

**JOINT LAND USE BOARD
REGULAR MEETING MINUTES
July 11, 2013**

Chairman Schwager called the meeting to order at 7:00 pm.

Adequate notice of this meeting had been provided in accordance with the Open Public Meetings Act.

Chairman Schwager led all present in the Pledge of Allegiance.

Roll was as follows:

John Casella – Present, Frank Costantini – Present, John Descano –Present, Blair Hannigan – Present, John Juliano – Present, Paul Lott – Present, Mayor Maccarone – Present, Chief Marino – Present, Joe Maugeri – Present, Alan Schwager – Present, Bob Rushton – Present.

Also present: Mike Aimino – Solicitor, Tim Kernan – Planner and Jim McKelvie – Engineer.

First on the Agenda are the Minutes from the regular meeting of June 20, 2013. J. Maugeri made a motion to approve which was seconded by J. Casella. All were in favor except for P. Lott and B. Rushton who both abstained.

Next on the agenda is Resolution 2013-17, Granting Amended Final Major Subdivision Approval to Summit Ventures, LLC, for Property Located at Center Square Road, Auburn Road and Kings Highway designated as Block 32, Lots 1 & 3; Block 28, part of Lots 7, 13.01 & 14 commonly known as Villages 1 at Weatherby, Section 4.1.

F. Costantini made a motion to approve the resolution which was seconded by J. Maugeri. Roll was as follows:

J. Juliano – yes, Chief Marino – yes, J. Descano – yes, Mayor Maccarone – yes, J. Maugeri – yes, F. Costantini – yes, Blair Hannigan – yes, Chairman Schwager – yes.

Next on the Agenda under New Business is the Wolfson Group, Inc., Preliminary and Final Site Plan and Bulk Variance for Woolwich Commons, LLC regarding Block 57, Lots 5, 8, 9 & 10 ~ U.S. Route 322.

Chairman Schwager continued stating that this meeting will probably be long, the applicant plans on putting on a lot of testimony. The plan is to go until about 10:30 – 11:00 at the latest in which case if we are not done, we will adjourn until August 1st.

Mike Aimino addressed the Board briefly stating that this is a Site Plan that the Board has heard numerous times in the past, but it could possibly have some different twists to it that the Board is not really use to. We are expecting that there may be some objectors who are going to participate and they will participate in a way that the Board may have not seen in the past, but your obligation is still the same. As a Board it is to review the evidence that is in front of you and make a determination based on the MLUL just as you would any other matter.

Mr. Stephen Nehmad, co-counsel to the applicant, a member of the New Jersey Bar and a member of the Firm Nehmad, Perillo and Davis continued stating that he is appearing as co-counsel to the applicant, Woolwich Commons, LLC, which is a Limited Liability Company which is principally owned and controlled by Mr. Stephen Wolfson. He is co-counsel with Mr. Marc Kaplan who is a member of the Pennsylvania Bar. Mr. Kaplan and he will be sharing responsibilities for representing the applicant this evening. Mr. Kaplan will be handling the majority of the matter and that is for good reason. Mr. Kaplan has a long standing relationship both with Mr. Wolfson and his Company as well as his related and affiliated entities. Mr. Kaplan also has a long standing relationship with this particular development being the first Site Plan that is presented in the GDP that this Board as well as Mr. Kaplan and our client have worked on for a multi-year process. Mr. Kaplan has been admitted in the litigation that has been commenced in the matter known as "Ammons vs. JLUB" which challenges the Amended General Development Plan approval that has been granted to our client date March 5, 2013.

Mr. Marc Kaplan continued stating that they are here with the application for both Preliminary and Final Site Plan approval for the Woolwich Commons Development. This Board is familiar with this project that it is one of the components of the development that has already received general plan approval from the Board.

Mr. Kaplan continued explaining the history of this application for the record. Woolwich Commons, LLC; Main Street at Woolwich, LLC and Woolwich Crossings, LLC are the legal or equitable owners of approximately 224 acres of land located on or adjacent to both the north and south sides of Route 322 and along Pancoast Road and Kings Highway in Woolwich Township.

Mr. Kaplan continued with his binder of exhibits and resolutions.

