

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

December 7, 2022 Regular Monthly Meeting

MINUTES

The regularly scheduled monthly meeting of the Westampton Township Land Development Board was held via the Zoom platform virtually on December 7, 2022, at 7:00 P.M. The meeting was called to order by Chairman Gary Borger and the opening statement required by Sunshine Law was read. This meeting was advertised in the Burlington County Times on January 10, 2022 and on the Township website. All guests were welcomed.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mr. Borger, Mr. Carr, Mr. Fagan, Mr. Grace, Mr. Guerrero, Mr. Henley, Mr. Jones, Mr. Thorpe, Ms. Tolor
Absent: Mr. Holshue, Mr. Odenheimer
Professional Staff: Attorney Nicholas Sullivan, Engineer Michael Roberts, Planner Chris Dochney, and Secretary, Jodie Termi

SWEARING IN OF PROFESSIONALS:

Mr. Cappelli swore in Planner Chris Dochney and Engineer Michael Roberts

MINUTES APPROVED:

October 25, 2022 Regular meeting minutes were approved by motion of Mr. Thorpe, seconded by Mr. Jones. None opposed. None abstained.

November 2, 2022 regular meeting minutes were approved by motion of Mr. Thorpe, seconded by Mr. Jones. None opposed. Mr. Grace abstained.

November 7, 2022 special meeting minutes for Woodland Logistics application approved by motion of Ms. Tolor, seconded by Mr. Guerrero. None opposed. Mr. Carr and Mr. Henley abstained.

RESOLUTION(S):

27-2022 – Westampton Residential Development, LLC.- Block: 204 Lot(s): 2 & 2 Q-Farm – Approving a Use Variance. Approved by motion of Mr. Guerrero, seconded by Ms. Tolor. None opposed. Mr. Carr, Mr. Grace, and Mr. Henley abstained.

28-2022 – Rancocas Holdings, LLC. – Block: 201 Lot(s): 10 & 11 – Continuation of Use Variance application. Approved by motion of Ms. Tolor, seconded by Mr. Guerrero. None opposed. Mr. Carr and Mr. Henley abstained.

29-2022 – Fly High Express, LLC – Block: 401 Lot: 3 – Continuation of Use Variance application. Approved by motion of Mr. Thorpe, seconded by Mr. Guerrero. None opposed. Mr. Carr and Mr. Henly abstained.

30-2022 – Approving the Appendix to the Master Plan. Approved by motion of Mr. Guerrero, seconded by Mr. Jones. None opposed. Mr. Carr and Mr. Henly abstained.

OLD BUSINESS: None

NEW BUSINESS:

1. Woodlane Logistics, LLC, Block 804 Lot 12 (Irick & Woodlane Roads), “d” Use Variance, Preliminary and Final Major Site Plan approval. Construction of two warehouse/distribution facilities, building one approximately 307,520 square feet; building two approximately 205,140 square feet). Michael Floyd, Esquire appearing on behalf of the applicant which submitted an application for a D-1 Use Variance and for Preliminary, Final, and Major Site Plan approval along with bulk variances. This application was continued from November 7, 2022. During that meeting the applicant concluded its presentation and public comment was concluded. The Board has a 10:30 P.M. stop time which precluded completion of the hearing on November 7th, and the applicant agreed to continue this application to this evening for a vote from the Board.

Mr. Sullivan gave a summary of the application. The Board agreed to vote on the Use Variance first then any other approvals that would be needed if the Use Variance passed.

Mr. Borger asked for a motion to approve or deny the use variance application. Mr. Fagan motioned to deny the application, Mr. Grace seconded. A Yes vote would be a vote to deny and a No vote would be to approve.

Board Members	Yes	No	Abstain	
Gary Borger		X		
Ryan Fagan	X			
James Grace	X			
David Guerrero	X			
Frank Jones		X		
Cherelle Tolor	X			
Robert Thorpe	X			

The application for a use variance was thus denied by the Board.

2. Rancocas Holdings LLC, Block 201, Lots 10 and 11, 598 Rancocas Road – Preliminary and final site plan approval sought for a truck and trailer parking facility with parking for 134 trucks and trailers.

Mr. Borger stated this application involves the legal principle of res judicata whereby the land development board is required to make findings that the:

1. The second application is substantially similar to the first;
2. The same parties or their property are involved;

3. There must be no substantial change in the application itself or conditions surrounding the property;
4. There must have been an adjudication on the merits of the first case; and
5. Both applications must involve the same cause of action.

