restaurants. He was told that, while the shopping center is looked at as a whole, the applicant did look at parking from that prospective because they want parking to be self-contained to those uses.

Mr. Burgis said that initially they were short at 89% of parking that is required. With the overall plan, there is 91%, increasing the ratio of parking required by code.

Mr. Karp asked if one restaurant is proposed to be in each one of the buildings. Mr. Fowler said there will be four tenants, two in each building, which may or may not be restaurants.

Chair O'Brien asked if other locations in the gateway corner circle were considered for the loading area. Mr. Fowler responded that about 10-12 locations were considered. By moving the connector road to one side or the other, the parking field is more efficient. Using the existing loading area for Pet Smart-Walmart, make the area in question more usable, because loading on the gateway does not have to be provided.

Chair O'Brien asked about the area up against the side of the Home Goods Building. Mr. Fowler said that the Home Goods building is deeper than Pet Smart so using the Pet Smart loading area is easier. Also if coming down the boulevard in a northeasterly direction to make a right turn, you will be able to see the buildings a lot better.

Chair O'Brien felt that this hides the buildings from traffic going westerly on the boulevard, making it hard to know that the buildings are there until you go past the entrance.

Mr. Fowler said this location was chosen because most of the remaining site is restricted with lease agreements of the other tenants.

Mr. Huey suggested that instead of demolishing prime location next to Sam's, why not use that space. Mr. Moore said that they are getting rid of space where the tenants struggled and creating new space in a better location for marketing.

Mr. Schectel raised concern with the orientation of the parking and thinks it should be rotated 90 degrees to avoid walking between parked cars. Mr. Dobromilsky is in agreement. Mr. Fowler said they looked at turning the parking but that will result in significantly less parking spaces. Also, if you look at restaurants in other centers, cars park around the whole building.

Ms. Mandel suggests putting an island in the center. Mr. Fowler said this is not required but could be considered.

Mr. Campione said the building on the curved piece of property will be 24 feet in height and 30 feet at the highest feature. The same bricks and same masonry colors will be used.

Mr. Hoberman was advised that, if there are no restaurant tenants, the buildings can be used for different uses.

Mr. Dobromilsky asked for comment on the dimensions of these buildings compared to existing restaurants or food service buildings and how they compare to shopping malls in the district.

Mr. Campione said the buildings are 60 feet deep by 75 feet wide. He said that 4,500 square feet is a nice number in the industry.

Chair O'Brien asked if there are two tenants in the building and one needs more space than the other, is there a structural reason that this can't be done. Mr. Campione advised that this can be done.

Mr. Pehnke talked about the location, advantages and design criteria of the right in-right out driveway along Nassau Park Boulevard. The driveway is set 50 feet from curb return to curb return. This is a higher standard than the 24 feet the state would use to set a right in-right out driveway from an adjacent unsignalized intersection.

Gateway Drive does not have an island, so the applicant is improving that geometry and reinforcing right turn movement.

The driveway was pulled to the west along Nassau Park Boulevard at the beginning of the curve to improve sight lines. The current positioning of the driveway at this location also moves the driveway away from the beginning of the left turn lane into Wegman's. That turn lane is the highest utilized left turn lane in the center as you come along Nassau Park Boulevard.

Chair O'Brien expressed concern with the temptation for counter clockwise traffic to make a U-turn to avoid going to the next intersection to turn around. Mr. Pehnke said that a no U-turn sign can put into the plan.

Mr. Pehnke said that they want to improve the pedestrian crosswalks at both locations and utilize safety mechanisms such as flashers to do this.

Mr. Pankove asked if the new buildings will impact traffic congestion. Mr. Campione said they are just moving the same square footage forward to a better place so there is no change from a traffic standpoint.

Mr. Hoberman said he would like better pedestrian connections to be explored. He suggested changing the type of pavement on the diagonal access and raising the pavement so traffic must slow down as ways to improve the connection.

Mr. Dobromilsky said that coming from north to south approaching Nassau Park Boulevard, there is a considerable grade change, making it inaccessible. Also, the distance between the parking lots is far, so very few people will actually walk.

Mr. Hoberman asked if there have been any studies in terms of customers coming from public transportation. No formal studies have been done.

Mr. Hoberman would like cart corrals to be put at the bus stops.

Paul Collins from Bristol Meyer Squibb said they are located 100 yards away from this center and there are 900 employees who will walk around the center and use the restaurants. He asked that the walkways be kept as safe as possible.

Harrison Uhl lives in Port Mercer. He asked if the buildings that are to be demolished could be used as office space. This would create foot traffic.

Chair O'Brien said that the intent is to have net zero change in FAR and MIC.

Miguel Vilaro commented that he always uses the access through the gateway because there is less congestion.

Mr. Dobromilsky stated that they do not want to put people through the service areas to get to the restaurants and there is a wide-open service area behind Home Goods.

Chair O'Brien suggested tabling further discussion to another date. It was decided that the new date would be December 12, 2018.

Motion made by Mayor Marathe to adjourn the meeting, seconded by Mr. Karp. Voice vote. Meeting adjourned at 10:35 pm.

Respectfully submitted,

Terri Jany
Recording Secretary