

**DELANCO TOWNSHIP PLANNING BOARD  
REGULAR MEETING  
SEPTEMBER 2, 2008**

Ms. vanGenderen called the meeting to order and led the flag salute.

**Sunshine Statement:**

Please be advised that proper notice of this meeting has been given in compliance with the Sunshine Law in the following manner. Written notice has been mailed to the Burlington County Times and Courier - Post newspapers and published in the January 7, 2008 editions. Written notice has been posted on the official bulletin board of the Township of Delanco at least 48 hours prior to the meeting.

**Present:** Mr. Ouellette, Mr. Templeton, Ms. Mader, Mr. Martin, Ms. Moore, Ms. vanGenderen, Mr. Denlinger, Ms. Jass, Mr. Taraschi  
**Absent:** Mr. Lord, Mr. Matulewicz

**Continued Applications:**

**Robert T. Winzinger, Inc.  
Block 1900, Lot 7  
900 Coopertown Rd.  
I-2 General Industrial Zone  
Site Plan Waiver Resolution Review**

Ms. vanGenderen advised the public that a resolution for this application was discussed during the Board's work session. There were many comments on the resolution and those comments will be communicated to Mr. Serlin. The application will be continued until the October 7, 2008 meeting.

**Greyhound Friends of NJ, Inc.  
Block 2100 Lot 11.02  
307 Creek Rd.  
I-1 Light Industrial Zone  
Use & Bulk Variances**

Ms. vanGenderen asked Mr. Taylor to bring the Board up to date on what had happened since the last meeting. Mr. Taylor stated that there were several issues that the Board had concerns about relating to possible modifications of the plan to reduce some impacts, particularly to the parcels to the rear of the property. Mr. Taylor detailed the possible modifications. Mr. Taylor met with Mr. Wallace to go over some of the Board's suggestions. Mr. Taylor believed that Mr. Wallace had reviewed the suggestions with the applicant. It seemed the applicant wanted to maintain the testimony and the proposal from the presentation at the July Board meeting. Mr. Taylor felt the applicant and their attorney should provide a summary for the Board.

Ms. Smith, attorney for Greyhound Friends, stated that Linda Lyman, President of Greyhound Friends, and William Brouillard, a Greyhound Friends Board member with construction experience, were present on behalf of the organization as was Robin Mohrmann the current property owner. The Board had previously received an architectural outline of the proposed

kennels. Ms. Smith also had copies of a brochure which described more of the construction details of the kennel. She distributed the brochures to the Board. Mr. Germano marked the "Before and After Renovations" brochure as Exhibit A-2, he marked the "Why We're Better" brochure as Exhibit A-3, and he marked the architectural plan as Exhibit A-4.

Ms. Smith emphasized several points. She described the time table that would be used by Greyhound Friends to make the improvements to the property. Ms. Smith stated that in the event of overflow parking for different fund raising events the organization would use the grass. She went over different suggestions made by Mr. Taylor. Moving the fence would limit their use of the property. There had been discussion regarding relocating the building which would not work and there had also been discussion about placing a wall at the open end of the kennel but that would affect ventilation. Ms. Smith stated that the applicant had carefully considered the suggestions and she asked Ms. Lyman to describe some of the problems with the Board's suggestions. Ms. vanGenderen referenced a letter from Mr. Wallace dated August 14, 2008 which stated that there were no changes to what was proposed at the previous meeting. Ms. Lyman confirmed that was correct and that the witnesses could respond to any questions from the Board. She discussed the problems with the suggestions of moving the building and the dog runs. Mr. Germano marked Mr. Wallace's August 14, 2008 letter as Exhibit A-5. Ms. vanGenderen commented that she did not know if the other Board members were inclined to hear more testimony because it seemed as though this was the same application that they were entertaining at their last meeting. Ms. vanGenderen left it up to the Board as to whether they would like to hear more testimony or take a vote. Ms. Smith said the applicant had nothing further to present.

Ms. Moore asked Mr. Taylor about whether the new unit would trigger a COAH contribution. Mr. Taylor believed it would. Mr. Taylor suggested that if there was a favorable motion the Board may want to include a condition that makes reference to the COAH contribution. Mr. Germano said that there would be a COAH impact for the expanded kennel too because it has been approved but not built. Mr. Taylor explained what the COAH impact would be.

