June 1, 2011

TOWNSHIP OF DENVILLE
BOARD OF ADJUSTMENT
MINUTES

June 1, 2011

The Board of Adjustment of the Township of Denville held its regular meeting on Wednesday, June 1, 2011. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson Scollans presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL:
Present: Kevin Scollans, John Murphy, Sally Dankos, Arthur Korn, Frank Passucci, Roger Spiess, Sean Ryan, Tom Dolan
Absent: James Rodimer
Prof. Present: Larry Weiner, Esq., William Denzler, PP, John Ruschke, PE

Chr. Scollans stated that there were no minutes, invoices or resolutions for adoption.

PUBLIC HEARINGS:
BA 11-10: Dennis & Gail Serwick
Block 31104, Lot 2
24 Dogwood Drive

The applicant, Dennis Serwick (24 Dogwood Drive) was present and sworn under oath. Applicant stated desire to remove two rear decks on the home and proposed replacement of the existing 10' x 14' deck with a 12' x 17' deck and to construct an addition on an existing dwelling requiring "C" bulk variance relief for rear and side yard setbacks.

Chr. Scollans opened the hearing to the board members.

Mbr. Spiess commented that he thought the addition could work in the proposed location but that it would require certain items to gain his support. Mbr. Spiess spoke to drainage being more of a concern than the setbacks. Commenting that there should be no windows that would impact the privacy of the neighboring properties. Mr. Serwick spoke to windows being elevated for light but not viewing. Mbr. Spiess spoke to privacy for the neighbor and that additional arborvitae be added to the existing row and to extend beyond the addition. Mr. Serwick voiced concern for the size the arborvitae become. Mbr. Spiess stated some type of shrub would be necessary. Mr. Serwick indicated that there were no windows on that side and that vinyl siding would be used. Mbr. Spiess commented on intensifying the overall mass and proximity to the neighbor being a concern. Mr. Serwick was agreeable to what the neighbors wanted but Mbr. Spiess stated that the board's concern is what is best for the neighborhood. Chr. Scollans added that so long as the applicant was willing to provide a privacy fence. Mr. Serwick agreed.

Mbr. Spiess continued with his largest concern was additional impervious coverage on a lot with existing drainage issues. John Ruschke, commented that the impervious coverage would increase and stated that just because the water gets into the storm drain faster doesn’t mean it won’t negatively impact the storm drainage system. Typical municipal drainage systems are not designed for large storms. They are designed for a typical two year storm event. Mr. Ruschke stated that it is beneficial to mitigate storm water on any property but especially in cases where the system is stressed. Commenting that it is not unreasonable to request applicant to install a drywell. Mbr. Spiess emphasized not being on board with the application if the drainage increases. Township Engineer to approve and ensure that there is no further exacerbation of the drainage problem.

Dennis Serwick testified that a French drain had already been installed previously to help mitigate. Adding that additional drainage was on the plan to connect to the existing drainage system. Mbr. Spiess stated that the engineer would need to approve the drainage. Additional conditions would be some type of plantings and no windows that could look upon the neighboring property.
Chr. Scollans opened the hearing to the professionals.

Bill Denzler, Township Planner commented to the buffer concern and that arborvitae or some type of planting being required. Spoke to the uniquely shaped lot and the location of the proposed addition.

John Ruschke, Township Engineer commented that storm water is a concern on the property. There are pre-existing issues to consider and a proposed increase in impervious coverage. Stated that a standard dry well detail could be provided to the applicants to provide an outline. Larry Weiner inquired about soil percolation requirements. Mr. Ruschke stated that the Health department will inspect it.

Mbr. Dolan inquired about standard engineering formulas. John Ruschke responded that factors did exist.

Mbr. Dankos commented that the proposed addition was nice. Spoke to observing rushing water during her site visit and voiced concern that the addition would worsen the water. Inquired about flooding in the neighborhood. Mr. Serwick said no flooding and spoke to the cascading water coming from a neighboring property and to having previously installed a French drain. The applicant further stated the impervious coverage of the foundation would be similar to the existing pavers. Mbr. Spiess disagreed stating that the foundation would lessen the water that seeps into the ground.

