

**DELANCO TOWNSHIP PLANNING BOARD  
REGULAR MEETING  
OCTOBER 7, 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, Mr. Lord, Ms. Mader, Mr. Matulewicz,  
Ms. Moore, Ms. vanGenderen, Ms. Jass, Mr. Taraschi  
**Absent:** Mr. Martin, Mr. Denlinger

**Board Professionals:** Nancy Abbott, Esq. in place of Denis Germano, Esq., Board Attorney; Robert Callaway in place of Hugh Dougherty, Board Engineer; Scott Taylor, Board Planner

**Continued Applications**

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

Ms. vanGenderen stated that the Board had received the resolution at a previous meeting and there had been several questions about it. She believed that all questions had been answered but if not, Mr. Serlin was in attendance to listen to any concerns and make necessary changes.

Mr. Matulewicz, Ms. Moore and Ms. vanGenderen recused themselves from the hearing and Mr. Lord stepped as chair.

Mr. Lord asked Mr. Ouellette if he still had some concerns that needed to be addressed. Mr. Ouellette replied that he was concerned that reference to the Limited Class B Recycling Center was still in the resolution. His concern was mainly because the resolution is granting a waiver of site plan approval and Mr. Ouellette was concerned that if someone were to glance through the resolution they might think that the Planning Board had discussed the Recycling Center and they would get wrong idea. Mr. Serlin replied that this was a great comment and as soon as he had seen it in Mr. Ouellette's e-mail he changed the resolution and added language stating that the Board was making absolutely no findings regarding the Recycling Center. Mr. Serlin thought there should be a record that something was said because there was a lot of testimony and the Board clearly said that the Recycling Center was not part of the application. Ms. Jass asked if the language regarding the Recycling Center would open the door to misinterpretation. Mr. Serlin felt that there was no way the language could be misinterpreted. Mr. Taraschi stated that he had read the e-mails that had gone back and forth regarding the resolution and he understood Mr. Ouellette's concerns, but he agreed with Mr. Serlin. If there isn't anything mentioned in the resolution a judge can say it was discussed and it's not even mentioned. Mr. Taraschi thought that Mr. Serlin was absolutely correct and that the Board would be better protected. He understood the other

argument but it was his point of view that it was much better to put the language in to say specifically that the Board made no ruling on it than to ignore it. Mr. Lord asked Ms. Abbott if she agreed. Ms. Abbott did agree. She added that if the resolution is silent regarding any issue that was discussed on the record then the transcript will be looked at which would leave the situation open to judicial interpretation. By saying that there are no findings it means that despite what was discussed about it the Board did not make a ruling one way or the other so it is a non-issue as far as the resolution and the decision is concerned. Mr. Lord asked Mr. Taylor if he had any concerns and Mr. Taylor did not.

Mr. Templeton stated that he was still troubled by the language that referred several times to the applicant seeking approval from the DEP regarding a Limited Class B. That was not why Winzinger came before the Board. The reason they came before the Board was because of numerous citations regarding how they were using the property for storage of equipment and for lack of a visual buffer. Mr. Templeton did not want any reference to a Limited Class B anywhere in the resolution. He felt the scope of the resolution should be limited to why they were before the Board. The transcript would always be available for review. Mr. Serlin replied that he respected Mr. Templeton's opinion but he did not agree because that was the testimony presented. The language in the first paragraph of the resolution states that the Board is making no findings but the Board cannot avoid the testimony that was presented and Mr. Serlin felt that it was an accurate reflection of what was said. The language is not saying the Township granted any approval or if the Township even had jurisdiction to grant approval. It factually recites what was stated by Mr. Hunter Taylor as part of the presentation by the applicant. The discussion was part of the record. The resolution is a factual recitation of what was said whether or not it resulted in the granting of any approvals. Ms. Mader stated she knew there was a concern about making a finding regarding the Recycling Facility and she was very glad Mr. Serlin had put the statement that no findings were made in paragraph 1. Ms. Mader felt an accurate reflection of what was discussed was important. She liked the clarity in the resolution.

