

**UPPER TOWNSHIP PLANNING BOARD  
SPECIAL MEETING MINUTES  
SEPTEMBER 26, 2017**

A Special meeting of the Upper Township Planning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 7:30 p.m.

**SUNSHINE ANNOUNCEMENT**

**SALUTE TO THE FLAG**

**ROLL CALL**

Present: Georgette Costello, Joseph Harney, Ted Kingston, Gary Riordan, Committeeman Hobart Young, Robert Young, Roy Zehner, Chair James Kelly.

Absent: Michael Endicott, Scott Morgan, Mayor Richard Palombo.

Also in attendance were Dean Marcolongo, Board Solicitor; Paul Dietrich, Board Engineer and Shelley Lea, Board Secretary and Zoning Officer.

**SWEAR IN PAUL DIETRICH**

**APPLICATIONS**

1. TUCKAHOE DG, LLC – BLOCK 348 LOT 94.15 & 94.16 – PB 09-17

Application is for preliminary and final major site plan approval to construct a 7,600 sq. ft. retail store (Dollar General) at 1435 and 1437 Route 50 in Tuckahoe.

Solicitor Marcolongo explained the application is to construct a Dollar General retail store on the subject property. This property is zoned CM4 which is a commercial zone. The proposed Dollar General is a permitted and intended use in this zone. He stated that the board has an obligation to approve an application if it meets all the requirements. The board is allowed to put reasonable conditions or restrictions on any development. The board cannot legally deny an application because there is more than one of the same retail store in the township since they have an obligation to approve the application if it meets all the requirements. The Cox book says the Planning Board has no authority to deny a site plan because of anticipated detrimental impact on off site traffic conditions. Planning for traffic patterns is the authority of the governing body. The Planning Board may go no further than to condition an approval on issues such as the ingress and egress but not what is going to happen outside of the property.

Jason R. Tuvel, attorney for the applicant, stated that Dollar General is a neighborhood retail store. It is not a dollar store. Products range from a variety of prices. Sometime the analogy is drawn that its similar to a Walgreens or a Rite Aid without the pharmacy.

Mr. Tuvel stated that in 2016 an application was filed by Dollar General to construct a retail store on lot 94.16 an undersized lot. Because of that there were a number of variances and waivers associated with the property. The applicant was able to obtain an agreement of sale on lot 94.15. After that the applicant came before the board with a concept plan for a 9,300 sq. ft. store layed out on both lots. Some variances were still required at that time. After hearing comments from

the board, the applicant reduced the size of the building to 7,600 sq. ft. The property is currently over 4 acres, double the lot area required. The addition of the lot also allowed the applicant to meet all the zoning requirements in the CM4 district. There are a variety of uses included in this zone including restaurants, retail garden centers and wholesale distribution centers and warehouses. The proposed improvements comply with the building coverage and impervious coverage requirements as well as the setbacks and landscaping. There are 38 parking spaces required and 38 proposed. The signage package meets the township ordinance.

Mr. Tuvel stated the hours of operation are 8 am until 10 pm, seven days per week. There would be 4 or 5 employees per shift, possibly less. There are one or two tractor trailer deliveries per week and one or two box truck deliveries per day. Deliveries occur during off peak times.

Daniel J. Dougherty, Site Engineer, Justin Taylor, Traffic Engineer from Dynamic Traffic and James Kyle, Professional Planner, Kyle Planning & Design, were sworn.

Mr. Dougherty reviewed his background. He reviewed A-1 an aerial exhibit, sheet 1 of 1, dated September 26, 2017. This is a color version of sheet 2 in the plan. He testified the property is located on the east side of Route 50. The site is 200 ft. from the intersection with Tuckahoe Road. The site was created as part of a subdivision that includes the residential properties on Farm Road and Crop Street. The parcels fronting on Route 50 were zoned commercial and the lots behind it are residential.

Mr. Dougherty testified the property is 4.1 acres made up of two lots. Most of the development is on the northern corner of the property since there is a stream and wetlands on the southern portion of the property. A-2 is titled Site Plan Rendering, dated 9/26/17 and prepared by Dynamic Engineering. This is a color version of Sheet 4 in the packet.

