

**MINUTES OF THE REGULAR MEETING  
OF THE TOWNSHIP OF JACKSON  
ZONING BOARD OF ADJUSTMENT  
OCTOBER 20, 2004**

The October 20, 2004 Jackson Township Board of Adjustment meeting was called to order at 7:38 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  
Peter Clute  
Larry Hartman  
Robert Paneque, Sec'y.

Scott Weinstein  
Adam Ziobro, V.C. (7:42 pm)  
Peter Maher – Alt. #1  
Michael Kelly, Chairperson

**ABSENT:** Donna Hopkins, Alt. #2

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

**APPLICANT:** MITCHLEIGH – JACKSON COMMONS  
**BLOCK:** 99.01 & VARIOUS                      **LOT:** 14.01 & VARIOUS                      **ZONE:** HC  
**LOCATION:** CEDAR SWAMP ROAD AND WEST COMMODORE BLVD.

Mr. Megill, Mr. Hill and Ms. Furey were sworn by Steven McCrystal.

Mr. Kelly announced the resolutions and vouchers would be held until the end of the meeting. He stated he would like the Board to take a vote on this application on the variances only. The public would speak tonight on that issue also. He asked Raymond Shea, attorney for the applicant, if there was anything new on the traffic study. Mr. Shea answered no. Mr. Rothstein asked if all testimony for the variance requests was in, and Mr. Shea answered yes, there would be no more Planning testimony. Mr. Rothstein said Mr. Ziobro would be ineligible to vote on the variances as he was absent for the September 22, 2004 meeting and had not read the transcript for that meeting, which would have made him eligible to vote. Mr. Kelly said he would like to take a straw poll to get a feeling from the Board members on the variances. He noted this poll would not count on the actual vote on the variances. Mr. Kelly said there are two variances being considered: one for permission to construct a distribution center in the Highway Commercial zone and the other for a height variance for the proposed hotel.

Mr. Hartman said the Board heard from the public, he has no objection to the hotel and the distribution center as proposed is not an advantage to the town. Mr. Weinstein also thanked the public for coming out on this application and he felt the same as Mr. Hartman. The area will be dangerous as far as traffic, and the traffic study is important here. He anticipates trucks to use back roads to get to the proposed distribution center. He wants enough buffering for residential properties backing up to the site. He would rather see this proposal instead of more homes as it creates tax revenue and jobs. He said maybe Mr. Leigh could offer a recreation center, which would be good for the town. Mr. Paneque said he agreed with Mr. Hartman and Mr. Weinstein; he is against the distribution center and is for the hotel. Mr. Ziobro agreed with the other board members. Mr. Clute stated the main issue is the warehouse – it is not good for the town as there are issues with traffic. Mr. Maher felt the same as the other board members. He is against the distribution center because of the traffic on Route 527. He wants buffers for the homes on Christian Way. The 5' variance requested for the hotel is not a big consideration. Ms. Acacia had similar feelings. The warehouse distribution center is not proposed in a safe location. She found the traffic study to be incomplete as far as mixing retail and business because there is not enough information to draw conclusions. She is concerned about the buffers where the homes are, especially Christian Way. She noted once preliminary approval is granted, the board does not have much control over the application. Mr. Kelly indicated he would hold his comments. He would like to hear from the public. He said he would like to take a vote on the variances and discuss where we go from here. He said there is one variance for the right to build a hotel that will exceed the height requirement by 5' and the second is for a distribution center in the Highway Commercial zone. He will allow the public to speak on that.

**PUBLIC SESSION OPENED**

Priit Pals, 5 Sylvan Court, sworn. If the distribution center is denied now in its proposed location, will it appear to the west between Raimondo and Diamond Roads? Mr. Ragan answered it will not. Mr. Pals said that will be a busy intersection if retail comes in. He thought the hotel would be OK.