Mr. Kaplan addressed Architecture stating that in connection with the Preliminary and Final Site Plan they submitted conceptual architectural renderings of what the proposed development could look like. The conceptual architectural renderings were submitted for illustration purposes only. As they indicated at the hearing on the 2nd Amended GDP plan, they do not yet have proposed tenants for any of the buildings in the Woolwich Commons accept retail "A". It is therefore impossible to provide realistic architectural elevations for those buildings without actual tenants. Therefore they are proposing that a condition be imposed upon the Preliminary and Final Site plan approvals that requires them to come back to this Board for approval of the architectural renderings for the proposed buildings when that architecture is known.

Right now they have a proposed tenant for retail "A" and they have submitted architectural elevations for all four sides of that building.

Mr. Kaplan continued with the approved signage plan, stating that it differs in some respect from the general signage requirements contained in section 203-151 of the code.

Water and Sewer were discussed as shown in the binder under exhibits #A-25 and #A-26.

Mr. Kaplan concluded with the last of his exhibits in the binder being the curriculum of their four witnesses, Savio Gentile – Project Engineer marked as exhibit #A-33, Mark Roth – Project Traffic Engineer, #A-34; Lance Muscara – Architect for Retail A is exhibit #A-35 and Creigh Rahenkamp, Project Planner is exhibit #A-36.

Binders were handed out to the Board members for the record.

Mr. Kaplan stated that based on the review letters of the revised Woolwich Commons Site Plan, he believes there are really no issues and that the Site plans comply with all of the Woolwich Townships RC-3 and Route 322 Regional Corridor Zoning regulations with the exception of the 2 items for which they requested Variances and the 2 items for which they requested Design Waivers. The 2 Variances relate to overhead utilities and lighted bollards. The Design Waivers relate to the slope of a portion of the improvements along 322 and the detention basin and to certain detention basin design requirements. These Variances and Waivers are in addition to the 3 Architectural Variances requested for retail A and the potential Variance for the approved signage plan.

Mr. Kaplan called his first witness, Mr. Savio Gentile the project Engineer. Mr. Gentile was sworn in by Mr. Aimino.

Mr. Gentile described his educational background to the Board. He is employed by the Firm of Greenburg-Farrow and he is a Site Development Manager.

Chairman Schwager accepted Mr. Gentile's qualifications.

Mr. Kaplan continued asking Mr. Gentile questions about the project.

Mr. Gentile gave a description of the Site Plan, including access points, parking and service drives.

Mr. Kaplan continued with the Township Engineers review letter dated June 17, 2013 and it is the review of the most recently revised plans that were submitted in March of 2103. Mr. Gentile agreed.

Mr. Gentile stated that in the review letter, the Township Engineer identifies items requiring design waivers and he also states that they have addressed all the other items from his previous letter. He also identifies the need for a maintenance plan and a deed restriction for the basins, which we will comply with. Mr. Gentile continued identifying the design waivers that are required, storm water management, grading and requirements for Site Plan review.

The storm water management design waiver is to allow basin slopes to be at 2:1 slopes rather than the maximum allowed of 3:1. By doing this they can save a significant amount of land clearing, grading and land disturbance and they were also able to eliminate a third storm water management basin. The Board Engineer has no objections to this change.

The other requested Waiver is from the types of inlets to be used on the site and the methodology for computing the inlet capacities. The Board Engineer has also concurred with this and has no objections.

A design Waiver is also requested for Grading. Mr. Gentile stated that this waiver will reduce the amount of land disturbance, reduce the amount of grading on the site and reduce the amount of tree clearing around the perimeters close to the adjacent residential areas.

There are no issues with the Phase I environmental site assessment, the Engineer just stated that above ground storage tanks that were identified in the report are to be removed and we will comply with removing those tanks.

Mr. Kaplan asked if the Engineer's review letter identified any environmental issues. Mr. Gentile stated "no" but the Board Engineer pointed out that a New Jersey Wetlands Transition Area Waiver might be required and they acknowledge that if that is required by the DEP they will seek that waiver and obtain it from the DEP.

Mr. Gentile stated that there are no miscellaneous issues identified and the review letter notes that all previous comments have been addressed or that there is some minor administrative details that they need to comply with and they will comply with those.

Mr. Kaplan and Mr. Gentile continued to go through the Board Engineer's storm water review memo dated July 8, 2013. This is an updated memo from the original dated July 20, 2012. The Engineer's letter states in bold next to each comment that they have been addressed except where there is additional coordination with the Department of Transportation permit plans and final architectural designs for the future buildings, and they will comply with those.

