

WESTFIELD TOWNSHIP BOARD OF ZONING APPEALS

March 20, 2006 @ 7:30 p.m.

Public Hearing

Application for Conditional Use to Store Equipment/Materials

Applicant – Matthew Becht for Property at 9400 Friendsville Road

Chairman Michael Schmidt called the meeting to order at 7:30 p.m. Roll call indicated four members of the Board of Zoning Appeals were present: Michael Schmidt, Larry Bensinger, Kevin Daugherty and Ron Oiler. Robert Gecking was absent.

Others in attendance included Trustees Jeff Plumer, Zoning Inspector Gary Harris, Lee Evans, Matthew Becht (15240 Gates Street, Doylestown), Doug & Robin Walker (9431 Friendsville Road), Greg & Vivian Olsen (9415 Friendsville Road), Joe Linden (7545 Seville Road), Vi Curran (1447 Royal Crest) and Wayne Phillips (9439 Friendsville Road).

MINUTES

Upon motion by Ron Oiler, duly seconded by Kevin Daugherty, the February 27, 2006, meeting minutes were unanimously approved, with the correction of the misspelling of Kevin Daugherty's name.

The following is a summary of tonight's meeting, which was recorded on audiotape.

PUBLIC HEARING – Matthew Becht

The public hearing in regard to the application submitted by Matthew Becht was opened. It was submitted as an application for conditional use to be able to receive materials and store them to be used on an off-site job. The property is located at 9400 Friendsville Road.

Matthew Becht was sworn in by the secretary. Becht – I am looking for conditional zoning. I have a home improvement business and I want to use the existing barns to store my materials and equipment. I don't do any selling off the property; all my selling is done at houses. All the work is done off-site. My son works for me and my brother works for me. My brother does do some delivery of the material for me so he is in and out a little bit but he is not there 40 hours a week working out of the barn. I don't build anything there. I do receive my material by trucks and that's why I made the drawing to show how I would have the trucks come in so they get off the road, do their maneuvering and pull straight back out on the road.

Bensinger – You have this business at the present time? Where is this activity taking place?

Becht – Yes. Right now I am renting a place to store my material and I'm trying to get it centrally located so it is more economical.

Bensinger – That property has a for sale sign on it – have you actually purchased or do you have a contingency.

Becht – I have a contingency based on the outcome of this meeting.

Daugherty – In your letter you mentioned that you get material up to four times a week – what kind of stuff do you get?

Becht – I do trenching, so I get pipe, gas lines, conduit, etc. Also I sell cabinets so I have trucks come in to deliver the cabinets. The cabinets are already pre-made and are in boxes. All I do is store them and when I'm ready for them, I take them out to the site – kitchen and bath cabinets.

Schmidt – You mentioned that you had deliveries four times a week.

Becht – Up to four times a week.

Schmidt – What type of truck?

Becht – It would be a tractor-trailer.

Schmidt – How do you propose for them to get into the property?

Becht and the board members reviewed the drawing submitted with the application and Becht showed the board where he intended to expand the existing driveway and how the trucks would come in, back up and then pull straight out to the road.

Becht – It would only have one entrance – the existing driveway. I would have to widen or expand the drive for the trucks to turn around, as per the drawing.

Schmidt – Generally speaking truck drivers don't like to pull into some places because they don't know whether they can get back out, so I would venture to say that 99% of the time when you have a tractor-trailer come in, they would want to back in.

Becht – Where I'm doing it right now is a lot like this. They have to give me a two-hour notice before they get there and they only come during the day during regular business hours. I don't allow them to stay there but when they come in I tell them how to come in and out. It's just a boxed van.

Daugherty – But it is an 18-wheeler like a traditional tractor-trailer.

Schmidt – And you are proposing to use both of these barns as storage?

Becht – Yes, for my materials and my equipment so I can keep everything out of sight.

Schmidt – You've got 2988 sq. ft. of garage and barn here. You're allowed 800 for home occupation.

Becht – That's why I'm here - it's all existing and a fellow ran a sand blasting company out of there for probably about 20 years.

Daugherty – So that would be the first thing – the square footage. You're planning on living there?

Becht – Yes.

Bensinger – Some of the things that you are having delivered like pipe, gas lines, conduit, and things like that wouldn't necessarily have to be stored inside from a protection point of view.

Becht – No, but I don't want it lying around, that's why I wanted to store everything inside.

Bensinger – Do you have equipment to move it in and out of those buildings?

Becht – I will put it in the building and then when I load it on my truck to do my job, I just do it by hand. I have a small truck with a mini-excavator that I do trenching with – it's all small stuff.