Pat McAndrew, Esquire stated this is an application to permit large vehicle storage on this property. This is different than the application that the Board considered in April as the application was no longer proposing two uses on one lot as the service station operation would be terminated and the service station would be converted to office use directly connected to the proposed use. The applicant also proposed eliminating the curb cuts associated with the service station on Rancocas Road and consolidating both lots into one. Easements were created in subdivision deeds to have access to Highland Drive in 2005 when lot 11 and lot 10.01 was created; the applicant would have joint access with the neighbor to get to Rancocas Road via Highland Drive.

Mr. Sullivan swore in Kevin Hetzel, advisor to Rancocas Holdings and a partner in the firm. He testified that the repair shop will no longer be in use; therefore, a variance for two uses on one property is no longer needed. The applicant would be consolidating both lots into one. The repair shop will be used as office space or the headquarter for site operations. The operation would start with 4-5 workers and long term maybe 25 workers. This is a storage area for vehicles only and not a public storage facility. The whole facility will be manned 24/7 initially then revisited to see if that is necessary. The intent is that there be lease agreements but not a specific spot; lessees can park anywhere where there is an open space. This will be a membership-based subscription with 24/7 access through an app or key fob to gain entrance. This operation is geared towards owner operators, long-haul drivers, etc., for overnight or short-term storage of vehicles which must be insured, registered, and operable. Drivable mobile homes will be allowed but not storage of trailers or campers.

Mr. Sullivan then swore in Kevin Shelly – Mr. Shelly presented his credentials and was deemed a qualified by the Chair as an expert in civil engineering, able to give testimony as such. Mr. Shelly shared Exhibit A-1, a color site rendering of the project. There are 15 parking spots for workers in front of the building and to clarify there will only be 15 maximum employees here at one time. Since the last application that was brought in April, some changes have been made. They include removal of the curb cuts on Rancocas Road. Also, in the initial application a design waiver was requested but now not needed because of a 5' berm with mature plantings on top along the frontage on Rancocas Road. The applicant proposed an 8' aluminum fence instead of an 8' chain link fence. Also proposed were three bio retention basins in the front of the building, and changes based on the Board's experts' review letters. The current repair shop is currently serviced by a well and septic system; these will be taken out of commission and replaced with utility connections to Rancocas Road for that building. Additional landscaped islands are now being proposed that were absent in the last application that would have required a waiver that is no longer needed. There is a total of 129 parking spaces. The majority of those are 12' wide x 75' deep that will accommodate a tractor and trailer. There are also some spaces that are 54' deep that will store smaller vehicles. There are a couple of non-conforming conditions for which variances are needed, one being the Use Variance for the truck parking facility and a variance may also be required because buildings that are used for light industrial purposes are required to have a 250' setback on Rancocas Road. The existing building that will be used to support the truck

parking facility is only 87' from the road. The actual use of the building is going to be for an office but if the Board believes the use is going to be considered light industrial, then such a variance will be needed.

Mr. Sullivan swore in Andrew Feranda. Mr. Feranda set forth his credentials and was deemed by the Chair to be qualified as an expert in the field of civil and traffic engineering, able to give opinion testimony in those fields. Mr. Feranda stated he was going to focus on the difference between the previous and the current applications. Mr. Feranda shared Exhibit A-2, a Google image of the front of the service station. With the current application there is a substantial change from a traffic standpoint, as has been noted by the County. The service station will no longer have access to Rancocas Road. The applicant met with Burlington County whose recommendation was to eliminate this driveway access as it created a direct impact or conflict point on the county road at the location where the 295 ramp begins. The traffic will now be oriented to the traffic signal and have direct access to the site by using Highland Drive.

Mr. Sullivan swore in Charles Heydt. Mr. Heydt presented his credentials and was deemed by the Chair to be qualified as an expert planner and able to give expert opinion testimony in that field. Mr. Heydt gave the opinion, as a licensed planner recognized throughout the state that the act of removing one variance amounts to a closer conformity with the zoning ordinance and represents a substantial change from the prior application. The res judicata issue has several aspects and components.

1. The same parties or their property are involved; in this case the same parties are involved.
2. There must be no substantial change in the application itself or conditions surrounding the property. There is no change in the conditions surrounding the property. There is a substantial change in the application because of the removal of one use.
3. There must have been an adjudication on the merits of the first case. The first application was adjudicated.
4. Both applications must involve the same cause of action. In this case they do as they both sought a use variance, but now only one is sought.