Mr. Kaplan and Mr. Gentile moved on to the Township Board Planner's review letter dated June 17, 2013. This review is for the revised plans for Woolwich Commons that were dated March 29, 2013. Mr. Kaplan went through the Variances requested in the review letter. They are also suggesting that a condition be imposed upon preliminary and final site plan approval that would require the applicant to come back to the JLUB for approval of the architectural drawings for all of the buildings other than Retail "A" when that architecture is known.

Mr. Gentile stated that the only Variance for architectural requirements being sought now relate to the design of retail "A" because in this case there is an actual tenant.

Mr. Kaplan and Mr. Gentile continued to go through the comments in the Planners letter.

Mr. Gentile stated that they are also proposing that all of the utilities and service lines within the interior part of the development be underground as required by the code but they are requesting that they run electric, phone and data distribution lines from the street poles around the perimeter of the site in order to serve each of the buildings from the rear. Another minor point is that there is certain equipment such as fire hydrants, meters and transformers that need to be above ground. This is in lieu of running service lines from the street in to all of the individual buildings all throughout the site, parking areas, the main driveways, etc.

This is a very large shopping center and there is a variety of uses and building sizes so there are different needs for each of these users in terms of electric, data and telephone. It is more efficient to run the

distribution lines around the perimeter and feed each individual building from the rear for future maintenance and access.

Mr. Gentile stated that the Site Plans were also reviewed by the County Fire Official. Mr. Kaplan stated that the Fire Marshal's letter dated June 13, 2013 is included in his binder of exhibits. Mr. Gentile agreed and stated that there were no issues, just "2" requests/requirements. One of which is to provide bollard protection at the gas entry point at the rear of retail "A" to satisfy the State Code and we will comply with that. The other request is to provide the Fire Official with the stores hose connection at each of the fire hydrants within the Site and they will comply with that.

Aqua New Jersey provided a "will serve" letter and they indicated that they are willing to serve this project. The Site Plan also shows a connection to the proposed sewer lines to the conveyance lines within Logan Township and the Logan Township Municipal Authorities treatment plant. Mr. Gentile added that it also shows the entire sanitary sewer lines designed within the Woolwich Commons Site.

With no more questions from Mr. Kaplan to Mr. Gentile, Chairman Schwager called for a 5 minute break at 8:22 pm.

The JLUB Meeting reconvened at 8:31 pm.

Mr. Kaplan added that he used "2" exhibits that he would like to mark into the record, the rendered plan is marked as "A-37" and the large aerial is "A-38".

Chairman Schwager stated at this time if there is anyone in the audience that would like to object to Mr. Gentile's comments and if anyone would like to cross-examine they have that opportunity at this point.

Mr. Jeff Brennan, an Attorney in the State of New Jersey is representing Mr. Frank Pagano of 118 Devonshire Drive.

Mr. Aimino asked Mr. Brennan to give a brief run down as to the standing of his client.

Mr. Brennan stated that he is a resident and tax payer of the Township of Woolwich; therefore he has standing to object under the MLUL. He is not present but is appearing through Mr. Brennan.

The first question Mr. Brennan has is preliminary regarding the binder he saw Mr. Kaplan passing out. Were all the documents in that binder submitted 10 days in advance of this application hearing?

Mr. Kaplan stated that he believes that they were.

Mr. Nehmad stated that it is their position that all documents and plans that are required by the NJ Municipal Land Use Act to be on file at least 10 days in advance, were on file indeed 10 days in advance. There may be items in the binder that are not required to be on file 10 days in advance.

Mr. Brennan asked with respect to Mr. Gentile's testimony he has a few questions. If he understands correctly, one of the requests for a Waiver is for the slope of the basin, is this true? Mr. Gentile stated "yes". Mr. Brennan would like to know what the depth of the basin is as proposed. Mr. Gentile asked him to be more specific. Mr. Brennan wants to know what the measurement of height is from the top to the bottom. Mr. Gentile asked at what point because it varies. Mr. Brennan stated, "at the bottom".

Mr. Kaplan objected to the form of the question because it is not identifying this depth that he wants identified. From what bottom elevation to what top elevation.

Mr. Brennan continued to ask questions on what the bottom elevation of the basin will be.

Mr. Kaplan objected. Mr. Gentile stated that he does not understand what Mr. Brennan is getting at because the design of the basins is a very complicated issue.

Mr. Brennan asked if the bottom of the basin is deeper than if it were built to the ordinance standard.

Chairman Schwager stated that he does not remember testimony on the depth of the basin compared to the slopes. The Variance was about the slopes going from 3:1 to 2:1. He doesn't think that had anything to do with the depth of the basin.