Mbr. Korn commented that the property was nice and being in general favor of the application. Spoke to the string of arborvitae, commenting that another four or five trees be added toward the backyard. Mr. Serwick didn’t have a problem with planting trees but suggested that another type of tree that takes up less space might be better. Mbr. Korn asked five or six arborvitae trees to be a condition of approval if the other board members agree. Applicant voiced concern that the trees would reduce the size of the backyard. Mbr. Korn continued that the addition is limiting the grass area and the trees would be needed as a buffer. Mbr. Korn referenced the PVC piping that runs to the street and suggesting a tie-in instead of a dry-well. Mr. Serwick responded that he thought that was the existing plan for the addition. John Ruschke responded to needing to see the existing capacity of the system. Stated the importance of mitigating water before it gets to the municipal system since the municipal drainage systems are typically undersized.

Mbr. Ryan stated his questions were asked and answered.

Mbr. Passucci spoke to the same drainage concerns and whether the township drainage system would be sufficient or if a dry well is required.

Chr. Scollans spoke to the drainage and the storm sewer issues. Stated he wasn’t concerned with the roof water and would leave drainage to the township engineer whether it lacks capacity. Deferred to the Township Engineer for the storm water issue. Commented that the twelve inch pipe should be sufficient. John Ruschke stated that a 12” pipe is actually small in size, as it relates to a storm water issue. Chr. Scollans commented on the existing French drain and that a French drain with a swale would be preferred. Agreed that a privacy fence makes good sense and should be a requirement. Thanked the board for their comments.

Mbr. Spiess made a motion to approve the application with the conditions of approval to include, storm water drainage run-off to be approved by township engineer. Landscaping buffer arborvitae or other plantings to be approved by township planner. Windows are for light purposes only and should not offer an opportunity to invade the privacy of adjoining neighbors.

The applicant sought clarification on the windows. The three second floor windows on the plans were discussed briefly. The board attorney stated that if there are windows, all the more reason for the arborvitae. At which point, Mbr. Spiess amended his motion to approve with the condition that the resolution read arborvitae instead of other plantings. Chr. Scollans referenced that the height of the arborvitae be sufficient. Larry Weiner stated that the height of the trees would be left to Mr. Denzler’s approval. Mbr. Korn then referenced the three double-hung windows on the right elevation and possible reduction of size. The applicant stated that the windows were to provide light and air to the dining area. Mbr. Korn stated that he would be more in favor of the greenery than window size reduction. Mbr. Spiess concurred with Mbr. Korn.

Motion to approve this application with conditions was made by Mbr. Spiess, seconded by Mbr. Dankos and approved by the majority of members eligible to vote.

Roll Call:  

Ayes – Spiess, Dankos, Passucci, Korn, Ryan, Dolan, Scollans  
Recused – Murphy

BA/PSP/FSPV 11-05:  

Sunoco, Inc.  
Block 41202, Lot 3  
143-145 Route 46

Applicant is proposing to convert an existing Sunoco service station to a convenience store with fuel service requiring preliminary and final site plan approval with use and bulk variance relief for parking and rear yard setbacks and number of off-street parking spaces.

John P. Wyciskala, Esq. of Inglesino, Pearman, Wyciskala & Taylor, LLC (600 Parsippany, Road, Parsippany) represented the applicant, Sunoco, Inc. The property is located in a B2 Zone district. Applicant is interested in converting and expanding the existing two bay service station to a convenience store. Currently 1,306 sq. ft. and a total of 1,680 sq. ft. after the proposed 374 sq. ft.
addition. Small in comparison to the 5-7,000 sq. ft. WaWa or QuickCheck. Increases to include 24 hour operation, increase of employees to three, more deliveries of food and services but not gas. No waste oils, fluids or solvents. Appropriate highway use on Route 46. Improved site and tax ratable. No traffic, health and public safety concerns. Referenced NJDOT letter of no interest dated May 31, 2011 as it relates to access and light. Changes do not warrant a new access point. Two witnesses to testify, Keith Cahill, Project Engineer and John McDonough, Professional Planner. John Harter is the traffic engineer at Atlantic Traffic and for operational questions, Laurie Pettengill of Sunoco.

Keith Brian Cahill, PE of Bohler Engineering (35 Technology Drive, Warren) was accepted as a professional witness. Aerial Site Map (Exhibit A-1) prepared by Bohler Engineering dated December 1, 2010. Referenced September 30, 2010, Revision 1 survey was reviewed. Mr. Cahill explained the existing three curb cuts to remain unchanged with one access point to Legion Place. Letter of No Interest (Exhibit A-2) dated May 31, 2011 from NJDOT. A full review from NJDOT is not required. Provided a review of the existing conditions site plan. Existing building, trash enclosure, remediation shed and wooden shed. Active remediation site for groundwater and soil contamination that obtains monthly site inspections and reported to NJDEP. Two existing fuel pumps and one overhead canopy. Three existing underground storage tanks (two regular, one h-i-test, no diesel) onsite. Five existing parking stalls, one of which is ADA. Charlie Brown’s parking lot approximately 10’ from property line to the applicant’s site.

