

**Minutes Open Session
White Township Zoning Board of Adjustment
February 17, 2011**

There was a regular meeting of the White Township Zoning Board of Adjustment on Thursday, February 17, 2011. Present were Board Members: Elaine Reichart, Donald Weidlick, Joseph Magnini, Paul Mourry, and Michael Grossmann. Board Members Absent: Myron Rasley, James Cooper, and Kyle Shoemaker. Also Present: Board Attorney William Gold, Board Engineer Joseph Modzelewski, Board Planner Layton, and Board Secretary Alfia Schemm. Chairman Magnini led the Board in the pledge to the flag and he called the meeting to order at 7:32 p.m. He announced that notice of this meeting was given in compliance with the "Open Public Meetings Act."

Chairman Magnini made a statement in regards to comments made by Barry Wessner at a Township Committee meeting pertaining to "Public Comment" at Board of Adjustment meetings and the Chair asking questions of the Board Professionals. Mr. Wessner in turn clarified the question/statement that he made at the Township Committee meeting.

OLD BUSINESS:

#446 Quick Check Corporation, Block 62, Lots 4 & 5

Debra Nicholson, Esq. was present on behalf of the Applicant. She stated that she has provided notice for this evening's meeting, in regards to their requested amendment for reduced seating.

Mr. Grossmann made the motion to approve the amendment to their approval. Motion seconded by Mr. Mourry. In a voice vote, all were in favor.

MEMORIALIZING RESOLUTIONS:

#446 Quick Check Corporation, Block 62, Lots 4 & 5

The Board reviewed the Resolutions that were prepared to address the requested amendment.

Mr. Grossmann made the motion to approve the Resolution. Motion seconded by Mr. Mourry. In a voice vote, all were in favor.

#448 Garden State Landscape Products LLC, Block 34, Lot 20

Board Attorney Gold reviewed the completeness Resolution that he prepared that memorializes the Board's action at the Board's January meeting.

Mr. Mourry made the motion to approve the Resolution. Motion seconded by Mr. Grossmann. In a voice vote, all were in favor.

NEW BUSINESS:

#448 Garden State Landscape Products LLC, Block 34, Lot 20

Wendy Berger, Esq. was present on behalf of the Applicant. She stated that her client operates a custom top soil and firewood operation. She stated that operation is done outside and is somewhat seasonal, as they cannot operate when it is rainy or when there is snow on the ground.

Board Attorney Gold stated that a Use Variance is needed; however, there are only 5 Board Members present this evening and he asked how the Applicant wished to proceed.

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Attorney Berger stated that they would like to proceed this evening. She stated that they have brought a stenographer with them this evening and they can produce a transcript of tonight's meeting so that absent Board Members can read it, if necessary.

Gregory Domalewski was sworn in and he provided his qualifications as an Engineer. He then described the location of the subject property. Attorney Berger stated that her client entered into a lease agreement, with the understanding that the property was located in Oxford Township. They met with Oxford Township and Oxford did not have a problem with their proposal. She went on to state that they later found out that the property is located in White Township and they were issued violations. She stated that they have entered into a settlement with the Township and they are now present this evening to receive the necessary approvals. Engineer Domalewski then submitted several drawings, which were marked as Exhibits:

A-1 Aerial Photograph Overlay

A-2 Existing Condition Site Plan drawing, revised 2-2-11, sheet 1 of 2

Engineer Domalewski displayed the exhibits and he went on to describe the present site conditions. The following drawings were submitted and marked as Exhibits:

A-3 Site Layout, revised 2-2-11, sheet 3 of 7

A-4 Site Layout, revised 2-2-11, sheet 7

Engineer Domalewski displayed the exhibits and he described the location and size of the signage. He also described the ingress and the egress and onsite circulation, the gates and fencing, the gravel driveway, and the check in trailer. The following was submitted and marked as an Exhibit:

A-5 Cut Sheets of Trailers and Equipment, 14 pages

The Applicants went on to describe the onsite circulation, the mobile office trailer, the equipment used and where they will be located at the site, and the checkout trailer. They went on to describe the custom soil and firewood processing and operation, the number of employees employed, the number of months in operation, the types of trucks used in the operation, and the graveled roads and parking areas. Attorney Berger stated that the Applicant has an existing operation in Rockaway Township.