Mr. Brennan stated that this is the question that he is asking. Mr. Gentile stated that he would have to run some calculations.

Mr. Brennan asked what safety precautions are being proposed as part of this basin.

Mr. Gentile stated that there is a variety of safety precautions that they are implementing on those 2:1 slopes. One is erosion control blankets, they are also providing clay aligners within side of the basins, there is safety fencing around the perimeters and there is also a special low maintenance seed mixture for the ground cover on top of the slopes.

Mr. Brennan asked how high the fence is that is being proposed.

Mr. Gentile stated that he believes it is approximately 4' to 4 ½' high.

Mr. Brennan asked in Mr. Gentile's opinion is it designed to such a standard that a child could not climb over it.

Mr. Gentile stated yes he believes it is.

Mr. Brennan asked if they would agree with him that it is much more difficult for a child to climb out of a basin that is sloped at 2:1 vs. 3:1.

Mr. Gentile stated that it would be walking up a slope so he is not sure about that.

Mr. Brennan continued asking if the basin were designed per the ordinance regulation would that result in the loss of any impervious area.

Mr. Gentile stated "no".

So the site can be designed per the ordinance, have conforming impervious, if the basin is designed to the ordinance standard.

Mr. Gentile stated he believes so.

Mr. Brennan asked if they would lose anything.

Mr. Gentile stated they would lose trees, green space and adjacent buffer areas next to the residential areas.

Mr. Brennan continued asking about the Variance for the overhead lines and if it adds to the positive criteria.

Mr. Kaplan objected stating that he did not testify about that.

Mr. Nehmad would like to raise a point of order. Mr. Brennan indicated that his client is not here this evening and there may come a time when we would like for him to be here and we respectfully submit that the Board may want him to be here. We don't have the ability as we would in normal litigation to subpoena his client. However, in Land Use Practices under section 10C of the MLUL, this Board has the right to issues subpoenas to compel the attendance of the witnesses.

Mr. Brennan disagrees with Mr. Nehmad; he states there is not language in the MLUL that would compel an interested party's appearance. The MLUL talks about witnesses, his client is not a witness, he is an interested party.

F. Costantini asked about the power lines around the back of the property and what the path is to get the power to the 6 to 9 buildings.

Mr. Gentile stated that they will be run from Route 322 in some fashion, maybe partially overhead and the service lines themselves would be underground.

P. Lott asked if there are any similar projects where the same utility installation has been applied.

Mr. Gentile state yes he has done projects where he has strung lines around the perimeters of the sites.

P. Lott continued asking about the water and sewer and if there are triggers for when they will start the actually process.

Mr. Kaplan stated that there are "will serve" letters from Aqua and they also have in the record, Aqua's application before the board of public utilities with regard to water. It is a little complicated but Aqua went to the board of public utilities to raise their rates throughout the State or service area based upon their investments in their overall system. One of the things that they did in this proceeding is they committed to spend 4.1 million dollars along the 322 corridor to install a water line and to install an elevated tank. They have committed to do so and when we are ready to develop we will enter into an agreement with them. We have finally gotten their commitment to build a water line. Mr. Wolfson went out and went to Logan and found someone with excess capacity and purchased that capacity. Aqua has had the franchise and in his view the obligation to serve the Township for a long time.

J. Descano asked if the developer is planning to maintain ownership of this property once it is complete, is that correct? Mr. Kaplan stated "yes". So then he is, therefore, going to be responsible to maintain the basins and keep them in good working order, correct. Mr. Kaplan stated "absolutely".

J. Maugeri asked about the electric lines and where the transformers are going to be. Me. Gentile stated that they could be on the poles or the ground it depends on what the power company would require for that particular user or building. For example, Retail "A" would probably be on the ground.

Chairman Schwager asked by eliminating that 3rd basin are they reducing the clearing limits substantially and keeping a lot of the vegetation there. Mr. Gentile stated that this is correct. Chairman Schwager stated by keeping all that existing vegetation that further helps to reduce and protect all the residential homes behind there. Mr. Gentile stated yes that is one of the reasons for doing it.

J. Casella asked if the water and sewer is just for the Commons or for all three phases.

Mr. Kaplan stated that his understanding is that Aqua has committed to build an elevated tank and water transmission lines that would serve the entire corridor.

With no further questions, Mr. Kaplan called their Traffic Engineer to testify.

Mr. Mark Roth was sworn in by Mr. Aimino.