Mr. Templeton stated that there was no resolution of the buffering matter. Mr. Taylor responded that the resolution discussed that the final buffering had been left as a condition of approval not a condition that needed to be satisfied for the resolution to be adopted. Mr. Taylor then stated that the buffer issue had been resolved, they have come up with a berm design that was discussed at the Board meeting, and the plans have been revised and reviewed by both Mr. Taylor and Mr. Dougherty. They have not responded because they need the resolution to be adopted to memorialize that. They had a meeting with representatives of Winzinger and NVR to further explain what was happening. NVR originally did not want any soil or plants put on their property but after further discussion they issued a verbal approval which will be provided in writing. Copies of those agreements will be provided to council and to Mr. Dougherty and Mr. Taylor. If at some point Winzinger was not able to effectuate an agreement they would have to go back to the Board because the deal fell through. Winzinger has to satisfy the Board professionals and Mr. Taylor is confident that they will based on the meeting that took place. Mr. Taylor discussed details regarding the berm and plantings. Mr. Templeton felt that all of the details regarding the buffering issue should be included in the resolution because that was one of the reasons why Winzinger had appeared before the Board. Mr. Taylor responded that the findings at the meeting were very general and the details of the buffering plan were to be approved by himself and by Mr. Dougherty and the Board voted in the affirmative on that. There are conditions in the resolution that say Winzinger has to meet all of those conditions. Mr. Templeton replied that he would like to see everything relating to this included in the resolution because Winzinger does not have a good record of providing accurate information. Mr. Lord stated that he agreed with Mr. Templeton on this point. He asked what paperwork would be done as a follow up to make sure everything is taken care of. Mr. Serlin replied that during this entire process he had suggested to Mr. Hunter Taylor that his client's credibility was questionable at times. For that reason Mr. Taylor felt compelled to present some of the Recycling Center testimony to the Board. So the applicant is aware of the Township's lack of

acceptance of their candor. However, the applicant has been pushing to get the resolution and the plans done and Mr. Serlin believed that NVR was the problem. It is standard practice to trust the design professionals with these types of details. Mr. Serlin felt that the resolution in paragraph 11 gave a lot of direction to the Board's professionals. If the professionals had a question about what was being done he was sure they would go back to the Board to get further approval. The Board can even decide that the plans need to be brought back to them for sign off. Mr. Taraschi stated that the resolution was supposed to memorialize the actions that were actually taken by the Board. What was actually decided was that the buffer design is to be reviewed and approved by the planner and engineer and so the resolution accurately states that. Furthermore, in paragraph 11 in response to Mr. Templeton's questions about follow up it also says the berm shall be subject to the review and approval of the Burlington County Soil Conservation District. So there is another step that Winzinger has to go through and receive approval. That is one extra level of assurance that the Board has that the applicant has done what they were supposed to do. Mr. Taraschi felt the Board should vote favorably on the resolution as it is now written.

Ms. Jass stated that her only other concern was regarding the definition of the existing average grade on the property. She felt that this issue was open to interpretation if there was no defined average grade. Mr. Taylor replied that his understanding was that Winzinger could only place material on top of the ground and remove material in the same way. They cannot excavate because of the landfill issue and this is why they are not allowed to place the landscaped berm area or plant trees on their site. Mr. Taylor went on to describe the property and discuss the existing average grade. The resolution says that Winzinger can create piles 20 feet high on the site with the existing grade. They cannot come in and raise an area and then put a 20 foot pile on top of the raised area. Mr. Serlin asked if there was a note on the plan. Mr. Callaway stated that a note could be added that referenced the grades that were found as of a certain date. That would give them a baseline. There was further discussion regarding the grading of the property. Mr. Serlin read from paragraph 12 of the resolution that "no materials shall be stored in excess of 20 feet in height above the existing average grade". Mr. Taylor said that his interpretation was that the existing topography that is on the property, exclusive of the material that is being piled, is the average existing grade. Mr. Taylor went on to describe how the height of the piles would be measured. There was discussion regarding how the resolution should be worded in order to reference the site plan. After the discussion Mr. Serlin summarized the language that would be included in paragraph 12 of the resolution. A note will be added to the plan as well.

