

DECEMBER 21, 2015

The regularly scheduled meeting of the Mansfield Township Land Use Board was called to order by Chairman Ali Vaezi at 7:30 PM.

1. posting a notice of this meeting on the bulletin board of the Municipal Building;
2. causing said notice to be published in The Express Times;
3. furnishing said notice to those persons requesting it pursuant to the Open Public Meetings Act; and
4. filing said notice with the Township Clerk.

Present: Vaezi, Hight, Mayor Clancy, Watters, Farino, Drazek, Minter, Keggan, Creedon.

Absent: Spender, Barton, Hazen, Sams.

Also present: William Edleston, Esquire; Drew DiSessa, P.E.

The Pledge of Allegiance was recited.

Regarding the minutes of the October 19, 2015 meeting, Vaezi corrected the first discussion paragraph for Case #15-04, Shongum Sportsmen's Association, a NJ Corporation by changing 9/13 acres to read **9.134**. Drazek corrected the last sentence of the next to last paragraph on page three to read "... information **including** a proposal ..."

MOTION was made by **DRAZEK** to approve the minutes of the October 19, 2015 meeting, as amended.

SECONDED: VAEZI.

Those in favor: Mayor Clancy, Watters, Farino, Drazek, Minter, Keggan, Vaezi.

Opposed: None.

Abstained: Hight, Creedon.

Regarding the resolution for Case #15-04, Shongum Sportmen's Association, Inc., a NJ Corporation, DiSessa stated a correction was needed on page five of six. DiSessa stated the first line in item 5. should reflect 9.134 acres, and not 9.1345 acres.

MOTION was made by **VAEZI** to approve the resolution for **Case #15-04, Shongum Sportmen's Association, Inc., a NJ Corporation**, as corrected.

SECONDED: WATTERS.

Those in favor: Watters, Farino, Drazek, Minter, Keggan, Vaezi.

Opposed: None.

Abstained: None.

Case #15-05, John & Carol Thompson

Present for the applicant: Allen Hantman, Esquire; Carol Thompson

December 21, 2015 minutes

Page 2.

Hantman explained the applicant was seeking the determination of the pre-existing, non-conforming use status of a piece of property. Hantman explained the zoning ordinance process for defined uses. He related the history behind the request for information of the use of the subject property, that being the junk yard property located at Block 1501, Lot 06. Hantman related the history of Mansfield Township zoning that he was able to track, and more specifically to the subject property. Hantman indicated the first zoning ordinance filed with the county is in 1983, but there appeared to be possible ordinances in 1965 and 1979, neither which appear to be recorded in the county offices. Hantman stated the use of the property remained relatively consistent until the property changed ownership in 2008. Hantman stated the property owner has no permission by any Township board to expand the use, but since 2008 the use has intensified.

Carol Thompson of 510 Route 57 was sworn in by Edleston.

Entered as Exhibit A-1 – copy of deed agreement for 517 Route 57 dated 7/30/1953

Hantman explained there are conditions of the sale and deed restrictions incorporated in the deed as to the use.

Thompson related her experience in her attempt to obtain the earliest zoning information from the Township. Thompson stated she then went to the county offices to obtain the ordinance information on file there.

Entered as Exhibit A-2 – OPRA response

Entered as Exhibit A-3 – 1983 Zoning Ordinance Mansfield Township I Zone – junkyards prohibited

Entered as Exhibit A-4 – 4 Photographs on two pages – photographs from 1978, 1980, and two from 1988 reflecting junkyard conditions from her property across the highway

Entered as Exhibit A-5 – a list of 56 photographs and subsequent 56 pages of photographs taken from 2008 to 2015 reflecting junkyard conditions from her property across the highway

Creedon asked if the application was noticed properly, and if the applicant's taxes are current. Edleston stated the application was properly noticed. Thompson stated her taxes were current.

Thompson described the stack of photographs, and stated the first twenty to thirty photographs reflect the expanded use since 2008. The remainder reflect what the current use, and what is visible on a daily basis.

Edleston asked Thompson clarifying questions. Edleston asked her to relate her version of the expansion of the junkyard use. Thompson stated the yard has expanded the use since 1974, but the use drastically expanded since 2008 when the property changed ownership.

December 21, 2015 minutes

Page 3.