Mr. Kaplan asked Mr. Ross to describe his education and his qualifications to testify before this Board.

Mr. Roth has been with McMahan Associates for 15 ½ years and is a Senior Project Manager. He oversees and manages the preparation of traffic impact studies, traffic signal design, and roadway/highway design for his company in both New Jersey and the Mid-Atlantic region.

Chairman Schwager accepted Mr. Roth's credentials.

Mr. Kaplan questioned Mr. Roth about the Traffic Impact Statement that is included as exhibit A-20 in the binder. Mr. Roth stated he did. The Traffic Impact Study is dated June 2012.

The purpose of the study is to analyze the traffic impact of "2" of the "3" components of the proposed development; those being Woolwich Commons as well as Woolwich Crossings. The study analyzed the impact of Woolwich Commons separately and then also analyzed Woolwich Commons and Woolwich Crossings combined. They studied up to 610,000 square feet of retail in Woolwich Commons and there is only 583,576 square feet proposed.

The scope of the traffic study including the intersections to be studied as well as the methodology to be used in the study were discussed and agreed upon with the NJDOT. The scoping approval letter that was received by the NJDOT is included in the appendix of the traffic study. The study includes a total of 19 intersections, 6 of which are "Site Access" intersections the other 13 are "Off Site" intersections. "9" of the 19 are signalized and "10" are what they call stop control with stop signs. The studied weekday A.M. peak; weekday P.M. peak as well as Saturday mid-day peak.

Mr. Roth continued describing how they calculate the trips around the Site and the improvements that will be made along Route 322.

With no further questions from Mr. Kaplan Chairman Schwager asked if there was anyone else that would like to questions Mr. Roth.

Mr. J. Brennan asked Mr. Roth if he analyzed this particular development as if it were a shopping center. Mr. Roth stated "yes, that is correct". Mr. Brennan asked if under the zoning that is in place for this particular development if it is a shopping center, or is it an amalgamation of individual uses.

Mr. Kaplan objected to this type of questioning.

Mr. Brennan asked what this application is proposed as in terms of the use.

Mr. Kaplan objected again because Mr. Roth was not brought in here to talk about what the zoning code provides or doesn't provide.

Chairman Schwager asked Mr. Roth if he is a licensed Planner. Mr. Roth stated he was not. Chairman Schwager stated that this Board would not take the testimony of a traffic engineer on anything that has to do with planning.

Mr. Brennan continued stating that this study analyzes this as if it is a shopping center. Mr. Roth stated that the traffic impact study analyzed this particular center as a shopping center. Mr. Brennan asked why that is accurate.

Mr. Kaplan objected to the question.

Mr. Brennan asked if there were any other options he could have chosen from as far as uses to prepare the study. Mr. Roth asked what he was referring to as "options". Mr. Brennan asked if it would change his analysis if he analyzed it as big box retail, fast food restaurant including drive through, sit down restaurant and bank including drive through uses.

Mr. Kaplan objected to the question. He has already testified three times that he has used the category of shopping center.

Mr. Brennan repeated the question.

Mr. Roth stated he is not sure if his analysis would change or the analysis results would change because he did not analyze it that way.

Mr. Victor Heresniak of 108 Patricia Drive was sworn in by Mr. Aimino.

Mr. Heresniak asked about right in, right out of the parking lot to the site because of safety issues.

Mr. Joe Delmar of 116 Saratoga Lane was sworn in by Mr. Aimino. Mr. Delmar's concern is with the "2" proposed traffic lights and if they will coincide with any development that will be done on the other side of the roadway.

Mr. Roth stated that it is his understanding through a review of the overall GDP that "yes" those driveways line up with the proposed driveways on both sides and the traffic signals would be used for both sides as will.

Mr. Delmar continued asking questions about the roadway improvements.

Mrs. Cynthia Jeanette of 119 Patricia Drive was sworn in by Mr. Aimino.

Mrs. Jeanette asked if Mr. Roth has physically driven down Route 322 on a Friday afternoon from the Commodore Barry Bridge all the way to Mullica Hill. Mr. Roth stated "yes" he has driven on 322 on a Friday afternoon, both eastbound and westbound.

Mrs. Jeanette asked about the right in turn lane. Mr. Roth stated that they will be 200' long and it will be a free flow movement so there will be no back up of those vehicles.

Mrs. Jeanette asked if all the lights will be synchronized including the light at Kings Highway and Route 322. Mr. Roth stated "yes" it has to be as per NJDOT.