Mr. Templeton asked Mr. Taylor if he had received the field investigation report regarding the landfill disruption permit. Mr. Taylor said he had not. Mr. Templeton stated that Delanco Township has no method or means to determine where Winzinger can and can't do things on the property. Mr. Taylor replied that it was his understanding that the Township Clerk would be copied on the submission. Mr. Serlin added that it is a condition of the approval that Delanco Township has to be copied and this condition is stated in item 9 of the resolution. Mr. Templeton stated that he had an appointment at the DEP to get a copy of the field investigation report from December 2007 that Delanco Township has not received. Mr. Serlin replied that he would contact Mr. Hunter Taylor about the problem. Mr. Templeton asked about the Board's discussion regarding the Limited Class B facility. He asked where the operation was depicted on the site plan. Mr. Taylor replied that it was not specifically shown on the landscape berm plan. Board members recalled that the applicant testified that the operation would be located to the rear of the property. Mr. Templeton had a letter from the DEP dated June 2008. It was the DEP's understanding that recycling operations would be conducted in the southwest portion of the parcel which is in the opposite corner. Mr. Taylor asked if the Limited Class B had been approved. Mr. Templeton replied that this was a letter from the office that receives the field investigation report. Mr. Serlin stated that when he had spoken with Mr. Hunter Taylor last week he indicated that he didn't think Winzinger was going to get the permits because there was so much knowledge of Delanco Township's concerns at the DEP. That is why Mr. Templeton does not want any mention of the recycling operation

in the resolution. Mr. Templeton emphasized that there was a long line of Winzinger not doing what they said they were going to do, there is a long line of information of Winzinger saying one thing and other information and other facts taking place. Mr. Templeton felt that every little area of interpretation or latitude needed to be nailed down firmly in the resolution. Mr. Serlin stated that he would check with Mr. Hunter Taylor and advise him that the documents haven't been received. Mr. Serlin said that Mr. Dougherty would check on that issue as well.

Mr. Lord asked how the Board wanted to proceed. If the resolution is not approved, Winzinger cannot move forward with the berm. Mr. Serlin said that the only change was to paragraph 12 and it was going to say "no materials shall be stored in excess of 20 feet in height above the existing average grade as shown on the site plan dated February 7, 2008 prepared by Steven G. Webber, P.E. of T&M Associates". Mr. Serlin went on to say paragraph 12 would also say that "the applicant shall add a note to the plan including this condition". That is really the sum total of what was discussed. Mr. Serlin said that he and Mr. Dougherty would both notify Mr. Hunter Taylor tomorrow about the lack of submissions to Delanco Township.

Motion made by Mr. Taraschi that the Board approve the resolution with the changes to be inserted by Mr. Serlin. Ms. Mader seconded the motion.

Those voting in favor:

Mr. Lord voted yes. He appreciated the concerns of Mr. Ouellette and Mr. Templeton but based on the opinions of the attorneys and other professionals he felt the Township was protected.

Ms. Mader voted yes because she thought the changes made to the resolution actually added clarity and protection for the Township as opposed to taking it away.

Ms. Jass voted yes because of the clarity and the advice of the professionals. She felt very secure in the stating of the resolution in reference to the issues that were brought forward.

Mr. Tarschi

Those voting against:

Mr. Ouellette voted no because he was still uncomfortable with the language dealing with the Limited Class B Recycling Center.

Mr. Matulewicz, Ms. Moore and Ms. vanGenderen returned to the dais and Mr. Lord turned the gavel back over to Ms. vanGenderen.