Richard Rodimer was then sworn in and he testified that he is the general manager of Garden State Landscape Products and he testified that they may subcontract out to other trucks or trucking firms. He stated that their operation in Rockaway, called "One Source" is their retail operation. He stated that the subject operation is dictated by the weather and the season. The following was submitted and marked as an exhibit:

A-6 Grading, Drainage, Landscaping and Lighting Plan, Sheet 4 of 7

The Applicants then went on to address the topography of the property and the proposed landscaping. They also addressed their proposal and the zoning for the I2 Zone and the waivers being requested. They noted that the Township Ordinance Sections noted on the plans are based on the Old Township Ordinance designations and that they will revise the drawings to reflect the correct Ordinance Sections. They addressed the trailer setback and the roadway and they stated that they have seeded the site. The following were submitted and marked as exhibits:

A-7 Stormwater Management Plan, Sheet 2 of 2

A-8 Stormwater Drainage Report, Revised 2-2-2011

The Applicants went on to review the Board Engineer's report of 2-15-2011 and the drainage areas and stormwater runoff. They stated that they are in process of applying to the DEP for a LOI; however, they have already provided a 150 foot buffer.

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They stated that they will confirm the wetlands with the DEP and they are willing to do additional test pits and work with the Board Engineer to address any concerns that he has. Board Attorney Gold also clarified that the calculations are based on the Applicant's proposed design.

The Board took a brief recess at 8:56 p.m. and the meeting resumed at 9:06 p.m.

The Applicants continued to review the Board Engineer's report and they addressed the location of the proposed signage, the parking, overnight parking of trucks, the proposed electric generators to service the operation, and the proposed porta johns. Attorney Berger stated that they will agree to meet with the Board Professionals and the Board of Health, since they are not going to conclude tonight. Board Engineer Modzelewski stated that he thinks that the site will need some sort of acceptable sanitary facility as well as a potable water supply. Ms. Reichart had several questions in regards to the operation of the facility. Board Engineer Modzelewski asked how the trucks will be washed and how the water will be replenished. The Board questioned the uses of the surrounding properties. Attorney Berger identified the property owners from the 200 foot list. Board Engineer Modzelewski asked how the materials are going to be stockpiled and contained. Mr. Rodimer stated that material is bermed so that it does not wash away and they do not plan on carrying a large amount of inventory. He also stated that they do tarp material. Board Planner Layton stated that the proposed sign is over the allowed sign limit. Attorney Berger stated that they will reduce the sign so that it complies with the Township code. Board Engineer Modzelewski also commented on the site plan note that states that the stockpiles and trailers are subject to relocation. He stated that the whole purpose of the Site Plan approval is that the specifics are tied down to an approved Plan. Attorney Berger stated that they do understand that and that the note was added to allow for Board flexibility. The Board questioned the on-site handling of dust generation, the operation of the kiln, and the noise abatement and mitigation measures.

Frank Miskovich was sworn in and he testified to his qualifications as a Traffic Engineer. He stated that he has reviewed the plan and he described the area and the offsite traffic and the onsite one-way traffic circulation. He stated that he proposal is consistent with the uses in the area. He also stated that the roads are in Oxford Township and there is really no access to the site from White Township. He stated that the gravel roadway would reduce impervious runoff, would be easier to maintain, and will easier to regrade when needed. He then went on to address the sight lines and he stated that the proposed trucks are consistent with what he saw on the roadways. Attorney Berger stated that the Applicant will be entering into an agreement with the two other property owners in regards to certain road maintenance and road access.

William Godfrey was sworn in and he stated that Covanta and Tilcon own the road from Route 31 all the way back to the County Road. He stated that he has had an office for the last 22 years across from the subject site and a letter was sent from Covanta. Board Attorney Gold stated that Mr. Godfrey did attempt to submit a letter last month; however, the Board did not accept it, as the hearing had not begun. Mr. Rodimer stated that he has a copy of the letter.

Engineer Miskovich stated that they propose roughly 50 truck trips a day. He stated that the intersection of Route 31 is designed to handle truck traffic.