With no further public comment Chairman Schwager asked for any Board Member questions.

Mr. F. Costantini asked if there were any material changes to what they are looking at today as opposed to the plan that was submitted during the Amended GDP. Is this still valid?

Mr. Kaplan answered and there were no changes.

P. Lott asked about the Route 322 Road design and if there are any other improvements.

Mr. Roth stated none that they are proposing.

J. Maugeri asked him to explain the signalization coordination that he spoke of and what does it do.

Mr. Roth stated that right now there is a signal at Kings Highway and one at the Turnpike. They operate separately; they do not talk to one another. With the coordination that they are talking about, each of the signals, meaning Kings Highway, their "2" new signals and the Turnpike signal will now be able to know that traffic is coming and that is done by an interconnect system. It will be a handled progression of vehicles.

J. Juliano asked if the light at Swedesboro/Paulsboro light will be part of the synchronization as well.

Mr. Roth stated at this particular time it is not one of the intersections that NJDOT has asked them to include.

Chief Marino asked if all the improvements will begin at the same time.

Mr. Kaplan stated that this is way down the line but when they start the improvements; all Phase 1 improvements will be done. There will be other improvements for the next development. So the answer is yes.

Chief Marino stated his main concern was Route 322 and Kings Highway with all the school busses coming through.

F. Costantini asked what will happen first.

Mr. Kaplan stated that he thinks it will happen all together. They have to get the NJDOT improvements; Aqua has to build water lines and sewer lines, so the whole kit and caboodle so to speak has got to come together at the same time.

With no further questions for this witness, Chairman Schwager called for a 5 minute break at 9:30 pm.

The JLUB meeting reconvened at 9:42 pm.

Mr. Kaplan called Mr. Muscara to testify.

Mr. Dominic Lance Muscara was sworn in by Mr. Aimino.

Mr. Kaplan asked Mr. Muscara to describe his educational background and employment to the Board.

Mr. Muscara has worked for BRR Architecture, Inc. as a Senior Architect since March of 2012. He performs coordination for new store development in projects like this; he performs project management duties, design, office management and construction administration. He primarily designs commercial buildings.

Chairman Schwager accepted his qualifications.

Mr. Kaplan continued to question Mr. Muscara about the Architecture Elevations for one of the buildings in the Woolwich Commons project known as Retail "A".

Mr. Kaplan asked who the proposed tenant is for that building to which Mr. Muscara stated "Walmart".

Mr. Muscara prepared the architecture elevations on behalf of Walmart. The elevations as submitted are the accurate for the design for all four sides of the building. Mr. Muscara provided additional renderings that were marked into the record as A-22a. They were submitted and reviewed the Township Planner.

There are 3 areas that do not comply with the Township Code. The first would be for the fenestration on the rear elevation of the building. The second would be for the use of chain link fencing along the rear of the building at 3 distinct areas and the third would be for one off-set along the front façade that is not as deep as required.

Mr. Kaplan asked if the applicant has requested variances from this Board to allow for the 3 architectural deviations noted in the Township Planners review letter. Mr. Muscara replied "yes".

Mr. Kaplan asked Mr. Muscara to go through each of the architectural variances and explain them.

The first one, Fenestration refers to windows and other openings in a building façade. The front and both sides of the building were designed to comply with the fenestration requirements of the code. Roughly 3% Fenestration is proposed on the rear façade of Retail "A". There is no public access on the rear of the building and will not be seen by the public. Mr. Kaplan asked if there is any reason why Walmart could not or would not put windows and public access doors on the rear of Retail "A" to comply with the fenestration requirements to code. Mr. Muscara stated it would be inadvisable to do that for a couple different reasons. The first for security concerns, the back of the building typically houses your loading, receiving, and your storeroom service areas so you don't want to have windows and openings that someone can break in to and possibly steal things. Also along the rear of the building, if there were to be additional fenestration such as windows, then the public may view that as a place to come and try to get into the building and the back of the building has truck and loading traffic, fork lift traffic etc., so it becomes a safety issue for the public also. So it is his opinion that it would be inadvisable to add additional fenestration as defined by the ordinance on the rear façade of this building.

The second variance is to allow a black vinyl chain link fence in three areas. One being an outdoor storage cage, somewhere between 120 to 180 square feet; the second area is along the compactor for the building and the third area is adjacent to the loading dock, which is a sloped loading dock that goes back into the building. This type of fence is much more durable than a decorative fence and is able to better protect those areas.