Edleston asked if Thompson witnessed junk vehicles being delivered and parked at the yard. Thompson replied she had witnessed them being delivered and parked at the property. Thompson further explained there were slats in an existing fence to block the view of the cars, but the slats began to disappear. The Township wrote a letter to the junkyard owner to replace the slats, and once that happened parked cars began to appear outside the fence. Thompson stated the previous owner never parked cars outside of the fenced yard. Thompson indicated the operation of the yard appears to take place outside of the fenced area, including the sale of used vehicles.

Vaezi and Creedon remembered the owners of the junkyard appearing before the board with reference to the sign that was destroyed in a storm.

DiSessa related information regarding the property that took place when he was the Zoning Official. DiSessa stated the property was the subject of an active case when he was appointed as the Zoning Official. DiSessa stated there were some issues with non-compliance, and in order to renew their license the issues had to be resolved. DiSessa stated the owner was found guilty of non-compliance in Municipal Court, and the issue of "no vehicles parked out front" has been the subject of an enforcement issue. DiSessa stated they are good for a time, and then the vehicles reappear.

Mayor Clancy indicated he has driven by on several occasions and not seen vehicles out front.

DiSessa indicated the use is basically considered a pre-existing, non-conforming use, and enforcement is difficult.

Vaezi asked what would constitute an expansion of the use. Edleston replied an expansion of the use would be the area of vehicular storage, or the actual nature of the use.

Hantman indicated an expansion would be if the use has changed, and intensified, since it became prohibited as of the 1983 Ordinance.

Farino asked what a salvage yard is actually able to do, and he stated he was aware there are couple of used car licenses available to salvage yards. Hantman replied there is no issue with what takes place behind the fenced area. Hantman stated the expansion has been to bring the business outside the fenced area, and that it has exceeded the limits of the deed. Farino indicated there have always been cars outside the fence. Hantman stated those cars were the cars of the owner and employees, and now there are many other vehicles.

Minter asked if the non-compliance issues were dealt with when the owner was before the board for the sign replacement. Vaezi stated they were to repair the fence, and there could be cars parked out front but not beyond normal business hours.

December 21, 2015 minutes

Page 4.

Carol Borden of 7 Cheerio Lane was sworn in by Edleston. Borden stated she moved into her home in 1963, and supported Thompson's testimony as to the expansion of the junkyard operation. Borden stated the property was always used for a salvage yard, but it is now a used car lot. Borden stated she never received notice that a change of use was being proposed. Edleston stated the board has to rely on the certified list provided by the Tax Assessor. Borden stated the junkyard property is a mess, and they are not good neighbors.

Paul Erb, the former owner and current taxpayer, was sworn in by Edleston. Erb explained the history of the use back to 1953. Erb explained details of the development of the property: the location of deed mentioned cedar trees, the installation of the fence, well, and septic. Erb explained there is a license for the salvage yard, and a used car license. In order to have the used car license there has to be an office, and a minimum of six parking spaces. Erb stated he couldn't speak to the operation of the business since 2008, but when he had ownership he tried to be a good neighbor. Erb stated he was friends with the Thompsons, but there is conflict between the current owner and the Thompsons.

Edleston asked if Erb displayed vehicles outside the fence. Erb replied he sometimes had 3, 4, or 5 plus the employee vehicles parked out there. Erb explained the current owner had to occupy the premises quickly in 2008, and for a time there were two businesses in operation. Erb explained the current owner now deals in vehicles no one else wants: bucket trucks, commercial vehicles, etc. Edleston asked if Erb has ever spoken with the current owner, Joe Tidisco. Erb replied he has discussed the matter with him.

The hearing was closed for public comment.

Hantman stated the issue is the sales area between the fence and Route 57, and if there has been a substantial change in the extent of the use. Hantman stated they have testified as to the prior and current uses, but if additional information was needed, they could carry the matter.

Creedon clarified the board was being asked to make a judgement call on a possible expansion of the use. Edleston indicated the salvage yard appears to be a pre-existing, non-conforming use, but the board has to determine if the outside the fence operation constitutes an expansion.

Keggan asked if there was a statute of limitations, because it appeared the fence was installed long ago and nothing was done.

