

Township of Manalapan

120 Route 522 & Taylors Mills Road
Manalapan, NJ 07726
(732) 446-8350

Planning Board Minutes

Virtual Meeting

October 8, 2020

The meeting was called to order with the reading of the Open Public Meetings Act by Chairwoman Kathryn Kwaak at 7:30 p.m. followed by the salute to the flag.

Roll Call:

Daria D'Agostino, Secretary

In attendance at the meeting:

Barry Fisher, Todd Brown, John Castronovo, Alan Ginsberg, Daria D'Agostino, Kathryn Kwaak, Jack McNaboe, Barry Jacobson, Richard Hogan, Steve Kastell, Brian Shorr

Absent from the meeting:

Brian Shorr

Also present:

Ronald Cucchiaro, Planning Board Attorney
Brian Boccanfuso, Planning Board Engineer
Jennifer Beahm, Planning Board Planner
Lisa Urso-Nosseir, Recording Secretary

Mr. Cucchiaro swore in Brian Boccanfuso, Professional Engineer and Jennifer Beahm, Professional Planner.

Minutes:

A Motion was made by Mr. Fisher, Seconded by Mr. Brown, to approve the Minutes of September 24, 2020 as written.

Yes: Fisher, Brown, Ginsberg, D'Agostino, Kwaak, McNaboe, Jacobson,
Hogan, Kastell
No: None
Absent: Shorr
Abstain: None
Not Eligible: Castronovo

Resolution:

A Motion was made by Ms. D'Agostino, Seconded by Mr. Fisher to approve the Resolution for PMS1843EXT, 65 and 69 McCaffrey Road, as written.

Yes: Fisher, Brown, D'Agostino, Kwaak, McNaboe, Jacobson, Hogan,
Kastell
No: None
Absent: Castronovo
Abstain: None
Not Eligible: Ginsberg, Shorr

Application: PPM1823 ~ Countryside Developers, Inc.,
'Manalapan Logistics Center'
203 HWY 33 ~ Block 78 / Lot 12.02
Preliminary and Final Major Site Plan
*Carried from February 27, 2020 to
April 23, 2020: Meeting Cancelled.
Carried to June 11, 2020 - Applicant Requested to be Carried to July
9, 2020 - Applicant Requested to be Further Carried to
August 13, 2020; Carried to September 10, 2020
Carried to September 24, 2020 and Carried to October 8, 2020*

Salvatore Alfieri, Esq. of Clearly, Giacobbe represented the applicant this evening.

Ron Gasiorowski, Esq. represented his client, David Kleyn, and various neighbors in the surrounding area.

Michael Lipari, Esq. was not present this evening. His expert was not available this evening and he will be heard at the next meeting.

Mr. Cucchiaro brought the Board and the public up to speed on the status of the application. At the last hearing, the applicant essentially finished its affirmative testimony and the professionals and witnesses were subject to cross examination by

the objectors attorneys, as well as members of the public. Mr. Rea had referenced a document that he had relied upon during his testimony and he has subsequently provided that document after the meeting. Now it is the public's turn to speak and we'll begin with Mr. Gasiorowski who has witnesses to provide professional testimony.

Mr. Gasiorowski had several questions for Mr. Rea, who remained under oath. Mr. Gasiorowski had a question regarding the ITE Trip Generation Manual, which stands for Institute of Traffic Engineers. Mr. Gasiorowski noted that in the ITE Fifth Edition, there is a land use code 150, which deals with warehouses, correct? Mr. Gasiorowski said that subsequent to the Fifth Edition, they also added other trip generation codes for 154, 155 and 156? Mr. Rea said there are different warehouse codes. Mr. Gasiorowski asked Mr. Rea if he was aware if the codes provide for a higher requirement of loading zones per 100,000 sq ft.? Mr. Rea said he didn't have his manual with him to confirm this information. Mr. Gasiorowski asked Mr. Rea if he was aware how 154 is described? 154 is described as short term storage. What does that mean in terms of traffic? Mr. Rea again stated again that he doesn't have his manual with him. He added that he had a pre-application meeting with the DOT who told us to use code 150 - warehouse. Mr. Gasiorowski said the DOT has no jurisdiction over zoning ordinances in regard to a particular use. Mr. Rea said we have an access permit from the DOT and they have jurisdiction over the highway. Mr. Rea said they have some jurisdiction over the first part of the site plan, if it may impact the highway, it's about 50' - 100'. Mr. Gasiorowski asked if the zoning ordinance of Manalapan were to classify this use as something requiring higher parking docks then what was put forth by you, then the DOT would have nothing to say about it, would they? Mr. Rea said yes they would - they told us to use land code 150. Mr. Gasiorowski asked Mr. Rea if he discussed the other land codes with the DOT - what about 154, 155 and 156? Mr. Rea said we discussed all of them with the DOT. Mr. Gasiorowski said to Mr. Rea that you told the people at the DOT that this was going to be a warehouse in accordance with 150, did you not? Mr. Rea said no, we did not. We told them it was going to be a generic warehouse and we didn't know who the tenants were going to be. The DOT told us to use code 150. Mr. Gasiorowski asked you used the word generic warehouse? Mr. Rea said that is correct.

