

## **MARCH 28, 2017**

A regular meeting of the Wantage Township Land Use Board was held on Tuesday, March 28, 2017 at the Wantage Township Municipal Building. The meeting was held in compliance with the provisions of the Open Public meetings act, P.L. 1975, Chapter 231. It was properly noticed and posted to the public.

### **SALUTE TO THE FLAG**

Mr. Cecchini invited all persons present to participate in the Pledge of Allegiance to the United States Flag.

### **ROLL CALL**

PRESENT: Larry Bono, William Gaechter, Victoria Gill, Paul Grau, Joanne Kanapinski, John Morris, Ron Slate, Patrick Stefanelli, Bill DeBoer, Michael Walther, Michael Cecchini.

Absent: None. Also, present, Angela Paternostro-Pfister Esq. and Engineer Harold Pellow

### **MINUTES**

Mr. Grau made the motion seconded by Mrs. Gill to approve the February 21, 2017 minutes.

### **APPLICATION**

#### **L-2017-03**

#### **Sussex Aviation, LLC**

#### **Block 18, Lot 5**

#### **Locate at 55 Route 639**

Mr. Cecchini stepped down from the dais as he is an adjacent property owner. Mr. Slate took the chair. Matthew Dolan of Meyner & Landis LLP, Newark NJ

Ms. Paternostro-Pfister swore in:

Alan Antaki, 774 Ontario Court, Franklin Lakes, NJ owner of the Sussex Airport.

Mr. Ken Wentink, 30 Old Clove Road, Wantage was sworn in as the surveyor.

Jessica Caldwell Licensed Professional Planner, 122 Main St., Newton NJ.

Mr. Dolan explained Mr. Antaki removed the billboard because creosote was found in the soil surrounding the six poles holding up the billboard. Creosote was used in the poles supporting the billboard. The contaminated soil was discovered five feet on either side of the old billboard, with a width of fifteen feet and depth of seven feet. They believe the water is also contaminated.

In addition to environmental issues, the billboard is used as revenue for the airport. Mr. Antaki said he did not change the size of the billboard. Everything stayed the same except for the 18-foot shift.

Mr. Dolan explained, one must hire a LSRP (Licensed Site Remediation Specialist) when clearing contaminated soil in NJ. Based on the report, they continue to do remediation. Eventually the LSRP issues a RAOL (response action outcome letter). The airport is in the middle of that process right now.

Mr. Morris asked why wasn't the soil removed before the new sign went up, and why didn't they get a building permit. Mr. Dolan stated Mr. Antaki made an error. He stated since it has been there for 50 years, he thought it wasn't necessary to get a permit. Mr. Dolan stated Mr. Antaki thought it was just a repair. Mr. Morris said he believes the new sign is bigger. Mr. Dolan and Mr. Antaki both said it is the same size as the former billboard, the gangplanks have not been installed, giving it a larger appearance. Mr. Stefanelli stated the sign is 33 feet high, which is higher than the state allowed standard, the state standard is 30 feet. Mr. Stefanelli measured the sign.

Mr. Stefanelli said he told the sign contractor to stop working, due to no permits, the contractor said no, and continued working.

Diane Castle, 34 Old Clove Road Wantage, NJ an employee of Sussex Aviation, was sworn in by Ms. Paternostro-Pfister. She stated she did not know about the stop work order.

Mr. Wentink said he did a boundary survey, the existing billboard is 600 square feet. He can't testify to the size of the original billboard because he didn't measure it.

The ordinance states the center line of the road is where the height of signs are measured from. The ground which the billboard stands on is approximately six feet below the road bed.

Ms. Gill stated the poles are quite a bit longer than pictures of the original billboard. Mr. Bono asked who owns the billboard, Mr. Dolan stated the airport. Mr. Dolan said he would like to continue with off premise advertising. Mr. Antaki stated the billboard was moved away from the roadway, creating an illusion the billboard is larger.

Jessica Caldwell submitted a report dated March 1, 2017. The first portion of the report addresses the preexisting non-conforming use, the second portion of the report addresses the "D" variance. The billboard has been on the property since 1959. The ordinance states any lawful nonconforming use or structure which existed on May 7, 1979, may be continued, and any existing structure may be altered subject to certain regulations. The billboard was in continuous use and removed for maintenance, replaced in a different location to accommodate soil remediation. The use did not cease for a period of 12 consecutive months. There was never an intent to abandon the use. Ms. Paternostro-Pfister asked if it is no longer a preexisting use once it was taken down? Ms. Caldwell stated there was never an intent to abandon, it was on the airport sight. Harold Pellow referred to his report, billboards are not permitted in the township. Mrs. Kanapinski

asked if there was deterioration to the poles that would cause a collapse. Mr. Antaki stated the only issue was contaminated soil. Ms. Paternostro-Pfister stated the board does not have a copy of the LSRP ( a report examining the soil contamination) and the application should have come before the board before it happened. Mr. Dolan stated it was a mistake and they are not hiding behind it he also stated Mr. Wentink has a copy of the LSRP. Mr. Stefanelli said the billboard exceeds the state standards.

Mr. Wentink said they are before the board to determine if the billboard is a pre-existing non-conforming use. If it is not approved for a nonconforming use, the application is also for a “D” Variance.

Discussion continued regarding the height variance, Mr. Wentink explained the Wantage Ordinance dictates the measurements of a sign from the center line of the road, not ground level.

The Board continued with questions although not receiving the answers they had been seeking. Mr. Dolan asked the board if they would like to carry the application to the following meeting, the applicant will bring whatever information the board requires. Mrs. Kanapinski stated the information should have been provided with the application. Questions continued regarding the poles, wind resistance, and the footings. Ms. Paternostro-Pfister stated someone was needed to answer LSRP questions.