Robert Richards, W. Commodore Boulevard, sworn. He is here to ask the Zoning Board to downsize the project as it is out of place in Jackson. There is construction all over town and it is a traffic nightmare. Expert witnesses say the proposal is subject to change. He has a career in law enforcement where he investigated accidents. He fears the worst with that intersection: it has fatal accident written all over it.

Dave Foley, Cedar Swamp Road, sworn. He asked if dieseling was brought up, which was answered yes. He asked if there are any laws concerning that in Jackson and was told no. He was told no when he asked

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if any laws were proposed concerning dieseling. He asked a question about the site plan and Mr. Kelly said that is a future question.

Kara Snow, 156 W. Commodore Boulevard, sworn. She asked if all projects have to go through environmental, storm water, and traffic reviews. Mr. Kelly answered yes. She said she doesn't know what is going into this project. Regarding the environment, she asked how the animal habitat is determined. Mr. Ragan answered experts from the Department of Environmental Protection and in that related field determines the animal habitat. She asked where Town Center went. Mr. Shea answered after the negative reaction they received, Mr. Leigh abandoned the project and submitted this application in conformance with the Jackson Township ordinance. She asked where all the public input was on this application – there are less people at this meeting [than at the Town Center hearing]. She said the Town Center project was better. With Jackson Commons, it seems people from other towns will be coming in and creating more traffic. She asked if there are any minimum or maximum buffers required. Mr. Kelly answered the board will go by the law on that. He said the board does not make the law, but they enforce it.

Gary Black, 76 Lewis Lane, sworn. He said the 5' height variance for the hotel is not much. He asked about fire apparatus. Mr. Shea said that is existing. Mr. Black asked if any though was given to direct access to Route 195. Mr. Kelly said there were meetings with the county and the state on this, and that will not happen. Regarding traffic studies, the professionals did their best. It is difficult to estimate with a question mark. He said they will have future traffic studies. This application will proceed cautiously and the board will do the right thing. The board is not in a rush.

Bill Santos, 457 Leming Road, sworn. He said the distribution center would have a significant impact in his own business. He has heard no positive aspect or comment on the distribution center. The pros do not outweigh the cons. The air and noise pollution will increase. There are safety issues with motor vehicle traffic. The Board appears to agree with these statements. The hotel variance for the 5' height difference is no big deal. A hotel is right for the town. Community growth is good for Jackson.

John Artale, So. Baker Drive, sworn. He said very little was said of capital value and projected revenue on taxes. He read the Fiscal Impact Analysis for this project. The tax rate is \$3.46 per \$100 dollars of assessed value. \$28 million was raised this year by taxes. This project brings the rate down to \$3.00/100. A house valued at \$150,000 would save about \$700 in taxes. That takes stress off homeowners.

Tim Corness, 4 Christian Way, sworn. He thanked the board members for mentioning the buffers on Christian Way. He wants a specific number of feet to be preserved on the properties buffering the proposed site. He would like to see the woody nature preserved. Turning the building sideways is no help in his opinion.

Barbara Cardinale, 16 Monarch Court, sworn. She said Monroe Township has trucking in and out from Applegarth to the NJ Turnpike, and that is not a big impact on traffic. She asked what would take its place if the warehouse is denied. Mr. Kelly noted Monroe Township is industrial on both sides, all connected to the Turnpike with no residential nearby. In Jackson, residential properties will be impacted. Trucks will go on the roads and this project will have no direct access to Route 195. An option would be office buildings and maybe some retail. Ms. Cardinale said she liked the Town Center concept. If you want to do anything now, you have to go out of Jackson [shopping, dining]. Mr. Kelly said what we do in retail would look very nice.

**PUBLIC SESSION CLOSED FOR VARIANCES ONLY.**

**Motion to close the Public Session for variances only by Hartman/Paneque.** YES: Acacia, Clute, Hartman, Paneque, Weinstein, Ziobro, Maher and Kelly.