The third variance is for a vertical break on the front of the building. There are vertical breaks at least every 100' along the building but at one location the offset is only about 16" instead of 5'.

Mr. Kaplan asked Mr. Muscara to discuss the signage. There are "4" building mounted signs proposed. The first is the primary Walmart sign centered between the two entrances and is roughly 298 square feet in area. Sign #2 is the Market sign and is roughly 28.17 square feet. Sign #3 is the Home and Pharmacy sign and is approximately 97.66 square feet. The fourth and final sign is the Outdoor Living Sign and is approximately 77.17 square feet.

Mr. Muscara then discussed the materials that will be used on the exterior of the building and what they proposed falls within the guidelines of the allowable materials.

Mr. Kaplan had no further questions for Mr. Muscara.

Chairman Schwager asked if anyone would like to cross examine Mr. Muscara.

Mr. Jeff Brennan on behalf of Mr. Pagano asked about the first variance regarding the fenestration. He asked Mr. Muscara how he calculated the dimension for the fenestration.

Mr. Muscara stated that the calculation is taken by the overall square footage of the rear elevation and then factoring in the elements such as the doors on the back of the building and doing the math to come up with the number.

Mr. Brennan wanted to make clear that the fenestration requirement is as to the building. Mr. Brennan asked if Mr. Muscara knows what the definition of a building and if it includes the far left-hand side of the rear elevation which is a loading dock. Mr. Muscara stated that is the garden center not a loading dock. Mr. Brennan asked if the garden center is included in the building definition. Mr. Muscara stated that it is not included in the rear fenestration calculations. Mr. Brennan asked if it were included, that would result in a greater deviation from what the ordinance requires, is that true?

Chairman Schwager asked if it is required to be included. Mr. Muscara stated "no" it is not enclosed space so it is not defined as the building.

Mr. Brennan asked if he is basing that off of the definition of the building that is in the ordinance.

Mr. Muscara stated that it would be less of a deviation.

Mr. Brennan asked about them creating a flatter fenestration for security.

Mr. Muscara stated that the opinion is that openings and windows would not be advisable for security purposes.

Mr. Brennan asked what he based that opinion on, is there a study to support that?

Mr. Muscara stated that Walmart as a client and their store operations understands their business; they do not desire to have windows into their storeroom.

Mr. Brennan stated that doesn't have to do with security. Mr. Muscara stated that it does.

Mr. Brennan asked if someone from Walmart told him to not design it to the code because of security requirements. Mr. Muscara stated "no" they did not.

Mr. Brennan asked where the basis for the testimony that this is for security reasons came from. Mr. Muscara stated "common sense and good architectural practice".

Mr. Kaplan objected and stated that common sense is a logical answer.

Mr. Brennan asked if it is common sense, than why would the ordinance require 10%.

Mr. Kaplan stated that they are not here to debate the ordinance, and he objects to his question.

Chairman Schwager stated that they are not here doing a Master Plan re-examination where we are investigating our ordinances.

Mr. Brennan stated that he is just trying to find out the basis of his testimony. So in his opinion is it fair to say the ordinance doesn't make common sense.

Mr. Kaplan objected.

Chairman Schwager again stated that they are not debating the ordinance.

J. Descano stated that he testified that they are asking for a Waiver and no Waiver has been granted yet, we are considering it and this Board has the authority to Grant such a Waiver if we are so inclined. He believes the question has been addressed.

Mr. Brennan disagreed to the extent that it is a Variance and not a Waiver but more specifically, if he (Mr. Muscara) is saying that the ordinance which is 10% doesn't make common sense, he feels that is pertinent testimony.

Mr. Muscara stated that he is putting words in his mouth, he never said that.

Mr. Brennan continued his questioning with the black coated vinyl fences and what is proposed to go in those areas.

Mr. Muscara stated the first cage that he described is an outdoor covered storage cage and is labeled as an environmental cage and normally that area is used for things like used car batteries. So, Walmart may sell car batteries in the store where you can exchange your battery but they cannot store used batteries within the store, it has to be in an enclosed outdoor area. It would be but there, it is locked and secure and outside the building.

Mr. Brennan asked if only batteries will be stored there. Mr. Muscara stated that as far as he knows it would be primarily batteries, but he cannot predict what they will use it for, he does not operate the building.

Mr. Brennan asked what is proposed for the other areas.

Mr. Muscara stated that as he stated in his testimony, one area has a compactor the other area has a loading dock.