Mr. Gasiorowski said he did speak to Mr. Lipari today and his expert would speak at the next meeting. Mr. Gasiorowski is going to have his expert, Mr. Steck, speak this evening. Based on Mr. Lipari's expert witness, Mr. Gasiorowski asked if Mr. Steck could speak at the next meeting. Mr. Cucchiaro said this would be acceptable.

Mr. Cucchiaro swore in Peter G. Steck, Professional Engineer and Professional Planner, licensed in the State of New Jersey since 1976 and he has appeared before dozens of municipalities throughout New Jersey as well as Superior Court. Mr. Steck

toured the property and the surrounding area, looked at aerial photographs and has been virtually present for the previous meetings and has reviewed the approved Minutes to familiarize himself with this matter as well as reviewed the application materials. Mr. Steck said this is a substantial property, just short of 86 acres on a state highway. The applicant is proposing two warehouses that add up to just over 600,000 sq ft. He reviewed other aspects of the proposal including parking, placement of the buildings, etc. This is in the SED/20 zone. The use has been referred to in various ways. Mr. Gasiorowski asked Mr. Steck about the storage of materials on the site, in trailers. Mr. Steck said he is not aware of any permission for that and he is aware that if the trailers stand for a period of time, sometimes the building code kicks in and requires them to be treated as semi-permanent structures. Mr. Cucchiaro said Mr. Sherman confirmed that there would not be any actual products inside the parked trailers. Mr. Steck said then that issue has disappeared. Mr. Steck stated he believed the applicant wanted the freedom to do warehousing, distribution or any kind of mix. Mr. Steck said a warehouse use vs a distribution use are not identical uses. A classic warehouses' primary purpose is the storage of good or materials, as stated in Section 95-2.4. Mr. Steck said the ordinance does not state what a distribution center is. A structure that had been called a warehouse over time shifts towards a distribution center and they have dramatically different traffic and parking needs. They can peak at different times during the day and night, and they have different rates of traffic.

Mr. Steck stated the site plan for this application specifically states "Manalapan Logistics Center", which is a generic term that leans towards the distribution end of the things rather than a warehouse. The public notice says two warehouse distribution buildings. The site plans simply say 'warehouse A and warehouse B'. The zone itself permits warehouse/distribution centers. The use of the slash is discouraged in the legal community because it is ambiguous. This facility had banked parking and it has been modified since that time.

Mr. Steck said the ITE has other classifications regarding these type of buildings and the land use codes that should be used. Land Use 154 is classified as a high cube, trans load and short term storage warehouse. Another code is Land Use 155 high cube, fulfillment center warehouse. Land Use 156 is a high cube, parcel hub warehouse which is a large building over 200,000 sq ft. The Land Use has evolved into separate categories over the years. If this turns out to be a fulfillment center, it will have a different impact from traffic to noise, etc. The applicant has picked the lowest category of traffic production by stating this project is a classic warehouse, Land Use Code 150. The Board needs an accurate description of what is going into those buildings. Mr. Gasiorowski asked Mr. Steck if it was realistic for the applicant to come before the Board and ask for approval without a clear description of its use? Mr. Steck said the industry has radically changed and the demand for large warehouse space is occurring for distribution centers. The likelihood is that this is

not going to be a classic warehouse. The Board needs to know the worst case scenario regarding traffic and trip generation. More trucks means more noise, even if it doesn't necessarily violate the State's noise code. More work is needed to conclude that noise is not an issue to nearest residential property line. Mr. Steck noted that a real issue here is that this is going to be a 24/7 operation. Security for the residents is a legitimate concern. The neighbors have concerns. Mr. Cucchiaro requested that Mr. Gasiorowski and Mr. Steck focus on planning testimony.