Because of the removal of the repair station, the second permitted use variance is eliminated. The applicant has proposed the landscaping berm so the design waiver for that has been removed. The parking lot landscaping is compliant so that design waiver has also been removed. The only two remaining bulk related issues are 1). The setback of 200' for the office building. 2). The foot candles to comply with adequate lighting levels at the request of the Board Engineer. This is a new creative use that the applicant is proposing to try to fill the need in community in industrial warehousing. This is a supplemental use to aid and offset neighborhoods that have larger vehicles and give them a short-term place to park their vehicles. This is oversized for B1 standards; it's 8.3 acres so you can be more creative with what it's used for. Mr. Heydt shared his screen and reviewed the following exhibits.

A-3(a) - Color rendering of the east side of the property with the proposed improvements.

A-3(b) - Main access to the property via Highland Drive.

A-3(c) – Proposed berm along Rancocas Road.

A-3(d) – Aerial view looking down at the front of the office building.

Mr. Jones asked, “What studies have been done regarding the demographics for truckers coming in and parking their vehicles?”

Mr. Hetzel stated, “There have been no studies done regarding this use. It’s just experience from running trucking companies. There are a lot of trucks in the area and there’s a surplus in oversized vehicles that need parking areas.”

Mr. Doug Heinold, Esquire, attorney for Ballard proposed to present witnesses to testify. Dave Ricci is an expert in real estate. The objector has stated his position in regard to access or lack of access on Highland Drive. That is still unresolved and an open legal issue. There is a dispute between his client and the applicant as to whether they have legal access to Highland Drive as they propose. We are not proposing any testimony on the res judicata issue; that’s the Board’s determination.

Mr. Sullivan swore in Dave Ricci. James Pinkerton (V.P. for Ballard) had to leave the meeting, but Dave Ricci is speaking on his behalf. Mr. Ricci set forth his credentials and was deemed by the Chair to be an expert in real estate and able to give opinion testimony in that field. Mr. Ricci stated he is a partner of the Flynn company, the leasing agent on behalf of Ballard. Ballard owns most of the real estate in the Highland Business Park. Mr. Ricci voiced his concern that putting this extra traffic onto Highland Drive is going to create a huge issue. Traffic is currently an issue on Highland Drive, trucks get backed up and staged because of the traffic light. This is not the right use for this lot and this area. The objector’s position is that it’s going to devalue the real estate in Highland Park.

Mr. Guerrero asked, “Should the Board vote on the res judicata issue before Mr. Heinold’s witnesses give testimony?”

The Board agreed to vote on the res judicata issue.

Mr. Guerrero presented a motion that res judicata applies to this application and, therefore, this application should be denied because it has already been adjudicated. A vote of Yes is to deny the application; a vote of No would allow the application to move forward. Ms. Tolor seconded the motion.

Board Members	Yes	No	Abstain	
Gary Borger		X		
Ryan Fagan		X		
James Grace		X		
David Guerrero	X			
Frank Jones		X		
Cherelle Tolor	X			
Robert Thorpe	X			

Accordingly, the Board decided the application is not barred based on res adjudicata.

The application is continued to January 4, 2023.

INFORMAL APPLICATIONS: Moved to January 4, 2023

Holly Hills Elementary School – Block 1502 Lot 73, Proposing Improved Parking Area, Alteration and Expansion of the existing structure

Westampton Middle School – Block 501 Lot 1, Proposing Improved parking Area, Alteration and Expansion of the existing structure.

CORRESPONDENCE:

PSE&G – Nothing to discuss.

COMMENTS FROM BOARD MEMBERS, SOLICITOR, ENGINEER, PLANNER, AND SECRATEARY:

OPEN MEETING TO PUBLIC COMMENT: None

Mr. Thorpe thanks everyone for their hard work this year. It's been challenging and I'm proud of this Board.

Mr. Henley thanks everyone for their hard work.

Mr. Borger thanks everyone.

Mr. Jones thanks everyone and is hoping to stay on the Board, stating he's learned a lot in a short time.

ADJOURNMENT:

Motion to adjourn by Mr. Guerrero, seconded by Mr. Thorpe. None opposed.

Respectfully Submitted,
Jodie Termi, Board Secretary