Existing newly replaced 6’ high wooden stockade fence approximately 5’ off the property line. Providing an additional 5’ to the neighboring property. Building setback approximately 46’ from property line. Colorized site plan (Exhibit A-3) dated May 24, 2011 by Bohler Engineering. Building depicted in light tan with proposed 13’ addition in darker tan. Post construction 1,680 sq. ft. total. No more auto use, totally convenience store. Cleaned up enhancement of the site with environmentally friendly chemical free use of the property. More functional and more appealing to the traveling public. Additional pump at fueling island and increased canopy size of 59’ x 21’ from 32’ x 21’ towards Legion Place. One pump to remain in existing position and two shifting center on center. The distance between pumps will increase from the existing 22’ to 24’ providing improved site circulation. Elimination of shed in parking lot and striping six parking spaces, reconstruction of trash enclosure and slight relocation further from building. Chain-link with vinyl slats to accommodate dumpster. Existing lights converting to energy efficient LED lights. Upgrades to the sidewalks in front of the site with the ramps being ADA compliant. Increase of 500 sq. ft. of impervious coverage. Spoke to the drainage being de minimis in nature at only fractions of a gallon change in the flow rate in a 100 year storm water.

Outdoor signs on all three lights with seven foot candles. The one light with slight back glow is directly opposite to Charlie Browns light and will be replaced. Existing canopy lights also to be converted to LED fixtures. Any lighting will have no impact on the properties to the rear, energy efficient, downwards and towards the front of the properties. Measurement of zero foot candles within 15’ of the existing lights where there is 48’ behind the parking lot. Fuel deliveries will continue as they do currently, entering from Route 46 and exiting back out onto Route 46. A few extra deliveries to the site estimated at 4-5 box trucks per week with similar circulation. Security system inside and outside the site post-construction.

Signage testimony. Existing freestanding sign to remain the same on top. The only modification is on the bottom where the three products are shown, the lights will be LED and changeable from inside. Colorized proposed building signage (Exhibit A-4) front and rear elevations. The signs are essentially the same colors, horizons, bands with checkered. The difference is an 8’+ arch above the door and the square footage will be a 39 3/4’. Internally illuminated sign of 24’ sq. ft. would change for specials and sales of the month features. Total front signage is 63.3 sq. ft. where 93 sq. ft. is allowed. Existing wall sconce on the rear elevation to remain. Colorized Side Elevations (Exhibit A-5) shows 5.25 sq. ft. where 45’ sq. ft. is allowed. One additional sign is allowed, but the location requires a variance for setback but is an existing sign, existing non-conforming. Parking proposed increase to 10’ stalls instead of the existing 9’. Front yard setback 23.2 where 43’ is required. Canopy is staying along the same line, skews slightly closer 19.6 due to the property line 18.9’. Explaining the requested variance for coming .7’ closer to the property line with the existing canopy. The driveways exceed the 30’ driveway requirement. All goods will be prepackaged and there will be no food prep, deli counters or seating at this location. Six parking spaces where nine are required should be sufficient for the anticipated customers. Proposed 10’ setback from existing curb line to the adjacent commercial property. Concrete curbing is requested as a waiver to replace the Belgium block curbing. For safety to eliminate tripping hazards where the highest pedestrian circulation exists.

Chr. Scollans opened the public hearing to the professionals. Bill Denzler, Township Planner inquired about CO2. Keith Cahill explained it’s a new bulk CO2 storage for soda machines. The hose will penetrate the building and will make no noise. HVAC units proposed for rooftop, additional rooftop compressors with 4’ screening on roof top. Applicant proposes to additional screening if deemed required. Parking for employees, circulation, pumps and fuel deliveries. Mr. Cahill stated that fuel drops will impact parking and will occur on off peak hours in evening to minimize impact. Canopy signage existing not to be modified. Bill indicated that it would require a signage variance.
John Ruschke, Township Engineer referenced his May 16th letter of sixteen items, Cahill had no concerns. Confirming that the post construction issues must be mitigated.

