

**MINUTES OF THE REGULAR MEETING
OF THE TOWNSHIP OF JACKSON
ZONING BOARD OF ADJUSTMENT
APRIL 20, 2005**

The April 20, 2005 Jackson Township Board of Adjustment meeting was called to order at 7:41 p.m. with a salute to the flag by all present. Attorney Robert Rothstein read the Open Public Meetings Act Statement.

ROLL CALL: Meredith Acacia Robert Paneque
Peter Clute, V.C. Scott Weinstein, Sec'y.
Peter Maher Donna Hopkins, Alt. #2
Michael Kelly, Chairperson

ABSENT: Larry Hartman Larry Sullivan, Alt. #1

ALSO PRESENT: Richard Megill, Director of Planning and Zoning
Robert Rothstein, Board Attorney
Evan Hill, Board Engineer
Leah Furey, Planner, Ragan Design Group
Steve McCrystal, McCrystal Reporting

MATTERS FOR DISCUSSION:

Mr. Rothstein stated the Board is being sued by Commodore Point, LLC, a Senior Citizen Development of 132 homes. A copy of the lawsuit is available in Mr. Megill's office. Mr. Rothstein needs authorization by the Board to represent them in court and accept services.

Motion to accept services by Clute/Weinstein. YES: Unanimous among those present.

APPLICANT: WAWA, INC.
BLOCK: 125.24 **LOT:** 1.01, 1.04, 1.05 **ZONE:** NC
LOCATION: NEW PROSPECT AND BETHEL CHURCH ROADS

Mr. Shea, representing the applicant, greeted the Board. He indicated representatives of Wawa are present to answer questions the public may have. He said most people in the audience are objectors, and the Wawa people asked if it would be possible to set up a community meeting to address any concerns. If the answer is no, then he is authorized to withdraw this application without prejudice. The audience indicated loudly they wanted no community meeting. Mr. Kelly thanked Mr. Shea, who replied to Mr. Kelly that he needs the Board's approval and acceptance to withdraw the application without prejudice.

Motion to accept the withdrawal of this application without prejudice by Clute/Acacia.

Mr. Rothstein explained to the public what "withdrawal without prejudice" meant. The residents wanted to express their opinions on the application. Mr. Rothstein answered there was now no application.

Roll Call for the motion presented: YES: Acacia, Clute, Maher, Paneque, Weinstein, Hopkins, and Kelly.

Noting the number of residents in the audience who wanted to be heard, Mr. Kelly stated the Board would allow the residents to speak.

Committeeman Michael Kafton thanked Mr. Kelly for allowing the residents to speak. He stated Mike Broderick and Sean Giblin also do not want a gas station on this site. They want responsible community growth. A gas station in a residential zone is not responsible growth. He added this Board is appointed by the governing body, and has served the public well.

Dan Gross, 18 Pointe Circle, sworn. He stated there are children galore in that area. If a gas station were constructed, you would wind up with deaths. It is not an appropriate business for that property. It is not safe; that is not the right place.

Ann Gorr, 7 Ashford Road, sworn. She stated there are no sidewalks there, and the increased traffic there would make it unsafe. She asked why they were able to apply. Mr. Rothstein answered that is the purpose of this board; an applicant must follow the guidelines of the law, but the Board of Adjustment is allowed to "adjust." People are allowed to apply for anything they wish. Ms. Gorr asked if this application comes back again, how do we know you will deny it again? Ms. Acacia responded the Board couldn't prevent an applicant from applying. She stated the Board members live in this town, too and try to make responsible decisions. The Board members put themselves in residents' places and try to look at it as if they themselves were to live next door to a proposed business.

Mr. Megill noted applications are denied, and then the town many times gets sued.

Christine Fallon, 3 Holly Hill Court, sworn. She stated Rosenauer is the smallest of Jackson's schools, but has the largest number of students walking to school. It is unsafe even with the crossing guards. People in their cars simply don't stop. One child died in that area in 1998.

Gail Skryha, 33 Pointe Circle, sworn. She asked how many times an applicant can apply. Ms. Furey responded the applicant could keep coming back because the application was withdrawn. Had the Board voted, the applicant could only return with a substantially different application.

Catherine Gross, 18 Pointe Circle, sworn. She stated she had signed petitions against this gas station and asked if the Board could hold the petitions open. Mr. Rothstein replied petitions are not admissible as evidence. Attorneys for applicants routinely object to petitions, as they can't cross-examine them. Mr. Rothstein stated they are a waste of time for that reason. Ms. Gross asked if objectors must appear in order to be heard and was told yes.