Hantman stated the deed document indicted the use was allowed, and from the deed to the first Zoning Ordinance that was the use criteria. Hantman stated the use then became prohibited in 1983, and without board approval could not be expanded.

December 21, 2015 minutes

Page 5.

Hantman stated the operation as it existed in 1983 was legal, but any change since that time would be an expansion of a non-conforming use.

Further discussion took place as to what was being asked of the board. Mayor Clancy asked what the court decision read. Edleston stated the court remanded the matter back to the Township.

Watters asked DiSessa if the operation was to take place behind the fence when he dealt with the issue at the Municipal Court level. DiSessa clarified the operation at that time was to take place behind the fence.

The Chairman called for a brief recess at 9:10 PM.

Upon reconvening at 9:26 PM, Edleston indicated the board could render a decision at this meeting, or carry the matter for further information. Edleston stated the use appeared to be lawful as a salvage yard with a license for used car sales, but has there been a significant expansion of the outside storage for used cars and salvage vehicles since 1983.

MOTION was made by **MINTER** that the salvage yard/used car sales operation at 517 Route 57 is a lawful non-conforming use as of 1983.

SECONDED: VAEZI.

Those in favor: Farino, Drazek, Minter, Keggan, Creedon, Hight, Watters, Vaezi.

Opposed: None.

Abstained: Mayor Clancy.

MOTION was made by **CREEDON** that an expansion of the salvage yard/used car sales operation at 517 Route 57 has taken place since 1983.

There was **no second** to the motion, and the **motion was rescinded** by Creedon.

Erb, from the audience, stated the issue appeared to be the number of vehicles parked outside the fenced area. Erb asked if the vehicles were brought within the fenced area after hours if the issue would be resolved. Hantman disagreed with Erb's suggestion.

MOTION was made by **CREEDON** that an expansion of the salvage yard/used car sales operation at 517 Route 57, or an expansion of the pre-existing, non-conforming use, had taken place since 1983.

SECONDED: VAEZI.

December 21, 2015 minutes

Page 6.

Those in favor: Drazek, Minter, Keggan, Creedon, Hight, Watters, Vaezi.

Opposed: None.

Abstained: Mayor Clancy, Farino.

Case #14-07, Yusen Logistics (Americas) Inc.

Present for the applicant: Thomas O'Connor, Esquire; Daniel Davies, P.E.; Frank O'Cello, Plant Manager

O'Connor related the history behind this matter, and stated the applicant met with the neighbors and an agreement has been reached regarding paving of the driveway. O'Connor indicated there would also be a swale constructed in order to direct was runoff. O'Connor stated the applicant would provide the paving of the driveway and the swale construction.

Frank O'Cello was sworn in by Edleston, and explained there are currently four customers occupying the warehouse distribution facility. O'Cello stated there are on average 25 to 30 truck trips per day, with up to 35 during the summer months. O'Cello stated there were higher volume customers in the past, and they would average 60 to 70 truck trips per day. O'Cello indicated the operation opens at 6:00 AM, and they begin to take trucks at 7:00 AM. The Lenox customer is the only one who has overnight trucking.

Regarding the height variance being requested, O'Cello explained the Lenox air conditioning units are stacked four units high. O'Cello explained the four units would equal 16', but some are stacked on pallets which would increase the height. O'Connor stated the height variance being requested is for 17', which would allow for the stacking of the four units plus the pallet. O'Cello stated without the height variance the pavement storage area would have to be expanded in order to accommodate an equal number of units.

Daniel Davies, P.E. was sworn in by Edleston, and was accepted as a qualified expert in the area of civil engineering. Davies described the scope of the driveway plan design for the reconstruction or repair to take place. Davies stated the entire length to the bridge will be milled and raised on one side. Davies indicated that DiSessa has reviewed the plan, and approved the design. DiSessa explained he reviewed the concept plan in the field, and stated it was his opinion the plan provides an acceptable solution.

O'Connor stated the driveway would be paved as soon as the asphalt plants reopen in the spring.

Vaezi asked how high the existing fence is, and O'Cello replied it stands at eight feet. O'Cello stated they would also request to stripe the paved area for truck parking in the future.

December 21, 2015 minutes

Page 7.

Farino stated he thought the reason for the stacking variance was to provide additional space for truck parking. O'Connor stated the stacking of the A/C units four high has taken place for at least ten years.