Mr. Dougherty testified the proposed building would be located 84 ft. from the northern property line and 91 ft. from the nearest residential neighbor. The building is setback 105 ft. from the roadway. The application complies with all setback requirements. There is one full access drive from Route 50 proposed near the north property line. There is a parking area proposed in the front of the building and on the side. There are 38 parking spaces required and 38 proposed. The proposed loading area is located on the northeast corner of the building at the end of the parking aisle. The loading area can accommodate two trucks stacked parallel. A board on board fenced trash enclosure would be in the rear of the site. A nuisance buffer is proposed along the rear property line. They propose 23 shade trees throughout the property and 76 evergreen trees. A fence will be included in the buffer along the rear of the property. They conform with the building coverage and impervious coverage requirements. They will comply with all ADA requirements.

Mr. Dougherty testified that a 28 sq. ft. building mounted sign is proposed over the front door. The freestanding sign is proposed 30 ft. off the right of way and is slightly smaller than 51 sq. ft. He testified the driveway width is adequate, safe and sufficient and that adequate back up room and circulation is provided on site. They utilize LED pole mounted shoebox type light fixtures. He does not expect any problems with spillage or glare into the residential neighborhood.

Mr. Dougherty testified regarding stormwater management. They propose to utilize a sand bottom infiltration basin that turns into a larger stormwater basin. This design meets all municipal and state regulations. He testified that a wheel base vehicle would come

approximately one or two times per week and would be on site 45 minutes to one hour. Box trucks would make deliveries one or two times a day and they would stay on site for 10 to 15 minutes.

Mr. Dougherty agreed to label the 7 ft. wide concrete area on both sides of the store as outside display area on the plan. He stated that the landscaping in the front would be moved an additional 30 ft. into the site so that it is not in the site triangle.

Solicitor Marcolongo asked if the applicant would be in favor of amending the application to utilize a monument sign rather than a freestanding sign.

Mr. Riordan asked about the width of the proposed street opening. The ordinance requires a maximum of 50 ft. and 64.7 ft. is proposed. Mr. Dougherty testified this was done for safety purposes. Solicitor Marcolongo stated that the ordinance indicates any deviation from this is an exception.

Mr. Tuvel agreed to a condition to install "No Idling" signs for the large trucks. He stated that they would have to comply with whatever the decimal level requirements are at the property lines. He further agrees to store all trash containers, full or empty in the trash enclosure at all times.

Justin Taylor, Licensed Engineer and Certified Professional Traffic Operations Engineer, is a principal in the firm of Dynamic Engineers and has practiced traffic planning for the last 17 years. He gave his educational background. Mr. Taylor testified he has reviewed the proposed site driveway in relation to the existing traffic on the roadway and the proposed traffic from the Dollar General. He finds the exiting movements, which is the vehicles leaving DG, project a level service C during both the evening peak hour and the busy Saturday afternoon shopping hour. For the left turn into the site he projects a level service A during both peak hours. This is an acceptable level of service using the industry standards for both left in and left out. He concurs the proposed driveway width is appropriate design and safe and efficient to facilitate the vehicles turning off the highway as well as the tractor trailers and other trucks that need to get onto the site. The larger width provides for safer movement allowing them to enter the site. They have submitted the application to the NJDOT. Mr. Tuvel agreed that if the DOT demands 70 ft. they would have to come back to the board.

Mr. Taylor testified the parking stalls comply with the ordinance and are appropriate for the proposed use. He stated that they have found that DG generates a lower parking demand than typical retail buildings. He believes that a building this size during maximum demand would have approximately 16 vehicles on site, however they are providing the 38 parking spaces required. He also believes the loading area is safe and sufficient and appropriately designed. The site is ADA compliant. The site distance requirement for this location based on the AASHTO speed limit and safe sight distances. The traffic counts were done in June 2017. He stated they are not looking at any changes in the level of service at the intersection and an increase in delay of 1 to 2 seconds at several of the approaches.