Mr. Gasiorowski asked Mr. Steck what are the possibly consequences to the community if this application is approved. Mr. Steck said if it is a classic warehouse, Land Use Code 150, and other more intensive uses would also occupy the two buildings, the answer is that the impact could be substantially greater than what is the Board's understanding. If this turns into a fulfillment center, there will be more traffic issues, more safety issues, more noise, etc.

Mr. Castronovo asked Mr. Steck about category 155, and if there would be 818 trips and at night, 137 trips. Mr. Steck said the 24 hour count was 818, the peak evening hour was 137, and that's per 100,000 sq ft. -- so multiply that by 6. Mr. Castronovo said what type of vehicles would generate through this traffic? Mr. Steck said the ITE manual does not distinguish it; it is just 'trips'. The level of activity is going to be multiple times what has been used to do the noise study. Not every vehicle is going to be an 18 wheeler.

Mr. Jacobson wanted to know, are all distribution centers fulfillment centers? Are they interchangeable? Mr. Steck said he would give an example per every 100,000 sq ft. The classic warehouse average rate was 19 trips during the pm peak hour. The high cube, that was 150. Number 156 is the high cube, parcel hub warehouse average rate, that goes from 19 to 64 trips per 100,000 sq ft. The highest category is Land Code 155, the high cube fulfillment center warehouse and the average is 137 trips times 6 for a 600,000 sq ft facility during the peak hour.

Ms. D'Agostino asked if the use is a high cube center, would the type of use change the size of the trucks entering the facility? Mr. Steck said not necessarily, the use means more stuff can be stored in the building, because the stock can go up vertically with mechanical systems that can reach up and grab the goods. If they are household items, it is likely to come in via tractor trailer, but leave by vans. It depends on what is stored there.

Mr. Kastell said the traffic studies are based on external trips and based on the type of center. Is there anything to indicate the extra storage that is required based on the different type of distribution centers based on the amount of tractor trailer space that would be needed? The more truck traffic you have, then the more space you have. Is there any kind of metrics that you are aware of if it would need more or less

space if it does in fact become a distribution center? Mr. Steck said he not aware of any metrics and this is a fairly new land use category. One way to do this is to go out and study the center. Put a noise receptor and measure the noise. Physically go out there and count the trips. These type of facilities are popping up around New Jersey now and they are operational so it's not impossible to get a real life count of existing facilities.

Mr. Fisher asked if after hearing this testimony, is it appropriate to have this heard before the Zoning Board? Mr. Cucchiaro said the objector filed an application for an interpretation with the Zoning Board and that is for a determination as to whether the proposed use is permitted under the zoning ordinance. That hearing will take place October 15, 2020. Depending on what the Zoning Board determines, it will state whether the Planning Board has jurisdiction or not.

Chairwoman Kwaak opened the floor to the public for questions for Mr. Steck. Mr. Cucchiaro reminded the public that this is their opportunity to speak and to please appear on camera, as required under the law.