**Schmitz, Geraldine  
Block 1004 Lot 6  
812 Burlington Avenue  
R-4 Single Family Residential Zone  
Completeness & Bulk Variance**

Ms. vanGenderen asked Mr. Callaway to handle the completeness review. Mr. Callaway went over the Pennoni Associates letter dated September 19, 2008 which detailed their review of the application. The application was found to be incomplete, however, if the Board was willing to grant two waivers requested by the applicant the application could then be declared complete.

Motion made by Ms. Moore that the Board grant the waivers and find the application complete. Mr. Matulewicz seconded the motion.

Those voting in favor: Mr. Ouellette, Mr. Templeton, Mr. Lord, Ms. Mader, Mr. Matulewicz, Ms. Moore, Ms. vanGenderen, Ms. Jass, Mr. Taraschi

Those voting against: none

Ms. vanGenderen asked the applicant, Geraldine Schmitz, to give the Board some background on the proposed addition which Mrs. Schmitz did. Ms. vanGenderen then asked Mr. Taylor to go over the Taylor Design Group letter of October 7, 2008 which detailed their review of the application. Mr. Taylor stated that there had been some clarification on the setbacks from what the architect had previously submitted. There had been some discussion with the architect and the Taylor Design Group then updated the variances section on the October 7 report. Mr. Taylor distributed revised copies of the report to the Board and went on to review it in more detail. He recommended that the applicant provide testimony explaining the configuration of the parcel, the location of the improvements, and provide the Board with information about the width of the lot. The applicant should also provide information regarding the interior spaces and how they are sized, whether or not the addition is really necessary, and describe the characteristics of the addition and any benefits that might result from this project.

Ms. vanGenderen asked about the accuracy of the drawing in the package. Mr. Taylor responded that the plan the Board had showed the survey, however, the architect's plan on the left side was upside down in comparison to that survey. Mr. Taylor then went on to discuss details about the side yard setbacks on both the architectural plan and the survey plan. During the discussion Mr. Taylor stated that it was his belief that stairs are not permitted to encroach into a side yard setback. They are permitted in the front yard for porches. What the Board could do for clarity if they decide to approve the variance is to approve only the stairs to extend into the side yard setback. The residence itself must be set back a minimum of 10 feet. By doing this the Board is not granting a blanket setback approval which would include the structure. On the opposite side of the house the applicant is essentially maintaining the existing side yard setback.

Ms. vanGenderen asked if proper notice had been provided. Mrs. Schmitz responded that it had and that proper documentation had been provided to the Board secretary. Mr. Lord asked how close the neighbors were to the new addition. Mr. Schmitz responded that the house on Lot 5 is not close to the addition because it is set back. That house is actually closer to the back yard. Ms. vanGenderen asked about the Lots 7 and 9. Mr. Schmitz replied that with respect to Lot 7 there is a garage near the addition. The house on that lot is even with the Schmitz's house. The back yard of Lot 9 is even with a shed at the back of the Schmitz's property. There was no comment from any of the neighbors regarding the addition.

Mr. Matulewicz asked about the new steps and where they would end. Mrs. Schmitz was not sure what they would have in the side yard where the steps would be. Mr. Taylor pointed out that the plan referenced some kind of walkway that connects to the bilco door and the steps. Mr. Matulewicz's thought was that there might be a problem with the amount of impervious coverage depending on the walkway. Mr. Taylor did not feel this was a problem.

Mr. Taylor pointed out that the bay window shown on the floor plan extended into the side yard setback. He pointed this out because Delanco Township's ordinance does not have a provision for bays, bows, windows, chimneys, etc. to extend into side yard setbacks. Mr. Taylor asked if the new bay window was going to be greater than 2 feet. Mrs. Schmitz said no. Mr. Taylor stated that he would like the architect to provide a sketch showing the exact size of the existing bay window and then get a dimension sketch of the proposed bay window so the Board can identify it as an existing non-conforming feature. The bay window has architectural benefits and provided that it's not increasing floor space and it's not of greater mass than what is existing there would not be problem, however, Mr. Taylor did not want to guess at the numbers. Ms. Abbott stated that she could word the resolution so that the applicant would be protected from having to come back before the Board if the dimensions are slightly off.