Ms. vanGenderen noted for the record that Mr. Templeton and Mr. Oullette had stepped down from the dais and had not participated in the discussion regarding this application.

Mr. Germano summarized that this was a use variance application and would require five affirmative votes. Mr. Germano informed Ms. Smith that only six members would be eligible to vote and asked Ms. Smith if she wanted to move forward on that basis. Ms. Smith said that they were willing to go forward. Mr. Germano explained that there was a problem with one of the Board member's paperwork so he had advised that person not to vote.

Mr. Taraschi asked how many dogs were allowed under the current use variance. Ms. Mohrmann, the current property owner, responded that she was approved for 24 dogs. Mr. Taraschi stated that he believed Greyhound Friends would have fewer dogs. Mr. Taylor stated that testimony from the prior hearing was that there would typically not be more than 13 dogs and but that they would never exceed 19 dogs. Mr. Taraschi commented that they would not be reducing the kennels and runs that are available. Mr. Taylor confirmed that that was correct.

Ms. Jass asked if the public would be able to comment on the application or if the Board would just vote because she noticed that there were some unfamiliar faces in the room. Mr. Martin pointed out that there was no new testimony provided. Because of this the public could comment

on the handouts of today but not on the testimony from before. Ms. Smith had extra handouts that were available for the public.

Mr. Taraschi asked how long the property had been out of use as a kennel. Ms. Mohrmann responded that it had been since March of 2008. Ms. Smith clarified that the property has not been used as a kennel because Ms. Mohrmann had anticipated a real estate closing. Ms. Mohrmann stated that if the sale does not go through she intends to reopen the kennel. Ms. Jass asked Ms. Mohrmann how old the septic tank was on the property. Ms. Mohrmann stated that it was 10 years old. The septic tank was built for double the size of the kennel as was the heating and air conditioning. Ms. Jass asked about how the use of disinfectant and other chemicals affected the functioning of a septic tank. Mr. Dougherty stated that certain chemicals would not be conducive to a septic system, but his understanding from previous testimony was that waste would be bagged and hauled away and would not be going into the septic system. Ms. Mohrmann provided information about the drains in the dog runs and chemicals used.

Mr. Denlinger asked if Ms. Mohrmann would have to go back to the Planning Board if she decided to reopen the kennel. Ms. Mohrmann asked if she would just need building permits if she wanted to expand. Mr. Germano responded that it was the apartment that was triggering the need for the new approval. He had not looked at her site plan application so he could not comment on that, but if Ms. Mohrmann was approved for 24 dogs and a bigger building she would just need to get a building permit.

Mr. Taraschi asked Ms. Smith about the New Jersey Administrative Code. Ms. Smith replied that her applicant has to adhere to state law and to any regulations that apply to them. Mr. Taraschi asked Ms. Smith if there would be any objection to mention of the code being included in a resolution if the Board voted to approve. Ms. Smith had no objection to that.

Ms. vanGenderen opened the hearing for public comment.

**Public comments:**

Carol Lapp – 45 Pennington Court – Ms. Lapp raised concerns about the current kennel increasing in size. She raised concerns about waste disposal including bedding and about dog hair going into the septic tank. Ms. Lapp asked the Board to have the septic system tested before the kennel re-opened. Mr. Germano informed Ms. Lapp that the Board has no jurisdiction over that issue. When a building permit is obtained it will have to be proven to the construction code official that the septic system is functioning properly. The County Board of Health has jurisdiction over septic systems.

Patrick McIlroy – 41 Pennington Court – Mr. McIlroy explained that he is a professor in the Biology Department at Rutgers University and has been a member of the Animal Facilities and Care Committee for about 10 years. He has some familiarity with regulations concerning animals and their care. Mr. McIlroy expressed concern about the number of animals that would be allowed at the kennel. He asked if the variance would restrict the animals housed at the kennel to greyhounds only. Mr. Germano replied that the applicant has applied only to house greyhounds and in the event the Board says yes that is all that will be approved. Mr. McIlroy also expressed concerns about the septic system. Ms. Moore asked Mr. McIlroy what his preference would be regarding the use of the property. Mr. McIlroy said he would prefer the new use. He then asked what sort of buffering would be required. Ms. vanGenderen said buffering

was her concern as well because it was her understanding from Mr. Taylor that the applicant had proposed no change to the current situation. Mr. Taylor confirmed that was correct. The applicant prefers to move forward with the buffer that exists. There was additional discussion about various buffering options.