Mr. Alfieri asked Mr. Steck if there is a difference between distribution center and a fulfillment center? Mr. Steck said the ITE does not category anything as a distribution center. It has different names. The problem is that the zoning ordinance doesn't define what a distribution center is. A fulfillment center is better classified as a distribution center than as a warehouse. Mr. Alfieri asked, if there a difference between a distribution center and a fulfillment center? Mr. Steck said he can't answer that without knowing what is going on with the distribution center. The fulfillment center is a type of distribution center. Mr. Alfieri asked if there is a difference in intensity with a distribution center and a fulfillment center? Mr. Steck said there can be, there are sub-categories, but they are not Code 150 warehouse. Mr. Alfieri asked Mr. Steck if he agreed that this Township only has the power to enforce its' ordinances, and not State statutes, State noise regulations, etc. Mr. Steck did agree. Mr. Alfieri asked if the applicant meets all the requirements of the Manalapan ordinances? Mr. Steck said there is an issue with buffer waivers. Mr. Alfieri said is there relief that is required and if so, why? Mr. Steck said he did not testify to that and that there may be another witness that could testify. Mr. Alfieri said so you have not reviewed it? Other than waiver, is there any other relief under the zoning ordinance? Mr. Steck said he doesn't know of any other kind of relief other than the issue of the use may not be permitted in the zone. Mr. Alfieri asked who has jurisdiction over the road the property fronts? Mr. Steck said the State of New Jersey. Mr. Alfieri asked if he is familiar with the line of cases, with the Dunkin Donuts being the lead case, as to what this Board's powers are as it relates to off site traffic conditions? Mr. Gasiorowski said Mr. Steck was not called to testify regarding traffic on state roads. Mr. Alfieri said he testified about the traffic conditions regarding the project. Mr. Cucchiaro said that Mr. Steck did testify as to traffic

matters. If he feels he is unable to answer the question, he can certainly state that. Mr. Steck said that if this is not a permitted use, then the generation of traffic becomes a prominent issue. Mr. Alfieri said assuming that this is a permitted use, would the volume of traffic entering Route 33 be something this Board could consider as part of the application? Mr. Steck said it could, under the heading of site plan review. It is possible to deny a site plan if it is improperly designed. Mr. Alfieri asked if the Board has the power to regulate sound? Mr. Steck said yes, if a variance is needed. Mr. Alfieri said the Board cannot amend a State regulation regarding sound. Mr. Alfieri reminded Mr. Steck that the buildings are set in a way where the loading areas face each other. Mr. Steck said some of the loading docks do have a view of the residential property lines. Mr. Steck said the Board should be aware of the range of uses that are possible. Mr. Alfieri asked if the ordinance has any bulk standards that would differentiate how the different uses are treated? Mr. Steck said no.

Mr. Gasiorowski asked Mr. Steck if he agreed with the comment that much of Mr. Alfieri's cross examination becomes irrelevant if the Zoning Board determines that this is not a permitted use? Mr. Alfieri said we all acknowledge that. Mr. Cucchiaro said if the Zoning Board determines that this is not a permitted use, the applicant can either withdraw their application and file it with the Zoning Board, or the Zoning Board would be compelled to deny the application for lack of jurisdiction.

Mr. Cucchiaro swore in Vincent Verderosa, 7 Yates Road. He had a question about sound. Mr. Cucchiaro said we're not answering questions right now, please provide your opinion of the application at this time. Mr. Verderosa said he just wanted to ask a noise question.

Mr. Cucchiaro swore in Joel Litow, 8 Citation Lane. Mr Litow is concerned about trucks coming from the east and then having to make a U-turn to come into the fulfillment center. It is his understanding that they would be using the Pegasus U-turn by a residential opening.

Mr. Cucchiaro swore in James Chirido, 6 Crawford Road. He read his statement to the Board. He asked why there is no paper trail about reaching out to the DOT about a divider cut on Route 33. Tractor trailers will come within 20' residential backyards. He had concerns about fumes penetrating the area, as well as noise issues. The Village Grande Community and the child care center will be impacted if an emergency vehicle needs to get to them. He has reached out to the DOT for answers. He believes the applicant is cutting corners by not putting the cut in the divider for financial reasons.

Mr. Cucchiaro mentioned the Township Committee did authorize its traffic engineer to make a submission to the DOT raising several concerns about the proposed

design. So the Township did take a position with the DOT. There is correspondence and Mr. Rea has seen it and it is under consideration by the NJDOT.

Mr. Cucchiaro swore in Joanne Calhoun, 24 Crawford Road. The truck route heading westbound on Route 33 is filled with many potential slow downs and stops, from driveways to businesses and residences. There are approximately 110 homes in Village Grande. The trucks will need to slow down significantly, or even come to a complete stop, for all these driveways. Traffic will a nightmare for the residents and businesses in the area.