Mr. Taraschi asked about what type of foundation there would be for the addition. Mrs. Schmitz replied that there would be a basement under the addition that would be a continuation of the existing basement.

Ms. vanGenderen asked the applicant to provide further testimony in response to the final paragraph of the letter from Taylor Design Group. Mr. Taylor explained to Mrs. Schmitz that she needed to explain why the Board should approve this variance and why she can't use her existing home as it is configured. Mrs. Schmitz responded that there is a need for more room. The rooms are small and she would like to expand the kitchen and family room so that people can gather. There would be a nice family area for company during the holidays. There is no room for that right now. The addition would give them more room, make the space more open and give them a place to get together. The addition would make it easier for older family members to move around as well.

Ms. Mader asked if the new bathroom would be handicapped accessible. Mrs. Schmitz said no, but the addition would make it easier to access the bathroom.

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

Ms. Abbott stated that there was one condition that the Board might want to consider attaching to any motion for approval and that is that the 5.125 foot side yard setback granted is limited to the setback of the stairs as shown on the plan submitted. The building setback is to be no less than 10 feet. This applies to the west side setback of the property. The east side yard will maintain the existing 5.5 foot setback.

Motion made by Ms. Moore that the Board approve the application with the condition regarding the side yard setback. Mr. Lord seconded the motion.

Those voting in favor: Mr. Ouellette, Mr. Templeton, Mr. Lord, Ms. Mader

Mr. Matulewicz had a few concerns about the width of the addition but in the absence of any public comment he saw no detriment to the zone plan so he voted yes.

Ms. Moore, Ms. vanGenderen, Ms. Jass

Mr. Taraschi also noted that there was no objection to the application and said that while the lot was small it was no smaller than lots in the development where he lives. He complimented Mrs. Schmitz for putting together what seems to be an attractive plan for the addition and he was glad to know that Mrs. Schmitz wanted to stay in Delanco so he voted yes.

Those voting against: none

## **Master Plan Update**

Mr. Lord reported that there have been three committee meetings dealing specifically with Delanco Township's future COAH obligations under round 3. The committee would now like to present information to the Township Committee and to the Planning Board in a joint meeting. Several dates were discussed and Wednesday, October 29 at 7 PM was selected as the meeting date and time. The Township and Board professionals will also be in attendance and the meeting will be held in Executive Session. Janice Lohr will take care of publishing notice of the meeting. Mr. Templeton asked if there was some point when a presentation would be made to the public to advise them of the COAH issues the Township is facing. Mr. Lord replied yes, but the October meeting is intended to get everyone on the Township Committee and the Planning Board up to speed and the joint meeting will be an efficient way to do so. Ms. Jass stated that Mary Beth Lonergan will provide charts and diagrams so that everyone would be able to understand the information and give their input. Work on the rest of the Master Plan can continue once the COAH section is finished. Mr. Taylor stated that there was some hope that the

housing portion would be finished, but everything may not be complete. The Master Plan needs to be adopted even if there is some generic language on a few remaining parcels. He thought that there was a \$10,000 balance on a grant from DCA so the Master Plan could always be modified if necessary. Mr. Taylor felt the housing plan was too important and too large to try to rush to finish in December or January.

**Meeting Opened to the Public**

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

**Correspondence**

The secretary advised the Board that there was no additional correspondence.

**Comments from the Board**

There were no comments from the Board.

**Approval of Minutes**

The following minutes were approved by the Board members eligible to approve them:  
July 1, 2008 Work Session & Regular Session Minutes and September 2, 2008 Work Session & Regular Session Minutes.

**Adjournment**

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

Katherine Martin  
Board Secretary

Approved: November 12, 2008