

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

JANUARY 4, 2012

REGULAR MEETING 7:30 P.M.

MINUTES

The regularly scheduled meeting of the Westampton Township Land Development Board was held at the Municipal Building on Rancocas Road on January 4, 2012 at 7:30 P.M. The meeting was called to order by Marion Karp and the opening statement required by Sunshine Law was read. This meeting was advertised in the Burlington County Times on January 6, 2011 and posted in the Municipal Building. All guests were welcomed.

The Board and audience stood to recite the Pledge of Allegiance.

New Board members Mr. Applegate, Mr. Blair, Mr. Camp, Mr. Maybury, Mr. Ryan and Mr. Thorpe were administered their oaths of office by Michael Coluzzi, Esq.

Roll Call: Present: Mr. Applegate, Mr. Blair, Mr. Camp, Mr. Carugno, Mr. Freeman, Mr. Maybury, Mr. Ryan, Ms. Sampson, Mr. Welsh, Mr. Thorpe

Motions were made for the following appointments:

Chairman – Mr. Ryan was nominated by Mayor Camp; Mr. Maybury seconded the motion. There were no other nominations for Chairman. All Board members voted yes.

Vice Chairman – Ron Applegate was nominated by Mr. Welsh; Mayor Camp seconded the motion. There were no other nominations for Vice Chairman. All Board members voted yes.

Secretary - Marion Karp was nominated by Mr. Blair; Mr. Freeman seconded the motion. There were no other nominations for Secretary. All Board members voted yes.

Solicitor- Michael Coluzzi was nominated by Mr. Blair; Mr. Applegate seconded the motion. There were no other nominations for Solicitor. All Board members voted yes.

Engineer- CME Associates was nominated by Mayor Camp; Mr. Welsh seconded the motion. There were no other nominations for Engineer. All Board members voted yes.

The minutes of the December 7, 2011 meeting were approved as written.

Resolutions:

16-2011 Daniel & Holly Procopio, Block 803.06, Lot 5 – variance (detached garage) was memorialized

17-2011 The Salt & Light Company, Block 1208, Lot 11 – use variance (Holly Lane Affordable Apartments) – was memorialized

18-2011 The Salt & Light Company, Block 1208, Lot 11 – site plan and bulk variances (Holly Lane Affordable Apartments) – was memorialized

19-2011 Dolan Contractors, Inc., Block 203, Lot 7.01 – site plan and variances (addition to existing warehouse) – was memorialized

New Business:

APCO Petroleum, Block 904, Lot 2. This application will be placed on next month's agenda due to insufficiencies in their notice.

Compassionate Care Foundation, Inc., Block 905, Lot 1.03. Solicitor Coluzzi asked that Governing Body members recuse themselves from the case, as well as Zoning Officer Gene Blair. There will be six voting members. Solicitor Coluzzi gave a brief background and history of the application. Compassionate Care had originally applied for a site plan waiver which the Zoning Officer had denied and were now in front of the Board for an interpretation of the proposed use and whether or not it should be permitted in the B1 zone. The Board would be voting on whether the ordinance applies or does not apply.

The applicant's attorney, Mark Peck was present on behalf of the applicant. The property is located at 120 Hancock Lane; the building was formerly used as an LED light factory, a rather intense use. There are no external modifications proposed to the building. An alternative treatment center is being proposed, as allowed by State statute. They are appealing the determination of the zoning officer that the proposed use is not permitted in the B1 zone. They think the use is indeed consistent with the uses permitted in the zone according to Mr. Peck.

All witnesses were sworn in by the Board Solicitor. Bill Thomas, CEO of Compassionate Care Foundation gave a brief history of the company, which was now one year old. He explained that the chairman is David Knowlton; Suzanne Miller, a researcher for Fox Chase Cancer Center, and Jeff Warren, as well as many physicians are involved in the organization. They have a lot of backing from health care policy people as well as physicians. They are not for profit. In some cases, this is the only medicine that works for people. They will host an organic farm where they will cultivate marijuana that will be turned into three forms; one form of which is inhaled via a nebulizer, lozenges and as a topical cream. It helps people with glaucoma, it combats nausea, and stimulates appetite in patients.

The state has very strict rules for operating an alternative treatment center. Patients must be NJ residents and must be under the care of NJ doctors; it is a treatment of last resort for them. The doctor can recommend the patient into the program. The patient must then register with the State, be fingerprinted, have a background check, etc. They would be assigned to a particular facility and make an appointment to come to the center. They would be met by a guard at a guard station where they would have to present their identification card. They are then admitted into a waiting room; and eventually taken into a private office with a nurse who takes information about their medical condition. They will be examined for drug interaction possibilities. If it is deemed that the drug is appropriate for them, the particular form of the drug would be determined. The patient

will pay for the medication; it is not covered by insurance. There is no cash on the premises; payment is made either by debit or credit card. If the patient cannot afford it, it will be provided for free by the State. Patients must be re-qualified every three months. They will be escorted out of the building by a nurse. Patients can be accompanied by one person; cameras are in every room in the building with the exception of the examining rooms. Two guards will be in the building at all times. Security systems are in operation 24 hours a day, 7 days a week. There will be no beverages or food on the premises.