**Motion to allow height variance for the hotel by Hartman/Paneque.** YES: Acacia, Clute, Hartman, Paneque, Weinstein, Maher and Kelly. ABSTAIN: Ziobro

**Motion to deny the distribution center/warehouse and prohibit it from any other parcels in this application by Weinstein/Paneque.** YES: Acacia, Clute, Hartman, Paneque, Weinstein, Maher and Kelly. ABSTAIN: Ziobro

Mr. Rothstein said he has a resolution prepared with the above conditions. Mr. Shea asked if the resolution was adopted. Mr. Rothstein answered yes and gave a copy to Mr. Shea and the Board members. Mr. Shea said regarding this application, the condition stands for this application only. As this is the 5<sup>th</sup> or 6<sup>th</sup> public hearing on this application, all of the time has not been spent on the variances only. The public has been critical of traffic and environmental issues. He feels we are all looking at the traffic study from the same viewpoint. He is hoping to be scheduled as soon as possible to conclude the matter given problems with his client and he law on time constraints. Mr. Kelly said the Board will not postpone or delay this application but will take cautious steps in hearing it. Mr. Ragan said we only came to a traffic consensus and we need finalized traffic studies to reflect the type of buildings to be built there. The applicant must be ready to present this. Mr. Shea acknowledged their memo of September 29, 2004 regarding lacking information is being worked on. Mr. Hill asked if the applicant had a timeframe. Mr. Shea said by November 15, 2004 it will be submitted to the professional staff and the Zoning office. The information to be submitted stems from the September 24, 2004 county meeting. Mr. Megill stated the League of Municipalities Convention is the week of November 15<sup>th</sup>. The next meeting available would be Thanksgiving Eve. Mr. Kelly said December 15<sup>th</sup> is available, and Mr. Shea said that would be agreeable. He asked if the meeting could start earlier, but that could not be honored, so the meeting remains at 7:30 pm. Mr. Megill stated he would bring a calendar for next year to determine meeting dates.

Mr. Kelly asked about any updated DEP permits. Mr. Ragan replied that any environmental updates or

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DEP permits, or anything else that has been generated from the time of submission, would be required. As far as traffic, there could be a second meeting with the county. A phasing plan relates to the development overall and relates to traffic by the number of trips during job construction along the way so we know the number of people per phase in the complex. Lastly, the design of servicing of buildings and internal circulation will be addressed. He said some internal changes are needed. The infrastructure could be installed with preliminary approval, but the absence of specific building identification leaves the board in a precarious situation. Mr. Ragan has a Preliminary Plan Conformance Plan idea where the application must conform to traffic, environmental, and buffer conditions. The applicant could then commence with infrastructure but not build the buildings, and then the applicant could proceed to final application. If the project is sold to another developer, preliminary approval would only grant the right to construct roads, so there is some protection there. The applicant can continue toward the best design, which will be a win-win situation for the town and the applicant.

Mr. Shea was in general agreement with Mr. Ragan, who has had solid design techniques in the past. We must agree upon legal language for preliminary infrastructure and the preliminary performance plan.

**Motion to approve resolution granting one variance for the hotel height and denying the distribution center by Weinstein/Paneque.** YES: Acacia, Clute, Hartman, Paneque, Weinstein, Maher, and Kelly.  
ABSTAIN: Ziobro.

The resolution has been memorialized and is now in effect. Mr. Kelly said the next meeting would be December 15, 2004 where the board would work on preliminary plans. He encouraged the public to attend the meeting and thanked the public for attending tonight.

Mr. Rothstein stated there would be no further notice for the meeting, and Mr. Shea gave a waiver of time constraints.

**Motion to approve vouchers for the Recording Secretary and McCrystal reporting by Weinstein/Ziobro:** YES by all present.

**Motion to approve minutes of September 22, 2004 by:** Weinstein/Ziobro. YES: Clute, Paneque, Weinstein, Maher and Kelly.

**Motion to close meeting at 8:53 pm.** YES by affirmation.

Respectfully submitted,

Janice Kisty  
Zoning Board Recording Secretary