Daugherty – It's obvious that the cabinets would be stored inside, but you plan to put the pipe and gas line and everything inside?

Becht – I want to keep everything out of sight.

Schmidt – What's the longest piece of pipe that you might have?

Becht – Ten foot – everything's 10'. Gas lines are 500' but it's a roll; it's only 1" pipe. Everything can be moved by hand.

Bensinger – Have you sat on that road and watched traffic at all – there are a lot of trucks that go back and forth for the gravel pit.

Becht – I've watched a little bit.

Schmidt – That's probably one of the busier roads other than 224. Is Friendsville a township road?

Audience Reply – It's county road 35.

Greg Olsen was sworn in by the secretary. Olsen – I did submit a letter (copies had been given to the board members but the letter was read into the record). With regard to the truck traffic, we've lived there for 31 years. At least 95% of the truck traffic for the gravel pits comes down Friendsville Road because that's where they are located, right off Friendsville. They are the biggest trucks that are on the road and they are carrying a heavy load. I consider them to be a real problem in that when I have my propane gas delivered I insist they do it once a year in the summer in good weather so that the propane truck doesn't have to try to deliver propane on snowy, icy roads with the sand and gravel trucks right behind him. They are a problem, two of them side-by-side barely fit on the road and I've had two occasions where they flipped over in my yard. So it is a problem and if you have a semi pulling in, especially in the winter months, it could be a problem.

Bensinger – Who is the existing owner at this time?

Olsen – The existing owner is Stan Conley.

Bensinger – Mr. Conley operated a business for quite a few years and he lived there quite a few years, did he not?

Olsen – Yes, he did.

Bensinger – Did his activity cause a problem?

Olsen – Well, at first going back 31 years, he was there before we were, he just had a pickup truck where he would haul out some sand and his compressor – it was a sand blaster but his business grew and at one time he probably had 12-15 guys working for him and he would work at the residence and then off-site and the number of trucks grew and the size of the trucks grew and yes, businesses are noisy for one thing so the sound of a sand blaster – he's been gone about 8 or 9 months and it's odd to walk out the door and not hear the noise of the sand blaster. I think the township has a self-interest to maintain a quality for residential buyers.

Bensinger – There's a railroad track just over the hill. That has to create quite a bit noise. The trucks have to create quite a bit of noise. There was a business there until just recently.

Olsen – Yes, there is a railroad track and yes, the stone trucks create noise. The prior business was not grandfathered in.

Bensinger – I know that, I'm just trying to understand that there are other issues related to around that property that also create noise and, in my opinion, would maybe have a detrimental effect upon property values as well.

Oiler – There is a horse farm right there also, isn't there?

Olsen – Yea, an agricultural use you expect in the country.

Becht – But it creates more traffic than I would.

Daugherty – Where are you relative to this property?

Olsen – I am directly across the road – I have an asphalt drive opposite. I'm probably back about 100' from the road.

Becht – I'm trying to keep the property pretty much the way it is. I want to keep the back part and the side the way it is and want to have cows etc. back there eventually.

Daugherty – How many acres do you have?

Becht – Ten. I'm not really creating that much traffic. People are at my place anywhere from 15 minutes to one hour and they are gone. I say four trucks a week because in the

summertime I'm busier and in the wintertime there's weeks that I wouldn't get any deliveries.

Daugherty – Is it mostly piping or mostly cabinetry? It seems that four trucks a week is a lot of trucks.

Becht – The way it's ordered, it comes to me so I don't unload a whole truck at one time. One guy might come in with 10 pieces and one guy might come in with 40 pieces.

Daugherty – So you are not ordering a month's worth of piping – you're job specific?

Becht – I buy my pipe in bunks, so I'll buy maybe 3 bunks at a time, maybe 1800 feet and put it inside. I can haul 1000' on my truck. I don't order semi loads of material – basically job specific.

Robin Walker was sworn in by the secretary – Walker – I'm on the east side of the road, kitty-corner to the property in question, next to Mr. Olson. My first question – does Mr. Becht have a viable use of the property if this variance is not granted?

Becht – No, I wouldn't buy the property if I can't keep my stuff there.

Walker – Can this problem be solved without granting a variance?

Daugherty – His particular request, can't. The way he has proposed it, he wants to use all the buildings, which would go over the maximum. The barn and the garage would take him over the 800 sq. ft. that he is allowed to have. He could do it right now if he only used 800 sq. ft. and we wouldn't be here now.

Walker – Does this variance if approved preserve the spirit and intent of the zoning code?

Daugherty – That's an interpretative question that we will have to discuss.

Walker – Would the character of the neighborhood be substantially altered by granting this variance?

