

Resolution No.: #8-2017

**RESOLUTION OF THE BOROUGH OF CLAYTON PLANNING BOARD
GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL TO
706 SOUTH DELSEA ASSOCIATES, LLC
FOR BLOCK 1001, LOT 33
(706 South Delsea Drive)**

WHEREAS, the Applicant, 706 South Delsea Associates, LLC of 1535 Chestnut Street, Suite 200, Philadelphia, PA 19102, submitted an application seeking preliminary and final site plan approval with variances and other relief; and

WHEREAS, the subject property is Block 1001, Lot 33 known as 706 South Delsea Drive is located in the HB (Highway Business) Zone along the Delsea Drive frontage and in the R-B (Medium High Density Residential) Zone in the rear portion of the lot and is owned by Joseph and Barbara Guiliani of 137 Morton Avenue, Clayton, N.J. who consent to the instant application; and

WHEREAS, the Applicant is represented by Michael J. Malinsky, Esquire of Fox Rothschild, LLP; and

WHEREAS, the Applicant is proposing the construction of a 9,100 square foot retail building with attendant site improvements to serve as a Dollar General store; and

WHEREAS, the subject tract is approximately 1.84 acres located in the HB-2 (Highway Business) Zone (171 foot depth from Delsea Drive) and the R-B (Medium High Density Residential) Zone (rear portion of the lot); and

WHEREAS, David Dunkleman, appeared as a principal of the Applicant before the Board at the May 15, 2017 hearing; and

WHEREAS, in support of his application the Applicant proffered the testimony of Michael E. Jeitner, P.E. of Bohler Engineering located at 3701 Corporate Parkway, Suite 200, Center Valley, PA 18034 and Tiffany A. Cuvillo, P.P., AICP with offices at 7 Equestrian

Drive, Galloway, New Jersey 08205, and David R. Shropshire, P.E., P.P. of Shropshire Associates, LLC located at 277 White Horse Pike, Suite 203, Atco, New Jersey 08004; and

WHEREAS, in further support of this application, the Applicant has submitted a Preliminary and Final Site Plan consisting of fourteen (14) sheets dated April 19, 2017 and signed and sealed by Michael E. Jeitner, P.E. of Bohler Engineering; and

WHEREAS, in further support of this application, the Applicant has submitted a Survey of the Premises consisting of one (1) sheet dated May 3, 2017 signed and sealed by Jack W. Shoemaker, PLS of First Order, LLC located at 4383 Hecktown Road, Bethlehem, PA 18020; and

WHEREAS, in further support of this application, the Applicant has submitted a General Project Description and Stormwater Management Calculations dated April 27, 2017 as prepared by Michael E. Jeitner, P.E. of Bohler Engineering; and

WHEREAS, in further support of this application, the Applicant has submitted a Stormwater Management Facility Operations and Maintenance Manual dated April 27, 2017 and signed and sealed by Michael E. Jeitner, P.E. of Bohler Engineering; and

WHEREAS, for purposes of the public hearing the following exhibits were utilized: A – 1 Color Aerial Photograph of the site, A – 2 Rendered Site Plan Sheet C-2, A – 3 Architectural Rendering of typical Dollar General Store, A – 4 Signage Detail; and

WHEREAS, in support of this application for site plan review, Mr. Jeitner testified as to the proposed site development and functioning emphasizing that all improvements shall be within the HB Zone with no more than a 50 foot encroachment into the RB Zone which is permitted under the Borough of Clayton Ordinance; and

WHEREAS, the Applicant's planner, Tiffany A. Cuvillo, P.P., AICP discussed the basis for the grant of bulk variance and waiver relief dealing with, inter alia, lot size, buffering and side yard setbacks, wherein the grant of the requested relief result in benefits that outweigh any negative impact and do not harm the zone plan. The focus of her testimony was to

concentrate all development in the front portion of the lot along Delsea Drive while leaving as many trees and natural buffers on the rear portion of the lot; and