Mr. Cucchiaro swore in Lori Polhamus, 7 Astor Drive. She is strongly opposed to the project. She wants a tree line and a fence to reduce the safety concerns. She believes this is going to reduce her property value. The amount of people in and out of the warehouses and wandering into their yards is frightening. The entire property should be wrapped around at least a 9' high fence. How about just one warehouse closer to Route 33? Loading and unloading trailers in the middle of the night are unbearable to our sleep patterns. This property had a proposal a few years ago for a residential development, that would have been the smartest proposal yet. What about our well water getting contaminated? There are just many concerns and she hopes the Board takes that into consideration.

Mr. Cucchiaro swore in Eileen Volpe, 34 Crawford Road. It was her understanding that the Planning Board takes into consideration the peace and value of the people of Manalapan. Right in front of the Village Grande, it is just a one lane highway in each direction. How are the emergency vehicles going to get to us? Please consider the lives of all those effected by these warehouses disturbing our well being. Ms. Volpe's camera froze and the Board will allow her to finish speaking once she returns.

Mr. Cucchiaro swore in Tom Devine, 18 Astor Drive. Mr. Devine implored the Board to reject this project based on the traffic and the impact of safety and noise on the community. At least reduce the scope of this project, the two warehouses are too large. A wall, a fence - any kind of barrier for the warehouse from our homes.

Ms. Volpe returned and stated we all moved here to enjoy the beauty of Manalapan in peace, not to be burdened by a distribution center. Please do not put your residents in jeopardy.

Mr. Cucchiaro stated that the public has had their opportunity to testify at this point. Mr. Lippari will be coming to the next meeting with his traffic professional and placing testimony on the record. The public portion, other than that, is now closed. If the applicant wants to place witnesses back on the record to rebut or respond to anything, they will have the opportunity. Mr. Gasiorowski is able to put Mr. Steck back up to speak if necessary. The significant event that is happening between then

is that next Thursday, October 15, 2020 the Zoning Board will interpreting the ordinance to see if whether this use is permitted in the zone or not. If the Zoning Board determines that it is permitted, the Planning Board will continue and will reach a vote. If the Zoning Board determines that it is not a permitted use, the applicant voluntarily withdraws the application, and files an application with the Zoning Board or the Planning Board will be compelled to deny the application for lack of jurisdiction. At the next Planning Board meeting, the various attorneys will be permitted to make their closing statements or comments and then there will be a vote by the Board.

Mr. Cucchiaro stated that the application of PPM1823 - Countryside Developers, Inc., "Manalapan Logistics Center" will be carried to the October 22, 2020 virtual meeting. All documents are on file. There will be no further notice to property owners.

Mr. Gasiorowski said the Zoning Board is not on October 15, 2020. Mr. Cucchiaro said it is on October 15, 2020. Mr. Gasiorowski said Mr. Miller is the attorney for the Zoning Board. Mr. Cucchiaro said our firm represents the Boards. Mr. Gasiorowski said he is in Lakewood that evening. Mr. Cucchiaro said we adjourned the meeting because you weren't available.

Chief Hogan asked when can the Board members ask questions of the applicants professionals? Mr. Cucchiaro said the Board members have been asking questions as the meetings are proceeding. Chief Hogan asked if that could please be revisited at the next meeting? Mr. Cucchiaro said the professionals are not available tonight, so it will have to wait until next meeting. Mr. Alfieri said his professionals have been answering Board questions along the way. Mr. Alfieri said the questions will then be open to the public once again and we cannot wrap up this application. Chief Hogan said he understood the position of Mr. Alfieri. Mr. Kastell said he had some issues he would also like cleared up. Mr. Cucchiaro said the application will be opened up to the public for comments again at that point.

Chairwoman Kwaak opened the floor to any non-agenda items; seeing none, it was closed. She added that the next meeting will be October 22, 2020 and there are a number of pending applications at this time.

Adjournment

A Motion to adjourn the meeting was made by Mr. Fisher and agreed to by all.

Respectfully submitted,

A handwritten signature in blue ink, reading "Lisa Urso-Nosseir". The signature is written in a cursive style with a large, looping initial "L".

Lisa Urso-Nosseir
Recording Secretary

A recorded CD or DVD of the meeting is available for purchase by contacting the Planning Board Office.