Daugherty – Another one of those interpretative questions – as I understand it, the sand blasting business was probably more intrusive.

Walker – If you grant this variance for this property and Mr. Becht's business outgrows the property, he will try to sell the property, and the variance goes with the property so my concern is that we now have a variance on this property so if Mr. X comes along and wants to put a body shop across the street, then I don't know if that is an appropriate question or comment or statement but that's very concerning to me.

Daugherty – We're always free to put conditions/restrictions on the conditional use so we could make it so specific, that it's another trenching business so no one else could use that variance basically.

Olsen – If you restrict the use, businesses of their nature if they are prosperous, they grow. Who is going to be the policeman to watch that these restrictions are followed?

Daugherty – Your zoning inspector. Someone would have to report it and it would be investigated.

Olsen – Is what is being proposed something that comes under the current residential agricultural use?

Schmidt – A home occupation use.

Daugherty – Yes, a home occupation use, but what he is proposing is over what is allowed.

Schmidt – But you can have a home occupation and lots of people do and there's a lot of them we don't know about.

Becht – Does the zoning stay with the property and not the person?

Schmidt – Right.

Becht – Other places are just the opposite.

Bensinger – Provided it's used in the exact same manner.

Oiler – It stays with the property provided it's the same use. For example, if it's a campground, it has to be a campground.

Jeff Plumer was sworn in by the secretary. Plumer – In your zoning book on page 9, section E, Home Occupations, not only do you have to take into consideration that it's 800 sq. ft. but you can have no more than one nonresident employee – you're well about there. It specifically says no more than one nonresident employee.

Becht – It's my brother and son but they don't work there. They are not employed at that site.

Daugherty – I took that to mean if the business actually occurs on the property. Otherwise it would limit almost everybody. I look at that as kind of an impact regulation and, in my mind, it's meant not to have a whole bunch of people on the site.

Plumer – My idea is that it was specifically written to hold down the home occupation to just two people. It's just a different interpretation.

Schmidt – It's definitely open to interpretation. I'm going along with Kevin, as long as there is no more than one other person on site.

Bensinger – What's the likelihood that he would send someone to pick up materials that he forgot – it does open up another question.

Becht – About going back to get material – that’s why I have one designated person to do that. He’s the only person that will be coming and going to get materials.

Bensinger – How many jobs do you typically have going at one time?

Becht – Outside of trenching, one. Trenching – I do it for new construction so I know what’s coming up, I’m only doing one specific job. When I’m done, I go to another one. I might have several on the books, and I might go do 5 or 6 in a day, but I go from one to the next, etc. and go home.

Bensinger – How long have you been operational with your business?

Becht – With the remodeling, 18 years; trenching, 2 years. For 18 years I did mostly roofing and it gets old after awhile, so I got into trenching and I’m not looking to start digging basements and having big machinery – pretty much trenching and what I’m doing now – it keeps me plenty busy.

Joe Linden was sworn in by the secretary. Linden – Speaking on Matt’s behalf, I’ve known him for 20 years and he would be an asset to the community. What he says he’ll do, he’ll do. He probably could have got away with this without even going to you folks but he wanted to do it right. As far as a neighbor, he would be a great neighbor to these folks. I just live down the road a little bit and I believe he would be an asset to the community. He would help anybody out in a minute. As far as the business goes, I can’t see where it would be hurting that much, a truck coming in a couple times a week, I just think he would be a good guy to have around.

Lee Evans was sworn in by the secretary. Evans – I’m here representing Ben and Lynne Conley. As you guys know it’s contingent on this – what he is proposing to do is everything out of sight, out of mind – it’s storage – it’s not actually work area – he’s storing this stuff inside. I could see if he wanted to put pipe or lumber outside that it would take away from the atmosphere of the property but he is wanting to put everything inside and his actual work area is not at home – he’s working off-site. He’s not any different than an excavator or plumber – you call them at home but they’re not doing the work at home. I can’t see where it would be a problem.

Olsen – Is part of this business going to be a trenching business? Don’t you have to have heavy equipment to dig trenches and don’t you have to be able to get that equipment to the site you are working at?

Bensinger – It basically takes a trailer with the trenching machine on it and there are different sizes depending on what is being done.

Daugherty – Where do you plan on storing your trencher trailer – I assume you have a dump truck?

Becht – No, no dump truck. I have a flat-bed truck that has the pipe racks built in and a tilt trailer, a small bobcat type, with a small Kubota trencher – very small – it’s an 121. I wanted to store it inside the 30x50 building, especially in winter but if I can’t I can park it behind the other barn where you can’t see it from the street.