WHEREAS, the requested variance and waiver relief may be summarized as follows:
Variances – **1.** UDO § 17.C.1.a. - Minimum Lot Area (HB Zone plus 50' overlap permitted by Ordinance): Required 60,000 ft. where 48,120.54 ft. is existing, **2.** UDO § 17.C.2.e. - Minimum Side Yard: Required 50 ft. where 20.4 ft. is provided from Lot 34, **3.** UDO§ 17.0.1.a. - Landscape Buffer Adjacent to street line: Required 50 ft. where 8 ft. is provided, **4.** UDO § 17.D. 1 .b. - Landscape Buffer Adjacent to Residential District: Required 50 ft. where 0 ft. is provided, **5.** UDO§ 17.D.1.c. - Landscape Buffer Adjacent to Non-Residential District: Require 50 ft. where 16.7 ft. is provided from Lot 34 and 6.2 ft. is provided from Lot 32, and Waivers: **1.** UDO§ 30.D.6. - Off-street parking: Required 46 Spaces where 37 Spaces are provided, **2.** UDO§ 33.B.1.a. - Six (6) Foot High Visual Screen: Required 6 ft. high where 0.0 ft. is provided, **3.** UDO§ 33.B.1.a. - Shade trees (Street Buffer): Nine (9) Shade trees required where zero (0) are provided, **4.** UDO§ 33.B.1.a. - Shade trees (Southerly property-line): 4 Shade trees required where 31 Dark American Arborvitae are provided, **5.** UDO § 40.C.1.b.5. and § 40.C.2.p. - Height Freestanding Sign: Maximum Height Permitted 17 ft. where 20 ft. is proposed, **6.** UDO § 40. C.2.t. - Minimum Proximity to Streets- Freestanding sign: Required 25 ft. where 4 ft. is provided, **7.** Clayton Code§ 61-5.E - Permitted grading public right-of-way: Waiver to permit grading within 5 ft. of Delsea Drive, **8.** Clayton Code§ 87-5 - Planting of New Trees: Waiver requested, **9.** Clayton Code§ 40.C.1.b.5 – Sign: Where maximum permitted is 50 square feet and where 50.63 square feet is proposed; and

WHEREAS, the Board in reviewing the application and submissions and questioning the Applicant and their representatives and as a result the Applicant has agreed to the following: **1.** There will be one access instead of two. **2.** The Applicant shall review and add additional evergreen or landscaping material along the rear of the property subject to the review and approval of the Board professionals while also preserving as many trees in the rear portion as possible for buffering. **3.** The Applicant shall place a masonry trash enclosure in the northwest corner. **4.** The Applicant shall place a six (6') foot vinyl fence in the rear of the building with the fence ending at the sewer easement for access to rest of property and the Applicant shall maintain the entire property. **5.** The Board accepts the Applicant's experience

in proposing 37 parking spaces where 46 are required as Dollar General has thousands of stores and is confident that 37 parking spaces is more than adequate as many stores have only 18 to 35 parking spaces. Having said this, the Applicant agrees to, and shall, return to the Board with an application addressing any parking issue which has become an issue on-site or is causing spill over problems onto Delsea Drive. **6.** The Applicant shall work with the Board professionals on finalizing and implementing a landscape plan. **7.** The stormwater basin is expected to be between 24 and 36 inches deep and an infiltration type basin. The Applicant shall work with the Board engineer to ensure that the basin works and is not excessively deep and the Board engineer will decide if the proposed basin “works” and is acceptable and further, if a split rail fence with wire mesh is required around the basin. **8.** The Applicant shall place motion activated lighting in rear of store. **9.** The Applicant shall amend the sewer easement permitting the Borough of Clayton the right, but not the obligation, to maintain the sewer. The proposed amended Sewer Easement shall be subject to review by the Board’s engineer and solicitor. **10.** Irrigation will be provided along the sides to keep the Arbor Vitae adequately watered and along the front of the building for landscaping located there. **11.** The Dollar General will operate from 8:00 a.m. to 10:00 p.m. and will require one (1) tractor trailer delivery and two (2) box truck deliveries per week. It is expected that there will be two (2) employees per shift except during the tractor trailer delivery when there will be four (4) employees for a total of approximately 5 to 6 employees. The Applicant shall arrange for commercial trash pick-up which is anticipated to be twice per week. **12.** There shall be no outdoor displays or items for sale. **13.** The Applicant is not coming in as part of a redevelopment plan and shall comply with any and all COAH and/or Growth Share requirements. **14.** The Applicant shall extend the sidewalk along Delsea Drive. **15.** All lighting shall be LED and shielded. **16.** The Applicant shall provide a sidewalk from the Delsea Drive along the southerly side of the access driveway and adjacent to the basin and further, install a crosswalk across the parking lot into the store subject to the Board engineer’s review and approval. **17.** The Applicant shall file with the Borough Clerk the annual inspection report for the stormwater basin. **18.** The Applicant understands and agrees that the stormwater management system and sewer easement as hereinbefore referenced in addition to being conditions of approval are of particular interest to the Board; and