Richard Kauffman – 39 Pennington Court – Mr. Kauffman had a letter from Francis and Theresa Dolan of 33 Pennington Court. Mr. Germano told Mr. Kauffman the letter could not be admitted into evidence because it was hearsay. Mr. Kauffman stated that he was concerned about visual privacy and property values. He discussed a property owner who extended his back fence from 6 feet in height to 9 feet so that he could sell his property.

Ms. vanGenderen brought up her concern about the buffer issue. She asked Mr. Germano if it would be appropriate to ask the current owner to do something about the buffer. Mr. Germano responded that the living quarters are the reason why a use variance is required, not the buffer. When a use variance is denied it needs to be denied for reasons that relate to the use. Mr. Taylor commented that the fact that there would be a residence allows for deliveries on potentially a 24-hour basis. The buffer would then become tied not only to the everyday operation but also to the existence of the residence and to possible headlight glare from the driveway. Mr. Taylor did not feel that there was a complete disconnect between the residential unit and the lack of a buffer. Mr. Germano then agreed that there was a tie-in between the residence and the buffer.

Ms. Mohrmann stated that she would not mind addressing the buffer issue with a higher fence or more trees. Mr. Germano stated that buffering would normally be discussed in connection with a site plan. The applicant has been telling the Board they can't give up space to a buffer along the back edge. The owner's willingness to plant trees complicates matters because the applicant does not want an increased buffer. Ms. Smith stated that keeping the neighbors happy would be of significant importance to the applicant however the lot does not allow for the type of use they are proposing if they lose square footage to a buffer. She did not want the public or the Board to think that the applicant was just being difficult, it is just the reality of this particular lot and the needs of the dogs.

Mr. Taylor commented that he was not sure the problem was a lack of space. There is an area that is central to the property that would actually increase the dog run area but it would require reconstruction or reconfiguration of the existing dog run area. The applicant could actually preserve a 50 foot buffer along the side and rear yard properties and expand the run area. Ms. vanGenderen referenced item #4 in Mr. Wallace's letter. Mr. Taylor also stated that a more effective buffer could be created if the fence were reconfigured and if some evergreens were planted. The applicant seems to be unwilling to implement some of those suggestions in order to mitigate the Board's and the public's concerns.

Since there were no further comments Ms. vanGenderen closed the hearing to the public.

Mr. Denlinger asked if the property could change hands with the use as is without a new owner having to appear before the Board. Mr. Germano stated that the variance runs with the land. Mr. Taraschi commented that the Board could do a resolution on the use variance and even if they vote in favor the applicant still has to come back with a site plan. Mr. Germano added that site plans that result from use variances have to satisfy the negative criteria that always go along with such variances. The use variance could be granted. If the applicant refused to put in a buffer and as a result the Board came to the conclusion that the site plan would adversely affect the

neighborhood, the site plan could then be denied. Mr. Taylor added that the Board could look at the negative criteria under the use variance and say that the concerns of the negative criteria have not been met. The decision could be made at either hearing. The applicant has said this is all they can do. They do not want to get the use variance and have the Board expect them to do a tremendous level of design work. It may make sense to make the decision now rather than drag it out. Ms. Smith reiterated that the applicant wanted to be straightforward about their capabilities. They have tried to be as open as possible with the Board so that a decision can be made. They do not want to come back later and have arguments on the site plan.

Mr. Taraschi pointed out that between the fence and the Newton's Landing properties there is anywhere from 24 to 27 feet of space. He asked if the applicant planned to move the existing fence. Ms. Smith replied no. He then asked what was in between the Newton's Landing property lines and the fence. Ms. Smith replied that there were trees already there. Mr. Taraschi pointed out that Mr. Taylor felt more could be done for a visual screening. Mr. Taraschi felt that if they were building an addition there may be a good reason to have some additional visual buffer. Ms. Smith stated that there were already trees there and that was the basis for the applicant's decision to continue with the existing buffer.

