

## **CHESTERFIELD TOWNSHIP PLANNING BOARD**

February 9, 2010

The meeting of the Chesterfield Township Planning Board was called to order by Chairman DeFelippis at 7:30PM. The Open Public Meetings Act statement was read and compliance noted.

Roll call was taken showing present: Donald Coover, Lawrence Durr, Brian Kelly, Deborah Kelly, Glenn McMahon, Joseph Malison (8:20), Lido Panfili, F. Gerry Spence, Matthew Weismantel (7:40), Brian Wilson, and Rocco DeFelippis. Absent: John Nunziato. Professional staff present: Frederick Hardt, Solicitor, Nancy Jamanow, Engineer.

### **OATH OF ALLEGIANCE**

Brian Wilson declared his Oath of Allegiance.

### **MINUTES**

#### January 12, 2010 Reorganization and Executive Session Minutes

A motion was made by Ms. Kelly, seconded by Mr. Coover, to approve the January, 12, 2010 Reorganization and Executive Session Minutes. The vote was in the affirmative, with the exception of Mr. Panfili, who abstained, and the motion carried.

#### January 21, 2010 Special Meeting and Executive Session

A motion was made by Ms. Kelly, seconded by Mr. Panfili, to approve the January 21, 2010 Special Meeting and Executive Session Minutes. The vote was in the affirmative, with the exception of Mr. Wilson, who abstained, and the motion carried.

### **INVITATION FOR PUBLIC TO SPEAK – Matters not on the Agenda**

Chairman DeFelippis opened the meeting for public comments. There being none, the public portion of the meeting was closed.

### **RESOLUTIONS**

7-2010 Colonial Pipeline Company: Block 107, Lot 10.06; 493 Ward Avenue; Preliminary and Final Major Site Plan for Construction of a Staging Area for Construction Activity Related to the NJ Turnpike Widening Project in the Office Park District. Approved January 12, 2010.

A motion was made by Mr. Coover, seconded by Mr. Spence, to approve Resolution 7-2010. The vote was in the affirmative, with the exception of Mr. Wilson, who abstained, and the motion carried.

## **APPLICATIONS FOR ACTION**

### Daniel Brown: Block 500, Lot 3.03; 18 Old York Road; Use Variance and Site Plan Waiver for Tree and Landscaping Business in the Agricultural District.

Mr. Durr and Mr. Kelly stepped down. Mr. McMahon also stepped down due to his position as Deputy Assessor as Mr. Brown has a state appeal of his taxes pending. Exhibits were marked and Mr. Brown was sworn. Mr. Brown is applying for a use variance to permit a 209 square foot office for a small landscaping and tree service within the existing 2,400 square foot pole barn. A pole barn is a permitted accessory use to agricultural uses. A Use Variance is required since the conditions of a conditional use cannot be met.

Ordinance Section 130-14.A. states that “no commercial vehicles with a gross vehicle weight in excess of 10,000 pounds shall be parked on the lot unless the lot is 3.3 acres or larger in size, in which case, no more than two commercial vehicles with a gross vehicle weight in excess of 10,000 pounds shall be parked on the lot and these vehicles shall be parked in an area screened from public streets and adjoining properties by buildings, plantings or both.” Mr. Brown proposes to park six trucks on the lot at one time. Mr. Brown testified that he currently has three construction vehicles and he does not have any immediate need for additional construction vehicles. At the December Planning Board Meeting Mr. Brown was instructed to ask for everything he may need because his business would be limited to the conditions stated in his resolution of approval. He is requesting the three extra vehicles in the event that they are needed in the future.

Home occupations must be conducted only as an accessory use. Per Ms. Jamanow’s February 4, 2010 report, the purpose of these requirements is to recognize home occupations as a legitimate accessory use, but that they are a nonresidential use in a residential neighborhood. A home occupation shall be conducted solely by resident occupants of the lot, except that no more than one person not a resident of the building may be employed on the premises at any one time or no more than two people may be dispatched from the lot per day. In Mr. Brown’s letter dated January 30, 2009, he requests that up to 6 employees be permitted to assist him in his business. Mr. Brown testified that he has no employees at this time. At his busiest time he employs one or two full-time workers and up to three part-time workers. Mr. Brown noted that no work is done on his property.