Mbr. Spiess asked the engineer was satisfied that the items in his engineering report were being met and of a de minimis nature. John Ruschke stated that the applicant agreed to incorporate all into revised plans and concurred with the testimony being de minimis. Mbr. Spiess inquired about delivery hours and voiced concern for the neighbors. Mr. Cahill stated deliveries are typically off peak, sometimes during the day. Non-obtrusive noise and tanker truck engine must be off during fuel deliveries. Similar to the current deliveries. Milk and bread early morning by box trucks. Trash pick-up anticipated 1-2 times weekly.

Mbr. Dolan inquired if Dunkin Donuts had any time restrictions on deliveries. The board attorney and township planner did not believe so. Mr. Denzler referenced that a time restriction was not imposed because the general ordinance did not support it.

Mbr. Passucci inquired if there were complaints and Mr. Denzler stated he had received none. Mbr. Korn inquired about music and trash receptacles. No music. Bill Denzler agreed a receptacle could be added during field inspection. Mbr. Korn inquired about sidewalk dedication. The applicant will investigate. The Board Attorney stated the Township may opt otherwise.

Mbr. Ryan had no questions.

Mbr. Passucci inquired about service, air compressor and concern for hang outs. Mr. Cahill responded no service, free air and 24-hour surveillance. Stating that loitering and unappealing appearance would have a negative impact to the safety and use of the site.

Mbr. Murphy inquired about the peak hours and the canopy almost doubling in size. The peak hours being 7-9 am and 4-6 pm. Mbr. Murphy indicated that there was signage on the building, awning, temporary signs over each bay, signage on the pumps, price signs, signage on property line, temporary sign on lamp post, worn pennants on lamp post, cigarettes signs, flags at the curb. Stating that the applicant provide a finite sign quantity and specific variances. Mr. Weiner agreed that the signage and additional parking be addressed. The applicant referenced the ordinance. The Board Attorney stated that the resolution of approval supersedes the ordinance.

Mbr. Murphy inquired if public restrooms would be available, commented on the additional pump under the canopy being added and inquired about recycling. Mbr. Murphy shared the concerns of his fellow board members regarding the parking and signage. One interior restroom will be available for both internal and public use, recycling will occur and no additional underground tanks will be added for the additional fuel pump.

Chr. Scollans inquired about the remediation, cause of trouble and commented on a NJDEP disclosure regarding compliance. The groundwater is being treated for contamination and the three underground tanks were replaced. Larry Weiner, Esq. stated that the applicant provide some type of certification before the next meeting. John Wyciskala, Esq. stated that periodic test monitoring, integrity of the tanks and annual testing is performed. John confirmed that a summary update would be provided of the existing ongoing remediation signed by an engineer or environmental consultant. Vehicles will be able to pass through to Legion Place when the fuel tanks are being used. Chr. Scollans stated parking and signage are major issues and need to be addressed.

Chr. Scollans opened the public hearing to the public for questions.

Matthew Evangelisti (26 Augusta Street) was present and sworn under oath. Stated he was a notified property owner. Mr. Evangelisti inquired about contaminated soil. Disturbance of grade would not exceed four feet in depth for the perimeter of the addition and would be tested and removed if contaminated. Mr. Evangelisti inquired about the nine monitoring wells on the property, weight of trucks and traffic. Everything would have to be in accordance and compliance with NJDEP regulations. NJDEP will be overseeing. Circulation of tanker to enter from Rt. 46, pull-through and exit back on to Rt. 46. Traffic would increase from a use standpoint but is recognized by NJDOT as pass-by traffic and not a destination use. No parking on Legion, only parking onsite.

Chr. Scollans announced that the public hearing for this application would end at 10 pm and a continuation date was discussed. The public meeting was carried to June 15, 2011 without further notice.

OLD BUSINESS

Mbr. Murphy and Korn referenced the revised By-Laws. The revised By-Laws were handed out with reference to (page 4, 1:2-4 Order of Business) the one change of the agenda sequence of the meetings. Mbr. Murphy also distributed a copy of the public hearings hand-out designed to
educate the public for more contentious hearings. Lastly, Mbr. Murphy provided a copy of a flow chart depicting the approval process as a reference for board members.

Both the by-laws and the public hearings handout were adopted unanimously by all members of the board.

Chr. Scollans commended the board for their due diligence.

**Motion to Adjourn.**

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Denean Probasco, Board Secretary Date Approved