James Kyle, Professional Planner, testified that he has visited the site and surrounding areas and has reviewed the zoning ordinance. He agrees the parking demand is less since there is not as much traffic as a shopping center and has less impact than other permitted uses in the zone. He described the existing commercial uses in the area. He feels the application meets the intent of

not having any impact to the surrounding residential uses and providing what is required by ordinance. He believes the rear setback and landscaping provide an adequate screening to the adjacent residences. There is no lighting in the rear of the building and there is a significant buffer proposed to the north of the building along Crop Street that will effectively limit view and reduce any potential impact. He does not believe the truck deliveries would have any impact on neighboring properties. The proposed signage complies with the ordinance and meets the intent and purpose of the area. He stated that adequate identification is needed since the speed limit is 50 MPH.

Mr. Kyle testified in regard to Municipal Code 20-5.16h1. He stated that the NJDOT has encouraged the applicant to increase the width of the street opening for the safety of those accessing the site. This allows adequate room to make maneuvers into and out of the site. He referred to case law allowing the board to grant a waiver or exception. He further believes that if the driveway were designed in accordance with the standards at 50 ft. wide it would create a practical difficulty for the vehicles intended to access the site. By granting relief, the board can make a safer condition not only for the larger vehicles that are intended to access the site but also the public. He feels the board would be justified in granting relief.

The meeting was open to the public within 200 feet.

John Inserra, 7 Crop Street, was sworn. Mr. Inserra testified that prior to purchasing his property the developer promised him that the commercial uses in front would be family owned businesses. He finds that the infrastructure of the proposed DG does not fit in. He stated that the DG would decimate the value of his home. He referred to a print out of the crime that the DG generates which includes the two stores in Upper. He asked that the board deny the application. He asked how much room a tractor trailer needs to access the property safely.

Mr. Taylor confirmed that a 50-ft. wide opening is adequate for a tractor trailer to access the property.

Solicitor Marcolongo suggested the board not consider the document referred to by Mr. Inserra since this is not a site plan issue.

Andrew Kraynock, 1400 Route 50, was sworn. Mr. Kraynock is concerned about trash and property values.

Mark Waller, 5 Crop Street, was sworn. Mr. Waller asked who would enforce the grass and trash and if the trash bins are left out. He believes this is not a good fit for this area.

Andrew Shawl, 1431 Route 50, was sworn. Mr. Shawl stated that originally he was concerned with the small size of the lot. However, the expanded size of the site is an improvement. He also believes his concern with the buffer has been addressed. He asked if there would be an ice machine in the front of the building and if the display area would be limited to moveable items only.

Mr. Tuvel stated that an ice machine is not noted on the plan and that the display would be moveable items and not permanent items such as an ice machine.

Debra Worchel, 4 Farm Road, was sworn. Mrs. Worchel stated that despite the promises she does not feel the DG will follow through. She asked about the appearance of the building.

Mr. Dougherty testified they will be using a unique façade they have not used anywhere else in South Jersey. The front of the building will be cement poured beige clapboard for a residential feel along with a brick wainscoting and a metal frame awning. There are no windows except for the entrance windows so they propose louvered vinyl window elements to look like windows.

Mrs. Worchel asked the board require cedar shake siding to make it look more like a residential building. She would also like them to add some windows to blend in with the other buildings on Route 50. She had questions about the outside display area. She asked if it would be possible to make a condition that there would not be any outside displays. She has concerns about standing water and mosquitos in the drainage basin.

Mr. Tuvel stated that the items in the display area would be put out in the morning and taken inside at night. The area is not for permanent storage and would not be greater than 200 sq. ft. of total area. The items would not exceed 6 ft. in height and will not be located in the site triangle and described in 20-4.6 d 7.

Daniel Lancaster, 4 Crop Street, was sworn. Mr. Lancaster feels there would not be opposition if DG were a good neighbor in the past. He stated the Marmora and Seaville DG stores are dumps. He believes the DG belongs in the town center. He stated that the crime that takes place at the DG stores impacts the neighborhood.

Wendy Cope, 2 Farm Road, was sworn. She concurs with her neighbors. She stated that DG does not belong here or in the community. She asked the board deny the application.