WHEREAS, members of the public were permitted to speak on the application at the regularly scheduled Planning Board Meeting held on May 15, 2017 and no one appeared to be heard; and

WHEREAS, the Board has considered the report dated May 9, 2017 from Federici & Akin, P.A. prepared by Douglas E. Akin, P.P., the Board's professional planner, said professional review letter is incorporated and made a part herein; and

WHEREAS, the Board has considered the report dated May 9, 2017 from Federici & Akin, P.A., as prepared by Stan M. Bitgood, P.E., the Board's professional engineer, said professional review letter is incorporated and a part herein; and

WHEREAS, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public;

WHEREAS, the application for preliminary and final site plan approval including bulk variance and waiver relief was approved by the Borough of Clayton Combined Planning and Zoning Board of Adjustment, by a 9 yes to 0 no vote.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Planning Board constituted as a Zoning Board of Adjustment, that it does hereby **Approve** the preliminary and final site plan including bulk variance and waiver relief for the conversion of the construction of a 9,100 square foot retail building with attendant site improvements with all necessary and requested variances and waivers, and grants this preliminary and final site plan approval as set forth herein, subject to and contingent upon the following:

1. Compliance with the Planner's report, Federici & Akin, P.A., dated May 9, 2017 all of which is incorporated herein by reference; and

2. Compliance with the Board Engineer's report, Federici & Akin, P.A., dated May 9, 2017, all of which is incorporated herein by reference; and

3. The Applicant agrees to comply with and perform all obligations as stated above herein in the body of this Resolution.

4. The Applicant shall meet any and all COAH and/or Growth Share Obligations.

5. The Applicant obtaining all required approvals/waivers from all outside agencies.

6. Applicant and owner are reminded that site safety is their responsibility. It should be noted on the plan that "The owner or his representative shall designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21(e) of the N. J. Uniform Construction Code and CFR 1926:32(f) (OSHA Competent Person)".

7. Applicant shall post and provide all Performance and Maintenance Guarantees and Bonds together with Inspection Escrows.

8. Final approval shall be subject to the following (if required):

(A) Documentation of final approvals by (if applicable): (1) Gloucester County Planning Board; (2) Gloucester County Soil Conservation District; (3) Borough of Clayton Township Fire Code and Police Officials (as to approved emergency vehicle access plan); (4) NJDEP wetlands permit; (5) Stream Encroachment permit; (6) Borough of Clayton, Water and Sewer Department; and (7) any other required Local, County and State approvals, if applicable.

(B) Any and all provisions as required by previous resolution shall be satisfied and incorporated into this resolution as if fully set forth herein.

(C) Engineering, planning and testaments as submitted by the Applicant have been accepted, and any changes set forth by the Applicant shall be subject to review by the Borough of Clayton Combined Planning and Zoning Board of Adjustment and its professionals, with subsequent approval being required and as a condition of final approval.

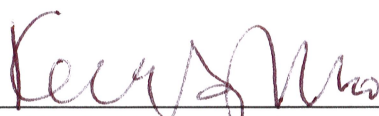
(D) Any landscaping to be provided and any amendments thereto shall be approved by the Township's Engineer/Planner.

(E) Any on-site hazardous conditions shall be eliminated in accordance with NJDEP regulations and requirements.


BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Monday, June 19, 2017.

**Borough of Clayton Combined
Planning Board and Zoning Board of Adjustment**


By: Kevin Nesko, Chairman

Attest:


Debbie A. Schlosser, Secretary

ROLL CALL VOTE

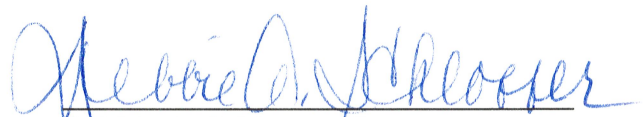
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THOSE OPPOSED 0

THOSE ABSTAINED 1

CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on June 19, 2017 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:30 p.m. and memorializes the decision reached by said Board on the herein application at the Board's May 15, 2017 meeting and public hearing.


Debbie A. Schlosser, Secretary