Carmine Morano, facilities manager for Compassionate Care testified before the Board. He showed the Board a floor plan of the building. He explained that the building would make a very good hydroponic farm. It allows for the main rooms to have temperature and humidity controls; which are calculated by computer; pressure can be maintained and be controlled by the HVAC system. This system is very good for controlling the environment for a hydroponic farm. Plants will be ready for harvest in about two and a half months; plants will receive twelve hours of light a day. The entire process from germination to dispensary will take approximately three months.

Jim Miller, professional planner, gave testimony regarding the use. It is his opinion that it is a permitted use in the B1 zone district. He explained that this zone was created to allow for a large range of uses; and agricultural uses are permitted. Clearly, this is an agricultural use. The dispensary is recognized as an accessory use and is recognized by the State. He explained that our Master Plan doesn't specifically explain what an agricultural use is. He read several different definitions of the word "agriculture" to the Board. Medical marijuana is considered an agricultural crop by NJ State Statute. He explained that many agricultural uses take place within a building and did not necessarily have to take place outside. It is his opinion that this use is completely consistent with the B1 zoning district. The primary use is the agricultural use; the dispensary is customary, incidental and subordinate to the primary use.

Hours of operation are 9 AM to 5 M five days a week. They expect three to four patients per hour. Taking of the medicine is not permitted on site; it would have to be taken off site.

It is the Board's duty to evaluate the testimony set before them tonight and apply it to the B1 ordinance; they need to consider and evaluate the intent and purpose of the ordinance as it was drafted back in the 1980s according to the Board Solicitor.

Board Planner Harry McVey explained that the Board needs to determine whether or not agriculture is the primary use or not at the site.

The dispensing is done by a biometric machine. The marijuana grown is specifically engineered to not give patients an intense euphoric high, according to the testimony given.

Employees will number anywhere from 20 to 40. Seven applications were taken from Westampton residents; they will hire Westampton residents first. They aren't permitted to advertise; all patients would arrive due to the recommendation of their doctors.

Compassionate Care will work with our Police department to work out a paid detail for officers seeking extra work when they are not on duty; typically Police departments are in favor of obtaining this outside type of work.

Patients can have a care giver pick up medicine for them; the care giver would have to be registered as well.

There will be six of these facilities in the State; one has been approved in Montclair, NJ at this point in time.

David Knowlton, chairman of Compassionate Care, president and CEO of the Healthcare Quality of State of NJ chaired Governor Christie's Healthcare team. He explained that this is much different than what was going on in California and Colorado. It is much more heavily regulated and is the most responsible way for medicinal marijuana to be dispensed. The most important thing about this law is that this is for people whom other methods have failed and this is the only choice; MS, muscular dystrophy, and Parkinsons disease patients will use this form of the drug, not people that are trying to get "high". Many people are buying marijuana illegally now for medicinal purposes and it is uncontrolled.

The Board must decide whether this use fits in with the ordinance. Mr. Freeman made a motion to approve; the motion was seconded by Mr. Applegate. Mr. Applegate, Mr. Freeman and Chairman Ryan voted yes, Ms. Sampson, Mr. Carugno and Mr. Welsh voted no. There were three affirmative votes and three negative votes; therefore the motion fails. The applicant would now proceed with the use variance aspect of the application. The Board took a ten minute break.

Chairman Ryan explained that it is the Board's policy to end their meeting at 11 PM. Solicitor Coluzzi explained that the vote was taken with six members of the Board on the dias, however, there was a 7th member of the Board present, Robert Thorpe, who was present in the audience for the entire testimony and was eligible to vote on the interpretation. He had just taken his Oath of Office as 2nd Alternate at the beginning of the meeting. The court reporter would re state the motion for the record and Mr. Thorpe will cast his vote. Mr. Thorpe voted no on the motion; it is still denied.

The use variance application would move forward at this time. The Board should incorporate the testimony given already into their present consideration of the use variance.

The site is very accessible for people traveling on the Turnpike; it is bordered to the rear by the Turnpike. There is ample employee parking; employee and patient entrances are separate. The only changes to the exterior of the building are the security cameras which will be installed.

The applicants gave a very detailed description of the interior of the building and HVAC system again. There would be very little modification to the interior with the exception of the addition of some doorways. All of the necessary plumbing and power cables are already there; there will be very little electrical modifications necessary.

An independent agency will be providing security. Fencing is not proposed at this time.

The building would cost about 1.5 million dollars to construct elsewhere. One third of revenue goes to the federal government as taxes. This building saves the patients money. It is a perfect location for Compassionate Care.