He continued to describe the proposed operation and the onsite circulation. He stated that any ruts will have to be graded off by a grader. Board Attorney Gold stated his concern with proposed operation if we were to get a lot of rain. Board Engineer Modzelewski agreed and he stated his concern with the stability of the soil and whether the trucks and equipment will be able to operate in wet conditions. Chairman Magnini also stated a concern from his own experience and he asked who will be washing the trucks prior to them leaving. Mr. Rodimer stated that the washing facility is going to be right next to the outgoing trailer, so they will monitor to make sure that the trucks are washed prior to leaving. Ms. Reichart asked how 25 trucks are going to be washed with one power washer, with no electricity, by a generator, with no provision to capture the runoff. Mr. Rodimer stated that every truck might not have to be washed off if there is no dirt or mud on the tires. The Applicants stated that they will review their plan and see whether there might be areas that need some additional stabilization to allow for turning maneuvers. They stated that they thought that gravel was a better fit allowing for percolation and minimizing runoff.

Board Attorney Gold stated that he thinks that the site is a good site for the proposed operation; however, he feels that the site needs to be better engineered, so that everything works in the worst conditions. Mr. Rodimer stated that they have spent a lot of money so far and they are not trying to cut corners. He stated that they will take the Board's recommendations and move forward with them. Mr. Grossman commented on the amount of mud and dirt that is currently brought out onto the paved road.

The hearing was opened to the public for questions of Mr. Miskovich.

William Godfrey stated that he felt the property is an ideal location for the proposed operation.

Chairman Magnini asked if there was anyone else from the public wishing to comment. With there being no further public comment, the hearing was closed to the public for questions of Mr. Miskovich.

Attorney Berger suggested that they conclude for this evening. She stated that they will plan on meeting with the Board Professionals and they plan on bringing back their Engineer and Planner.

Board Attorney Gold announced that his matter is being adjourned to the Board's next meeting on March 17th, 2011, without further public notice.

#449 Jason Chesla, Block 15, Lot 2-Completeness

Board Attorney Gold suggested that the Board deem the application complete and schedule it for a public hearing for next month.

Mr. Mourry made the motion to deem the application complete. Motion seconded by Mr. Grossmann. In a roll call vote, all were in favor, except for Ms. Reichart who voted in opposition.

The Board discussed the time allotments for hearing both applications at the March meeting. Board Attorney Gold stated that the Board does have 120 days to make a decision.

OTHER BUSINESS:

Annual Report

The Board reviewed the recommendation made at last month's meeting in regards to Alternative Energy.

Chairman Magnini stated that based on the Rodota application, he would like to recommend that the Board suggest a zone change for the subject property.

Ms. Reichart stated her concern with recommending a zone change, especially since the matter is under litigation. Board Attorney Gold reviewed the matter and he stated that the Board can recommend that the Township Committee reconsider the permitted uses in the Zone. He stated that the Board is looking forward in the Annual Report and the recommendation is to have the Township Committee reevaluate the uses that are permitted in that zone, given what is on the ground now. The Board continued to discuss the matter.

Chairman Magnini made the motion to amend the annual report to recommend that the Township re-exam the zoning, pertaining to the Rodota property. Motion seconded by Mr. Mourry. In a voice vote, all were in favor, except for Ms. Reichart and Mr. Grossmann, who voted in opposition.

MINUTES APPROVED:

The minutes of the January 20, 2011 meeting were distributed to all Board Members prior to this evening's meeting.

Mr. Mourry made the motion to adopt the minutes. Motion seconded by Mr. Grossmann. In a voice vote, all were in favor.

PAYMENT OF BILLS: The following vouchers were submitted:

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| William Gold-Quick Check | 337.50 |
| William Gold-Garden State | 300.00 |
| William Gold-General | 687.00 |
| Hatch Mott McDonald-Clean Jersey Solar | 508.20 |
| Hatch Mott McDonald-General | 46.20 |
| Hatch Mott McDonald-Garden State | 970.20 |

Mr. Mourry made the motion to approve the vouchers. Motion seconded by Ms. Reichart. In a voice vote, all were in favor.

EXECUTIVE SESSION:

In a motion made and seconded, the Board went into Executive Session to discuss Litigation. In a voice vote, all were in favor.

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of White, Warren County, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter-specified subject matter.
2. The general nature of the subject matter to be discussed is as follows: Litigation.
3. It is anticipated at this time that the above stated subject matter will be made public at the conclusion of each individual specified subject matter.
4. This Resolution shall take effect immediately.

Date adopted: February 17, 2011

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In a motion made and seconded the meeting came out of Executive Session, and the regular meeting resumed. In a voice vote, all were in favor.

ADJOURNMENT:

In a motion made and seconded, the meeting was adjourned. In a voice vote all were in favor.

Respectfully Submitted:

Alfia Schemm
Board Secretary