Discussion ensued on the issue of a landscape screen for the work vehicles as well as the employees’ vehicles. Mr. Brown proposed rows of Leyland Cypress planted on a berm along the front of the site. He suggested that this would screen the site and would not inhibit the space for farming. Ms. Jamanow preferred that Mr. Brown provide screening further back on the property in order to better screen the parking area. She asked if the vehicles could be parked behind the pole barn. Mr. Brown advised that the area behind the barn would not be an acceptable area to park as rain water pools in that area. Ms. Jamanow will work with Mr. Brown to determine what will provide the best screening for the site.

Ms. Jamanow recommended the waiver of specific checklist items from being added to Mr. Brown's site plan as he does not propose any new construction. The screening and parking area will be worked out between Ms. Jamanow and Mr. Brown. All of Mr. Brown's business will be conducted inside his office in the pole barn, with the exception of the use of a business phone in his home. As to the issue of noise, the only audible sound will be the cutting of wood. Adequate parking will be provided for the site. Mr. Brown testified that the firewood rack was inside the right-of-way but not obtrusive. He was advised that the right-of-way issue is a county matter. Mr. Brown testified that he generally maintains all of the vehicles unless it is a major problem.

Chairman DeFelippis opened the hearing to the public for comments. There being none, the public portion of the hearing was closed.

Solicitor Hardt advised that the application was a deviation of a condition of a conditional use and the applicant must demonstrate that he is in full compliance and there is no negative impact. He is asking to allow his business in an agricultural zone with the addition of appropriate screening, a layout of parking and approval of the firewood rack by the county. Mr. Brown is requesting permission to employ a maximum of six workers and the use of six work vehicles. It was determined that a time frame should be set for completion of the screening. Mr. Brown will be in violation if the screening is not in place by June 15, 2010. Mr. Brown will consult with Ms. Jamanow on the screening and parking issue. Mr. Wilson raised concern about setting a precedent with this application. Ms. Jamanow advised that on use variances no precedent can be set.

At 8:20PM, Mr. Malison arrived.

A motion was made by Mr. Coover, seconded by Mr. Spence, to approve Mr. Brown's Use Variance with the conditions stated. The vote was unanimous on votes by Mr. Coover, Ms. Kelly Mr. Spence, Mr. Wilson and Chairman DeFelippis, and the motion carried. Mr. Durr, Mr. Kelly and Mr. McMahan returned to the dais.

Heritage @ Chesterfield S.F. LLC: Bock 107.06, Lot 1; 82 Bordentown-Crosswicks Road; Minor Site Plan for Sales Office in the Planned Village Development District.

Ken Buchholz, was sworn. Exhibits were marked. Mr. Buchholz was represented by Linda Osman, attorney for the application.

The application is for a Minor Site Plan approval for the Model Home and Sales Area for Heritage at Chesterfield SF Homes, LLC located on Bordentown-Crosswicks Road. The model home and sales area is proposed to consist of one village home located on a perimeter lot, four parallel parking spaces including one handicap parking space on Adelpia Drive and the sales area located in the garage of the proposed model home. The model home is proposed at the northeast corner of the intersection of Bordentown-Crosswicks Road and Adelpia Drive.

Mr. Buchholz advised that the sidewalk was moved up to the proper ratio for accessibility to the garage area. The basement is finished and contains only carpet displays. He advised that only the sales office in the garage requires accessibility. Mr. Panfili

suggested that the applicant may need an accessible bathroom to comply with ADA regulations. Mr. Buchholz will provide the bathroom if the Construction Official finds that it is required. The 4'x 4' sign for the sales office will be attached to a pole in the ground and will not have a cement base. As to the Township Planner's report, Mr. Buchholz testified that buffering for the unit would be planted prior to the opening of the sales office. Ms. Jamanow advised that this is a Village Home on a Perimeter Lot and would normally access an alley. All signs, bollards, striping will be removed prior to the CO. The property at this time holds a Temporary Certificate of Occupancy.