DiSessa asked if the eight truck parking stalls as shown on the plan were being installed. O'Connor stated they would like the board to approve the stalls, but install them as needed in the future. DiSessa stated that presents a concern, because without the installation, new clients could use the facility without the need being determined. DiSessa stated that would become an enforcement issue. DiSessa stated it was his opinion the additional parking stalls should be installed now.

Creedon stated the driveway opening is not conducive to tractor trailer maneuvering. O'Connor stated the applicant could apply to the NJDOT for a widening of the driveway opening. O'cello stated they could reopen the employee parking lot for truck parking. Creedon stated there had been an issue with truck lights and noise bothering residents at that lot.

DiSessa asked for clarification that the truck stall striping would be done in conjunction with the paving a swale work. O'Connor agreed with DiSessa's condition. DiSessa stated the gravel area should also be striped. DiSessa stated there was some pavement to be removed, and asked if that was done. O'Connor stated it would be done if it hadn't already. DiSessa stated a note should be added to the plan indicating responsibility of the maintenance of the swale. DiSessa asked if the current plan was the one acceptable to the neighbors. O'Connor indicated the current plan was acceptable to the neighbors, and the note would be added regarding their responsibility for maintenance of the swale.

Brenda Sams, Harts Lane, asked questions regarding the proposed rise in pavement. Davies explained the area of concern, and the plan to prevent water runoff down the driveway.

Further discussion took place regarding the effectiveness of the requested ridgeline to prevent water runoff.

Terry Sams, Harts Lane, thanked the board for the time and effort put into this application. Sams stated the applicant has agreed to pave the damaged portion of the driveway. Sams stated he would accept the proposed plan if the board feels the applicant's effort is sufficient. Sams stated he hopes the business will be a good neighbor, but he would like reassurance the repairs will be done in a timely fashion.

The hearing was closed to the public for comments.

December 21, 2015 minutes

Page 8.

Creedon stated he wasn't comfortable giving additional parking stalls unless they are utilized by the overnight trucks. O'Cello explained the Lenox operation are the only ones with overnight trucking.

MOTION was made by **HIGHT** to grant the requested 17' height variance for **Case #14-07, Yusen Logistics (Americas) Inc.**

SECONDED: FARINO.

Those in favor: Minter, Keggan, Creedon, Hight, Mayor Clancy, Watters, Farino, Drazek, Vaezi.

Opposed: None.

Abstained: None.

MOTION was made by **HIGHT** to grant minor site plan approval for **Case #14-07, Yusen Logistics (Americas) Inc.**, subject to the comments made by DiSessa regarding striping and maintenance of the swale.

SECONDED: WATTERS.

Those in favor: Keggan, Hight, Mayor Clancy, Watters, Farino, Drazek, Minter, Vaezi.

Opposed: Creedon.

Abstained: None.

MOTION was made by **FARINO** to authorize the Township Committee to pay the professional **invoices.**

SECONDED: CREEDON.

Those in favor: Creedon, Hight, Mayor Clancy, Watters, Farino, Drazek, Minter, Keggan, Vaezi.

Opposed: None.

Abstained: None.

After a brief discussion, **MOTION** was made by **HIGHT** to extend DiSessa's position as **Board Engineer** for another one-year term for the year of 2016.

SECONDED: DRAZEK.

Those in favor: Hight, Mayor Clancy, Watters, Farino, Drazek, Minter, Keggan, Creedon, Vaezi.

Opposed: None.

Abstained: None.

Drazek stated her term would expire at the end of 2015, and she wanted to know how to go about being reappointed. Watters stated there is a volunteer form to be filled out and submitted to the Township Clerk.

December 21, 2016 minutes

Page 9.

Farino asked what would now happen regarding the operation of the salvage/used car yard. Edleston explained there would be a resolution to vote on at the next meeting, and they would be supplied with a copy.

Don Proefrock, from the audience, stated there is an issue with continued deterioration of sidewalks. Proefrock stated he would like to write and present a position paper on the subject. Proefrock was informed the matter should be presented to the Township Committee.

The Chairman adjourned the meeting at 10:56 PM.

Respectfully submitted,

Patricia D. Zotti, Secretary
As Amended