The meeting was open to the public outside of 200 feet.

Larry Migliaccio, 13 Crop Street, was sworn. Mr. Migliaccio testified that he was the previous owner of the property. The property was supposed to be for mom and pop type stores only and there was supposed to be a berm with trees which was never done. He agrees if the DG is approved it would generate crime in the area. He commented the store looks like a shoebox and there are already two others in the township. He is concerned that vehicles will use their neighborhood to turn around since it is impossible to make a left turn in the summer since the traffic is so bad. He suggests a double row of evergreens the entire length of the back to block the building and help with the noise. He wants a guarantee that when the shrubs die they must be replanted the same size they were when they died.

Mike Albers, 7 Deerfield Trail, was sworn. He referred to the accidents on Route 50 and traffic.

Nathalie Neiss, 759 Route 50, Petersburg, was sworn. She would like to welcome DG to the township. She thinks commercial is needed in the tax base. She stated that DG is a lesser impact than what could go on the property. She stated that the people speaking bought their homes here knowing this is commercial property. She doesn't feel it is proper for the residents to ask the board to change the design of the building. She stated that the residents could have bought the site if they didn't want a business there. She asked about the zoning classification of the property.

Mr. Dietrich testified the property has been zoned commercial since at least 1995.

Richard Fellows, 121 Reading Avenue, Tuckahoe, was sworn. Mr. Fellows testified his main concern is traffic. He agrees with the comments made by the residents and feels the DG does not belong. He feels that DG is going to change the character of Tuckahoe and the neighborhood. He stated the township is losing open space and an old farm. He recommended the board review the Master Plan to eliminate this from happening again.

Keesha Bond, Route 50, Petersburg, was sworn. She agrees with what has been said so far. She is in favor of small businesses but this is a franchise. She stated that the other two DG stores look like crap and finds it hard to believe that the employees would keep the site clean as indicated by the attorney. She is concerned about the traffic on Route 50.

Barbie Harris, 360 Butter Road, Palermo, was sworn. She asked if the drainage basin would have fencing and crosswalks. She stated that DG does not make good neighbors and are poorly maintained. She stated the building is ugly and does not belong here.

Mark Wyman, Route 49, Tuckahoe, was sworn. Mr. Wyman has lived here 20 years and there are no convenience stores in the area. He is in favor of the application.

Don Oral, 360 Butter Road, Palermo, was sworn. He is concerned about the traffic. He commented the traffic studies were done on Saturday and not Friday or Sunday when traffic is at its worst. He asked that the township obtain its own traffic report.

Barb Alber, 7 Deerfield Trail, was sworn. Mrs. Alber commented on the turning movements in and out of the proposed DG and on Route 50. There was conversation regarding traffic and other businesses in the township.

Marino Rossow, 8 Deerfield Trail, was sworn. Ms. Rossow is also concerned about traffic in the area.

The meeting was closed to the public and there was a short break so that Mr. Tuvel could discuss the recommendations by the board and the public with his design team.

Mr. Tuvel stated that the DG has agreed to the following:

- Utilizing a conforming monument sign rather than a pole sign.
- They agree to add 12 trees where there is not a double row of trees along the fence.
- No idling signs.
- No roll containers visible and must be in the trash enclosure or inside the store.
- They will comply with the ordinance in regard to outside display and they will not put any permanent structure in the display areas and will be removed at the end of the day.
- Leaver shutters will be added along three sides of the building to look like windows to enhance the aesthetics of the building.
- No tractor trailer deliveries will be made on Friday, Saturday or Sunday during the entire year.
- The billboard currently on site will be removed.

The board gave their findings of fact at this time.