Mr. Buchholz advised that the sales office is open 9:30AM to 5PM weekdays and 10AM to 5PM on weekends. Street lights are in and working. A light at the handicap bathroom may need to be provided. Mr. Malison suggested that previous Sales Model approvals were conditioned upon restricting sales of the neighboring lots until the sales use was ended. Ms. Osman advised that she would not like to have that condition imposed on the approval as the sales office is not a hidden feature. It was determined that the restriction would not be needed.

A motion was made by Ms. Kelly, seconded by Mr. Coover, to approve the Minor Site Plan for the Sales Model. The vote was unanimous and the motion carried.

## **DISCUSSION**

### Ordinance Amendment Related to Fences in the PVD Zone.

Ms. Jamanow advised the Planning Board that the amendment deals only with the issue of a 10' setback from the alley for fences in Old York Village. Previously rear fences with alleyways were required to be no closer to the alley than the end of the garage. It was determined that a clarification should be made. The new language reads "In rear yards with alley access, fences or walls may be no closer than ten (10) feet to the alley". It was recommended that the sentence read "In rear yards with alley access, fences or walls may be no closer than ten (10) feet to the alley right-of-way".

It was determined that nothing in the goals of the master plan suggest a fence located 10 feet from the alley would in any way impair the master plan purpose for creating alleys, which is to provide convenient access to residences and screen driveways and parked cars from the main streetscape.

A motion was made by Ms. Kelly, seconded by Mr. McMahon, to approve the amendment with the request for the addition of the word "right-of-way". The vote was in the affirmative, with the exceptions of Mr. Durr and Mr. Kelly, who abstained, and the motion carried.

## **CORRESPONDENCE**

### Letters Requesting the Rescission of Subdivision Approval for Mr. and Mrs. Orloski.

The subdivision approval for the Orloskis required that they to purchase the sewer permits for the development of those lots. The sewer permits were purchased; however, the Orloskis did not file the approved subdivision with the county. They now wish to rescind the eight-lot subdivision so that their payment can be returned. Mr. Durr

questioned the validity of the rescission. He asked why this request did not require an application and public notice. Solicitor Hardt advised that the Orloskis' approval was never perfected by way of a filed plan and they can abandon the project. Mr. Weismantel asked if the Planning Board could opt to not approve the rescission. Solicitor Hardt advised that there would then be a subdivision with no sponsor. A brief discussion ensued as to the status of the sewer hook-up at the site.

A motion was made by Mr. Spence, seconded by Ms. Kelly, to approve the rescission the the Orloskis' subdivision. The vote was in the affirmative, with the exceptions of Mr. Durr and Mr. Kelly, who abstained, and the motion carried.

### **INVITATION FOR PUBLIC TO SPEAK**

Chairman DeFelippis opened the meeting for public comment.

Mukesh Shah, 6 Colemantown Drive, spoke to the Planning Board regarding the issue of fencing his property, which is on a corner lot with an alley, which gives him roadways on three sides of his property. Mr. Shah has been waiting for the amendments to the fence ordinance, which could possibly provide him with the ability to install a five-foot fence on his property without the need for a variance. Although the ordinance that is currently in the process of adoption would not allow him the fence he proposes, the fact that there are several other properties in Old York Village with the same privacy issues of Mr. Shah. The Planning Board discussed the possibility of providing an ordinance that would help these property owners. Ms. Jamanow cautioned Mr. Shah that the process of ordinance adoption can take upwards of six months; therefore, Mr. Shah should consider a variance if he wants to have a fence earlier.

As to a question on alleyway parking, Mr. McMahon advised the Board that there is no parking allowed in alleyways; however, signs advising of the rule have not yet been provided by the developers.

There being no further comments, the public portion of the meeting was closed.

### **MISCELLANEOUS**

The Planning Board would like to move forward on ordinances for satellite dishes and solar issues. Solicitor Hardt will provide the Planning Board with some samples.

### **ADJOURNMENT**

At 9:30PM, there being no further business, a motion was made by Mr. Malison, seconded by Mr. Spence, to adjourn. So moved.

Respectfully submitted,

Linda S. Wills, Secretary