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Kimberly Comb, Oakley Hill, sworn. She objects to the Wawa application and to the fact that they will keep coming back. She asked how she would know the application is returning. Ms. Hopkins said people are welcome at all these meetings, and getting involved in the community is another way to be informed of goings on in the town. Ms. Comb said she respected Ms. Hopkins opinion, but it is not possible at all times to be at these meetings. Mr. Rothstein stated it is the law for an applicant to notify property owners within 200' of a subject application, and public notices must be published in the Asbury Park Press or the Ocean County Observer 10 days prior to the meeting. He furthered even if no one was here objecting, that doesn't mean this application would have passed. Ms. Acacia stated most people talk to their neighbors and many find out about these applications that way. Mr. Kelly stated he has been on this board for 6 years, and like other board members, takes the time to go to the properties in question. He said the Board is careful on what is passed. This is not the first time the room is filled with objectors. Ms. Comb stated they would probably apply again. Mr. Weinstein replied if you were a business man, would you want to turn the people in the audience against you and possibly have them boycott your business? Ms. Comb asked how she would know the Board would make the right decision. Mr. Kelly answered the Board members have been on this board a long time and always try to make the right decisions.

Mr. Kafton spoke again, stating the Board could have ended this meeting in the absence of no application, but instead gave the public a chance to speak. He said these are good people on this Board. They are watching out for us. They turn down bad applications, if an application is withdrawn and then they reapply, property owners within 200' have to be notified. The Township Committee will make sure you know. He said they would send letters or take out an ad in the paper. He thanked the Board for keeping the public portion open.

Lori Bannach, 49 Hickory Hill Road sworn. She said this application should be denied. She said a lot of houses are going up in town; she moved here 1 year ago. This application would change the atmosphere of Jackson. She feels the Wawa should go elsewhere. She asked why Wawa withdrew their application. Mr. Rothstein answered they probably thought they couldn't win.

Joanne Doyle, 887 Bethel Church Road, sworn. She stated there were a number of people's signatures on the petition, but there are even more people against this application that aren't here tonight. She said, "We'll be back."

Bill Sypher, 4 Mulberry Court, sworn. He brought up another proposed lot for building across the street from this application. Leah Furey responded this intersection has been zoned NC for a long time. Someone may come in with a conforming application and be heard by the Planning Board. Neighborhood Commercial uses are meant to be used by the residents in the area. To build homes there would require use variances, or rezoning by the Township Committee. Applications would still require notification of the hearings to the property owners.

A resident of Harmony Farms, sworn. He said to be aware of this area and other community development. There are no sidewalks and it is dangerous.

Mike of 4 Point Circle, sworn. He asked how they could get the zone changed. Mr. Rothstein stated an application to the Township Committee would be needed to change the zone. Ms. Furey added this intersection is a busy one with a traffic light. Most people don't want to live on an intersection like that. She said Neighborhood Commercial is probably the best zoning for that area. She furthered there is no formal application process; a letter to the Township Committee expressing residents' wishes to have the zone changed would probably result in them asking for a report from her. Mr. stated the speed limit is 45 mph and people are always speeding on that road. Mr. Rothstein and Mr. Megill stated these are county roads, and any requests to change the speed limit should be addressed by the County.

Janice Ursitis, resident, sworn. She stated the earlier Neighborhood Commercial businesses were an egg farm and a gun shop. Wawa is a big difference in use. We have to be careful what goes there. Mr. Megill commented we had a restriction of the size of convenience stores allowed up to about 2 years ago. At Willey's Corner, the Wawa was approved with the larger convenience store, and Cumberland Farms sued the town, then the court ordered 5,000 square foot convenience stores be allowed. Janice Ursitis thanked the Board for supporting a good quality of life.

An unidentified resident asked how we could get the township to purchase this lot as open space. Mr. Rothstein answered if the town buys it, it would be with tax dollars. This property is fairly high valued. Ms. Furey stated the property values were high, but the open space fund could be used. The resident should write a letter to the Township Committee to ask that.

Ann Gorr, previously sworn, other developments in the area were zoned Neighborhood Commercial; Prospect Pointe was one of them.

Another unidentified resident asked what would happen if the land was purchased to widen the intersection. Mr. Hill responded these are county roads; they would have to support that. The County doesn't buy land generally for these purposes.

Mr. Kelly thanked everyone for coming out for this application.

Motion to approve the voucher for the recording secretary by Acacia/Weinstein. YES: Unanimous Motion to adjourn at 8:30 pm. Yes by affirmation.

Respectfully submitted,

Janice Kisty
Zoning Board Recording Secretary