MR. RIORDAN – Tuckahoe DG, LLC is applying for preliminary and final site plan approval to construct a 7,600 sq. ft. retail store and a waiver for the length of the curb cut. The applicant was

represented by Jason Tuvel, Esquire. Mr. Tuvel stated the application meets all zoning requirements in the CM4 zoning district. Mr. Tuvel has agreed to several conditions of approval. Daniel Dougherty, PE, submitted two exhibits, an aerial photo of the property and a color rendering of the site plan that included more detail of the proposed building and landscaping. He also indicated the application meets all the township requirements including the 38 parking spaces being provided. The 64.7 ft. wide street opening is more practical for the site and enhances safety. Justin Taylor, Professional Traffic Engineer, prepared a traffic impact study. The NJDOT recommended a 70 ft. curb opening but the applicant has reduced the proposed curb cut to 64.7 ft. He testified the number of spaces proposed is double what is needed for this type of retail store. Vehicles would have the ability to exit the property and go either north or south on Route 50. James Kyle, Professional Planner, has testified the proposed use would have less impact than other permitted uses. He believes the applicant is meeting the intent and purpose of the local zoning and that the application meets the statutory characteristics for design waiver. The State statute indicates the waiver can be granted if reasonable. Mr. Kyle also stated the proposed curb cut would create a safer condition for all vehicles to enter and exit the property. There were numerous comments from members of the public. Many residents are concerned about traffic and the neighborhood.

MR. HARNEY – Two box trucks will make deliveries twice a day at non peak hours. One or two deliveries per week will be by tractor trailer. He stated this is a business that can exist in the township with the rules that we have. The applicant has agreed to make the building more compatible with the area. There will not be an ice machine in the front of the store. The owners will follow the guidelines for trash and grass.

COMMITTEEMAN YOUNG – The applicant has done everything the board has requested. They have purchased the adjacent property and brought their application into compliance with the ordinance with the exception of the curb cut. He finds the use is warranted since there are no stores in the Tuckahoe area. He finds the building fits in with the commercial in the area. The board must make decisions according to the law and the MLUL. This is a permitted use in the zone and there are no variances needed. He found all of their expert testimony to be creditable.

MRS. COSTELLO – The property is known as block 348 lot 94.15 and 94.16. The lots are located in the CM4 zoning district which is a commercial zone that permits an array of commercial uses. The public had many valid and heartfelt comments and concerns about crime, enforcement of trash, landscaping, display of merchandise, truck deliveries, crosswalks and the aesthetics of the building. The applicant is not seeking any variance relief.

MR. KINGSTON – The original application included many variances but they have purchased the adjacent property and reduced the size of the building so that no variances are needed. After hearing the public's concerns the applicant agreed to several revisions. This is a permitted use in the commercial zone.

MR. YOUNG – He finds the applicant has met the requirements of the law and has addressed the concerns of the board and the public.

MR. ZEHNER – His concerns regarding lighting and noise have been addressed sufficiently. He does not believe the DG would create any more traffic on Route 50 than there is now.

MR. KELLY – He has nothing to add.

A motion was made by Committeeman Young and seconded by Mr. Riordan, to grant the application for preliminary and final site plan approval and an exception for the width of the curb cut with the conditions that the applicant will prepare a deed of consolidation after settlement and submit it to the Board Solicitor for approval prior to filing, the plans will clearly evidence the billboard on the property will be removed, the applicant agrees to comply with section 20-4.67 of the ordinance regarding outside display/storage specifically there will be no permanent structures

and no ice machine in front of the building, revise the plan to show a “no idling” sign in the loading area, no storage bins will be visible to the public, the exception is for a curb cut of 64.7 ft., however if the NJDOT requires a larger curb cut up to 70 ft. the applicant would not have to return to the board, the applicant will revise the plans to evidence a monument sign pursuant to the TCC zone requirements, the plans will be revised to supplement the landscape buffer in the rear of the property to add approximately 12 additional trees to the satisfaction of the board engineer, the plans will be revised to evidence louvered shutters on three sides of the building and there will be a restriction that there would not be any tractor trailer deliveries to the property on Fridays, Saturdays or Sundays. In favor: Costello, Harney, Kingston, Riordan, Committeeman Young, Young, Zehner, Kelly.

**BILLS**

A motion to approve the bills was made by Mr. Riordan, seconded by Mr. Kingston, and approved.

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Young and seconded by Mr. Kingston. The meeting was adjourned at 10:32 p.m.

Submitted by,

Shelley Lea  
Board Secretary