This is palliative care; most of the patients that will be served will be dead in three to six months. The kind of marijuana that is produced here is not the typical kind that will get people high. Any kind of business would be subject to break ins; if it was a jewelry producing business or they had copper pipe, they would be subject to break ins. An empty building has it's own set of problems. Every time he has gone to the site, cars are parked in the lot, loitering. The building has already been broken into.

Zach Hopkins, clinical pharmacist, was sworn in before the Board. He had experience as an Acme pharmacist. He testified that it would be used for cancer related nausea; glaucoma; spasticity issues. He thought that marijuana was less toxic and addictive than other medications used to treat these issues. They had little to no security at the Acme pharmacy. The THC count would be limited to 10% by the State; it is Mr. Hopkins opinion that marijuana of this potency would not get someone high due to it not being very potent. The State would test the plants and do periodic inspections. They produce a 6%, 8% and 10% THC plant. They also have a lab on site for performing their own testing.

Jim Miller, applicant's planner, provided testimony on the positive and negative criteria. The site is particularly suited to the use and the use is inherently beneficial. It is an ideal location and is readily adaptable to the use they are proposing. The building is uniquely suited by virtue of its improvements. The site can easily accommodate the impacts that this use will impose.

At this point the meeting was opened to the public for comment.

Roseann Potter, 20 Fernbrooke Drive - commented that they were told that the operating time would be three days per week, now it has changed. She also wanted to know why so much security was required by the State. No one in the development is against helping people. She asked about the facility in Montclair and if it was near a neighborhood.

Operating days would be based on how many patients they had. It is a requirement of the State that they have guards, it is similar to that in casinos.

Norm Miller – thanked the applicants for an excellent presentation. He wished the drug dealers knew that much about it. Security provided is probably overkill but it is there for a reason, they have to provide it. He thinks the location is bad; it sits between Fernbrooke, a residential age restricted community and it is all residential in Burlington. He thinks it would be better suited in an Industrial zone.

Robert Lee – his major concern is location; he doesn't like the proximity to Fernbrooke. He thinks the building will be subject to break ins. The company offered residents a guard or a gate for their community.

Liza Gandel, of Caregivers of NJ – they are a state wide organization that serves those with chronic health care conditions. They are hearing so often that traditional medications are not working for patients at end of life and are seeking alternative treatments. She hopes the Board keeps this in mind when considering this proposal.

Vincent Cassidy – is speaking in favor of the facility; people who will be coming to this facility will be sick and dying; the product they produce here will alleviate a lot of suffering. He has worked with hospice. He thinks the impact here will be no different than when it was a lighting facility. He urges the Board not to give in to prejudice and fear.

Lisa Cassidy – thought the presentation was outstanding; they tried to cover every base to alleviate fears of the people. She agrees with her husband that there is such a need for pain relief in people who are dying. She hopes that the Board will see this and she thinks there will be no impact on Fernbrooke at all.

Allie Stanford – read aloud a letter from Compassionate Care dated 12/18/11 that was drafted and sent to Fernbrooke residents. She thinks the letter was a cheap way of bribing the residents. She says that Compassionate Care was rejected in other municipalities.

Donald Jeffers – thinks the presentation was more like a filibuster, hoping people would leave. He says not in his back yard.

Stanley Tafil – reminded the Board that Maple Shade turned down their application; it should be no where near a residential neighborhood. He has nothing against people getting palliative care; but it doesn't belong here. When this ordinance was put into existence he is sure agriculture did not include growing medical marijuana.

Barbara Christenson – she is the neighbor next door to the person who was broken into Christmas Eve. There have been many break ins; how will they govern the traffic coming into their complex.

Elizabeth Disney – she is not against medical marijuana; she is against the proposed location. They had a break in; they know about break ins, they know what is going on in the hotels. It is not the patients that will be going there it is the other people that live on the perimeter of society that are causing the problems.

Fidencio Milanese – isn't opposed to the facility but thinks it is the wrong location.

Janet Curran – she thinks it is a bad location both because of its proximity to the residents and to the Turnpike.

Beverly Paskowski, 49 Mayfaire Circle – the location is within walking distance; she loves Westampton Township. She thinks the facility means well but it's the wrong location.

The meeting was now closed to the public for comment.

The Board has deemed the application complete. Ms. Sampson made a motion to deny the use variance; the motion was seconded by Mr. Carugno. Mr. Applegate, Mr. Welsh,

Mr. Thorpe, Mr. Carugno and Ms. Sampson voted yes; Mr. Freeman and Mr. Ryan voted no. The use variance is denied.

At this point, the meeting was opened to the public for comment. No comments were made.

Comments from Board members:

Due to the late hour, there were no comments from Board members.

With no further business, the meeting was adjourned.

Respectfully submitted,

Marion Karp, Secretary
Westampton Township Land Development Board