Motion made by Mr. Martin that the Board approve the application with the condition that any COAH obligations generated by the efficiency apartment or an additional tax assessment be assessed to the applicant. Ms. Moore seconded the motion.

Those voting in favor:

Mr. Martin thought after reviewing the first packet that he was never going to approve the application but he now thought they had made their case.

Ms. Moore also had severe reservations as well but she thinks looking long term, particularly with respect to the residents who are closest to this property, that what the applicant is proposing and what they are going to be held to is less of an impact than if the current owner can do what she currently is permitted to do and is not required to go back to the Board for anything else. You could end up with something that would be a lot more detrimental to property values. She thought this was a better option for the residents and that is why she is voting yes.

Those voting against:

Ms. Mader did not feel that this was a match made in heaven. She did not feel that this was the right site and she was very sorry about Ms. Mohrmann but it just doesn't seem like it's going to work and she would hate to see everyone continue down this road.

Ms. vanGenderen agreed with Ms. Mader. She felt that the site just wasn't suitable and if the certain requirements that the Board felt were necessary could not be met then she thought they were trying to shoehorn a use in where it was not appropriate.

Ms. Jass agreed with Ms. Mader and Ms. vanGenderen. She felt that the applicant tried very hard to meet the criteria but at this time she really did not feel they had met the requirements that have been requested by the Board's professionals.

Mr. Taraschi was very torn over his vote but felt he had to vote no. He saw an advantage to having a change in use, but he saw a greater disadvantage. There had been testimony that the lot was tight for the proposed use and yes there may be a worse use already approved. That is something the Board has no control over. They do have control over future uses. There is no indication of any willingness to give on the visual buffer which to him was greatly important not specifically for the use variance itself but he thought it was inextricably combined into it. The applicant's own testimony was that it was a tight lot for the uses they envisioned so he votes no.

**Seeth, Patricia L.  
Block 1003 Lot 15  
911 Third St.  
R-4 Single Family Residential Zone  
Bulk Variance**

Ms. Moore recused herself because she lives within 200 feet of the property. Mr. Ouellette and Mr. Templeton rejoined the Board.

Jeffrey Snow, Esq. appeared on behalf of the applicant. Mr. Snow summarized the testimony that had been given at the August meeting. Ms. vanGenderen stated that the application needed to be deemed complete. Mr. Dougherty reported that he had received a letter dated August 14, 2008 from Mr. Snow with architectural sketches enclosed. Mr. Dougherty described the various sketches he had received. He stated that because this was the only outstanding issue and because he felt the sketches gave the Board enough information about the addition, he recommended that they be accepted and the application deemed complete.

Motion for completeness made by Ms. Mader, seconded by Ms. Jass.

Those voting in favor: Mr. Ouellette, Mr. Templeton, Ms. Mader, Mr. Martin, Ms. vanGenderen, Ms. Jass, Mr. Taraschi

Mr. Germano asked if the porch would be higher than the existing home. Ms. Seeth responded that it would be the same height. Mr. Germano confirmed with Ms. Seeth that her home did not exceed the maximum height in the zone so she did not need a height variance.

Ms. vanGenderen asked about the drawing that was presented with the application. The drawing detailed the R-4 residential standards and what is required but there was no information on existing conditions. Mr. Snow responded that they did not list what was existing because everything requires a variance. Mr. Dougherty commented that if the conditions pre-exist, the variances do not necessarily need to be granted again.

Mr. Taylor discussed details about the porch. There are existing front yard and East side yard setbacks. The ordinance allows porches to extend up to 7 feet into the front yard setback. This porch happens to extend greater than 7 feet but not further than the existing non-conforming garage. Mr. Taylor discussed various details about the porch with Ms. Seeth. Mr. Snow commented that he felt that if any lot met the uniqueness characteristic for granting an application this one clearly does.