Mr. Slate opened the application to the public for any questions or comments.

Mr. Cecchini of 76 Route 639 and 65 Route 639, Wantage, NJ, reminded everyone Mr. Antaki is being fined and the fines are continuing, something to consider when carrying the application. Mr. Dolan stated they have not had discussion with the construction official. Mr. Stefanelli stated the construction official is the only one with the ability to waive fees. Mr. Morris stated it is still a non-conforming use, if the non-conforming use is not approved they must move ahead with a “D” Variance.

Mr. Dolan stated Mr. Antaki is prepared to move forward on the non-conforming use, should that not be approved they will continue with the “D” Variance.

Mr. Slate asked if anyone from the public had any comments or questions.

John Massari of 18 Bantry Place a pilot, stated he put off for many years purchasing a plane due to the deteriorating conditions of the airport, he understands the cost of running an airport and he does not feel the sign is a deterrent in any way.

There being no one else from the public wishing to speak, Mr. Slate closed it to the public and opened it to the Board for a motion. Mr. DeBoer made a motion seconded by Mr. Grau that it is a pre-existing non-conforming use. Ayes: Gaechter, Grau, DeBoer. Nays: Bono, Gill, Kanapinski, Morris, Slate, Stefanelli.

As the pre-existing non-conforming use was denied, Mr. Dolan stated they would like to move forward on the application on approval of a “D” Variance.

Mr. Gaechter and Mr. Morris stepped down from the dais.

Ms. Caldwell presented her testimony regarding the “D” Variance. The billboard had been in existence for almost 60 years, and is a key piece of financial support. She discussed the positive criteria helping to maintain the rural character, as it is not developed, promotes open space, it is a taxable structure, unique use, and the client is proactive doing site remediation.

In terms of the negative criteria it poses no substantial detriment to the public good and no substantial detriment to the zone plan. The billboard has existed without incident and without negative impact. It has been moved out of the right of way and the hazardous material has been removed. In terms of negative detriment, there is no substantial detriment to the public good or to the zone plan. It does not negatively impact the traffic flow. Ms. Caldwell feels the board is well within its rights to grant the requested variance.

Mr. Slate asked the board if they had any questions. Mrs. Gill stated she is still not comfortable making a decision without any specs on the board. Mr. DeBoer asked if one of conditions of approval were to make the billboard shorter or smaller would they be able to agree to that. Mr. DeBoer feels the Board should support the airport, it is a vital part of the community. Ms. Gill was concerned because typically when an application is received, the board gets to see landscaping and plans before the work is done. Mr. Stefanelli stated the building and zoning departments were put in a very difficult position. Residents complain when work is done without permits. Mr. Dolan and Mr. Antaki both stated this was an oversight. Ms. Paternostro-Pfister asked if it was possible to put back where it was, since the 12 months have not expired. Mr. Antaki said the cost of moving it back, plus the soil disturbance would make it difficult to move.

Mrs. Kanapinski, stated once it is down, the billboard is gone. There are other billboards that may be in the same position. Discussion continued regarding footings, height and wind resistance. Mr. Stefanelli stated since the original billboard came down, does it now require a height variance. Ms. Caldwell stated since the use isn't permitted, there are no standards for height, so they cannot ask for a height variance. All ‘D1’ use variances are fact sensitive, each one is judged on its own merit. Mr. Dolan explained the connection to the airport, and the financial impact the billboard has. Mr. Antaki stated he tried to do a good thing for the environment, he was not mandated to remove the soil. He hopes the board takes that into consideration. Mr. Dolan suggested putting conditions such as landscaping, and they will comply with all building requirements. Ms. Paternostro-Pfister asked if they would agree to a condition on the height. Mr. Dolan stated any reasonable conditions, yes.

Mr. Slate opened the meeting to the public, seeing no from the public wishing to comment, Mr. Slate asked the board for a motion.

The board discussed conditions to consider for a motion.

Mr. DeBoer made a motion to approve the D1 Variance with the following conditions:

- Certified 'as built' of present height from the ground as maximum height.
- Framing for two signs.
- Landscaping reviewed by Harold Pellow.
- Any conditions set forth by the construction official.
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Mr. Slate asked for a second to the motion, there being none, the application was denied.

Mr. Cecchini resumed his chair.

### **INFORMAL**

**Mr. Al Kelly**

**Block 163, Lot 15.05**

Mr. Wentink came before the board to discuss Block 163, Lot 15.05 on Wilson Lane, a unmaintained road. Mr. Kelly purchased a partially built foreclosure. There was nothing in the resolution regarding improvements to the cul-de-sac. It was on the approved plan, to put dga in the cul-de-sac and pave the driveway. Mr. Cecchini discussed the reasons for cul-de-sacs. Mr. Wentink explained the pitch of the driveway will change dramatically by putting in the standard size cul-de-sac. Mr. Cecchini stated the people who came in for the original application agreed to a paved driveway on a private dirt road. Mr. Stefanelli asked if it were possible to grant a temporary certificate of occupancy. Mr. Pellow stated a driveway bond would need to be posted. Ms. Gill stated Mr. Kelly should contact the title company, he may have recourse with the title company. Mr. Kelly, feels extending the road twenty feet into the driveway, would exceed the grade. Mr. Pellow suggested re-grading the cul-de-sac. Mr. Pellow said he would meet at the site and give an estimate on a bond.

### **DISCUSSION**

Mr. Cecchini thanked the board for their dedication and decision on a very difficult application.

### **ADJOURNMENT**

On a motion duly made by Mrs. Gill, seconded by Mr. DeBoer and carried, the meeting adjourned at 9:36 p.m.

Respectfully submitted,

Jeanne M. McBride  
Secretary