Mr. Brennan stated so of the two areas one will be black coated vinyl and the other is plain chain-link.

Mr. Muscara stated that any chain-link fence will be black coated vinyl.

Mr. Brennan continued discussing signage and asked how the area of the signs was calculated.

Mr. Muscara stated how the calculations were made for the signs.

Mr. Brennan stated that in Mr. Muscara's testimony his opinion was that this signage package was consistent with the signage package that was approved with the GDP. Mr. Muscara agreed. Mr. Brennan asked him to explain the basis of his opinion.

Mr. Muscara stated that he reviewed the requirements for the allowable signage against what they were proposing and it was in agreement with that.

Mr. Brennan asked if the signage plan spoke about content, what the signs say.

Mr. Kaplan objected the Ordinance can't under the first amendment control content.

Mr. Brennan stated that the witness's testimony was that the plan was consistent with what is being proposed tonight, he is trying to ascertain the basis of his opinion for that consistency.

Mr. Kaplan stated that he already testified that he looked at the sign package and compared what he was proposing to the sign package.

Mr. Brennan asked what specifically he was looking at to determine the consistency.

Mr. Muscara stated quantity and size of signs.

Mr. Brennan asked, not color, not content, not copy?

Mr. Muscara stated that to his understanding and his review the sign package does not control content or copy.

Mr. Brennan had no further questions.

Ms. Erica Voll of 5 Gabriele Circle was sworn in by Mr. Aimino.

Ms. Voll stated that there are 4 or 5 other Walmarts in the area and is wondering if there are any other that look similar to the elevations that is being proposed.

Mr. Muscara stated there are several in the Delaware Valley and Philadelphia region that appear like this but the design kind of changes as time goes on.

J. Descano asked about the basis for this particular design and is this the current prototype that Walmart is using or was this designed according to our design standards.

Mr. Muscara stated that it is a hybrid at this point. It started with a prototype but they took a look at the design standards and this incorporated some of the things that would help bring the prototype in to compliance with that, but this is not an off-the-shelf per say it has been modified to fit the site.

Painted finish vs. colored block was discussed.

J. Juliano asked how high the chain link fences would be. Mr. Muscara stated at the loading dock it is typically 4', around the compactor opening approximately 5' to 6' and the environmental cage has a roof over it so it may go up to 10'.

Chairman Schwager asked about the fenestration on the rear of the building and what needs to be done to get to the required 10% to meet the ordinance.

Mr. Muscara stated they would need to add windows and decorative elements like false archways.

Chief Marino stated that it should be left the way it is for security reasons and he is sure Walmart has a security team that has looked at this and probably has had problems in the past and that is how they came up with this design. He feels it should be left alone, there is enough problems keeping the shoplifters out let alone worrying about the back.

J. Maugeri asked with the lack of fenestration in the back does everything still comply as far as fire code access. Mr. Muscara stated absolutely.

F. Costantini which professional will give us the data as to what portion of this building is visible to the residents on the other side. Will the public be able to see the back of this building?

Mr. Kaplan stated that they have shown a number of the neighbors who live in the back sections how the building will look.

P. Lott asked when the Walmart design takes the next step to enhance it for the community, does the Board need to request them to do it or are there multiple different styles.

Mr. Muscara stated that typically the design is done to meet the requirements of the local zoning ordinance. The standards vary by location so we typically design to the standards of that location.

F. Costantini asked if there would be open retail in the front of the store.

Mr. Muscara understands that outdoor sales will be prohibited so Walmart will comply with that.

Mr. Kaplan stated he has one more witness but because of the late hour he would like have a continuance to August 15th.

Mr. Aimino added that they need waive all statutory time periods. Mr. Kaplan agreed.

Chairman Schwager stated that they agree to adjourn this meeting for the night and the next meeting will be August 15th, there will not be any certified public notice, this is the public notice that this meeting will reconvene 7:00 on August 15th.

Extensive discussion took place between Mr. Nemas and Mr. Brennan over the issue of his client, Mr. Frank Pagano, and whether he needs to appear before this Board along with any reports that Mr. Brennan may have to supply them 10 days prior to the hearing.

With nothing further to discuss, Chief Marino made a motion to adjourn which was seconded by J. Maugeri. All were in favor

The JLUB meeting adjourned at 10:36 pm.

Respectfully submitted,

Christina M. Marquis
Joint Land Use Secretary

***Minutes not verbatim
Audio recording on file***