Ms. vanGenderen asked Mr. Dougherty if there were any engineering issues. Mr. Dougherty replied no. The only issue was that the building coverage would increase so there would need to be a building coverage variance which Mr. Snow had already asked for. Mr. Dougherty stated that the structures were already there so there was no impact from a drainage standpoint for the porch because the garage is already impervious and the addition is minimal. Mr. Taylor said that he was not sure how the calculation for building coverage was done. He would like to make sure the calculations included the porch and the garage. There is a big discrepancy between lot coverage and building coverage and Mr. Taylor wants to make sure Robbins Associates didn't miss something. Mr. Taylor asked that the impervious coverage and building coverage calculations be double checked and put on the plan. Mr. Snow will ask Mr. Robbins to check the calculations. Mr. Taylor requested that Mr. Robbins amend the zoning chart to show the

accurate requirements, the existing conditions, and the proposed conditions of the zone. Mr. Germano summarized that four variances are needed: front and side yard as well as lot coverage and building coverage.

Ms. vanGenderen opened the hearing to the public and since there were no public comments the hearing was closed to the public.

Mr. Taraschi asked if there should be a stepped back approach to the addition. Mr. Taylor discussed details about the site. If this were an addition where the solid wall came all the way out Mr. Taylor would be much more concerned, but the plan is for a roofed open porch. Because there are so many trees and so much open space and because the flat area above the garage was already being used as a patio he was not quite as concerned. Ms. vanGenderen commented that there are no residences directly across the street that face the house. Ms. Mader commented that she would consider if it were her house leaving the front 4 feet of the garage uncovered just because it gives it that step back. Mr. Snow commented that the houses that sit on either side of Ms. Seeth's house on the opposite street are set away from her house. They sit to the far side of each lot. Mr. Snow believed there were some garages farther down the street that had two stories and were right on the street.

Mr. Germano confirmed for the record with Ms. Seeth that she is the owner/occupant of the house.

Motion made by Ms. Mader to grant the variance, seconded by Ms. Jass.

Those voting in favor:

Mr. Ouellette felt that the enclosed porch above the garage would enhance the architecture of the house facing 3<sup>rd</sup> Street. He did not believe that it would have any negative impact to the neighbors on both sides where their backyards actually face this particular house.

Mr. Templeton

Ms. Mader felt that the addition made the house more livable and more in line with the other kinds of houses in the neighborhood even if the lot was a little different.

Mr. Martin, Ms. vanGenderen, Ms. Jass

Those voting against:

Mr. Taraschi felt that the squaring off of the property was absolutely a "yes" under any circumstance, but given the unique smallness of this lot and therefore overbuilding of this lot he did not think it was appropriate to perpetuate yet another addition to the property. He did not think it was appropriate to say that simply because it is already overbuilt that you should continue to overbuild it.

### **Open Meeting to the Public:**

There being no public comment the meeting was closed to the public.

### **Minutes:**

The following minutes were approved by the Board members eligible to approve them:

February 13, 2008 Work Session & Regular Session Minutes

August 5, 2008 Work Session & Regular Session Minutes

**Correspondence:**

There was no additional correspondence.

**Comments from the Board:**

Ms. Jass wanted to know when the meeting on the COAH Master Plan would take place. Mr. Taylor explained that an initial meeting had taken place on August 28 that included Michelle Taylor, Mary Beth Lonergan, Roseann Lameiras, Janice Lohr, and Carla Sarlo. The purpose of that meeting was to get a snapshot from some of the internal people so as to not waste the time of the subcommittee members. Ms Lonergan was to do some statistical analysis before getting policy direction from the subcommittee. Mr. Taylor said that it was his understanding that Ms. Lonergan was trying to facilitate an evening meeting with the subcommittee. He said he would reach out to Ms. Lonergan now that the holiday was over. Ms. vanGenderen had forwarded Ms. Jass's e-mail directly to Ms. Lonergan so she would know that Ms. Jass was one of the subcommittee members.

**XIII. Adjournment:**

Motion to adjourn the meeting made by Ms. Moore and seconded by Ms. Jass. The voice vote by the Board was unanimous in favor.

Kitty Martin

Approved: October 7, 2008