Daugherty – There is one neighbor back behind. Would he see it from there?

Becht – No, it's all wooded.

Schmidt – The width of the property is about 515' wide – and the house is about in the middle?

Becht – Yes, close to the middle.

Schmidt – So it's a couple hundred feet to the next property.

Becht – Back where the pond is, they are directly across – it's all wooded. The side facing me is all wooded and the side facing the horse farm is open.

Bensinger – I would like to ask everybody here if this were a permitted business, what would the ingress/egress requirements be irrespective of the issue of home occupation. Would there have to be a separate ingress and egress? I'm talking about these tractor trailers that are going to pull in and they have to turn around. Let's take a look at LC for instance.

Gary Harris, zoning inspector, was sworn in by the secretary. Harris – In a residential district you are only allowed one driveway per house so you wouldn't have an in and out. In commercial districts it would be open to the site plan review and at that time the person would present their business plan, their parking plan, etc. as to what they are doing. Most businesses do just have one entrance, other than gas stations.

Bensinger – Gary, you do some building yourself. Do you have any thoughts about the volume of activity that might happen as far as Mr. Becht?

Harris – I don't do anything at my home. I don't build anything at home. In my business, I have everything delivered to the site. I may buy a piece of wood and cut it up at home but I don't have deliveries made. Occasionally a window might be delivered that I would take with me the next day out to the site. As Lee was saying there are some excavators that have trailers and tractors and they take them home to their residence every night and I guess that would be home occupation. I always figure the home occupation is doing the work at your home, more or less. One of the things with a home occupation, he could get a sign out in front advertising his business.

Schmidt – One thing, under vehicle storage, under 508 D, in a RR district, if a commercial vehicle or trailer is used in the employment of the occupant of the parcel, it shall not be parked in any required front, side or rear yard. So you can't be outside.

Becht – I want to get it inside but I said if I had to, it could be parked outside.

Daugherty – That's not exactly what it says.

Schmidt – That's my interpretation.

Daugherty – He’s allowed one, either a commercial vehicle or commercial trailer or a commercial unit exceeding 7,049 pounds provided that ... I interpreted that as the required setback from the yard, not in the 25’ strip on the side.

Harris – That’s correct.

Bensinger – Did you look at any properties in some of the other districts within Westfield Township?

Becht – I looked at some but the reason why I stuck to this property is because it already has a lot of traffic. I want to blend in; I don’t want to be abnormal. It’s already normal for trucks to be going up and down the road.

Oiler – If we set a delivery period, say between 9 –4, would that be a problem?

Becht – Not a problem – they call me and I tell them when they can come and when they can’t come. Right now it’s set up from 8 – 4.

Olsen – If we go from 800’ to 2800’ of barns and sheds and this is approved, what about the guy that wants to go 10,000’ – where do you stop?

Becht – The buildings are already there. I am not proposing to put up 2800 sq. ft. of building. Earlier you were talking about changing the look of the property – there’s not going to be another building, I would only use what is already there.

Olsen – I’m talking about the precedent in Westfield Township.

Schmidt – We need to get the opinion of the board.

Oiler – After listening to everyone and studying the Duncan factors as we went, I would be more prone to not allow the variance.

Bensinger – When you look strictly at home occupation it says it shall be clearly incidental and subordinate to the use of the lot and structure as a dwelling. Not more than 25% of the floor area and no more than 800 sq. ft. of the dwelling unit shall be used in the conduct of the home occupation. Home occupation shall only be conducted by persons residing on the premises with no more than one nonresident employee. There are a number of issues that are questionable – there are a lot of heavy trucks running up and down that road and it seems as though this use, at least on the surface, should be less intrusive to the surrounding parties than what was there before. I guess I’m inclined to say, provided we could put some tight restrictions on it that there ought to be a way to accommodate.

Daugherty – I’m falling more in line with what Larry is saying because of the fact that it is already a highly traveled road – trucks are not a stranger to that road. The business itself, since it is not going to be conducted on the property itself, I don’t see that as being intrusive to that neighborhood. It basically would look exactly as it looks now with the exception of this addition to the driveway and no more than four times a week a truck would pull in, drop something off and leave. I don’t see that as being a big detriment to

the neighborhood. I don't believe that the number of employees off-site is a real consideration for that use and the buildings are already there.

Schmidt – Well, I guess I'm siding with Mr. Oiler. The business that was there is no longer there – that's a thing of the past – that's not a consideration today – whether it was beneficial or whether it was harmful, it doesn't make a difference today because it is now gone and the new zoning is in effect when a new resident comes in. I have a real problem with almost 3000 sq. ft. of space and all we allow is 800. As a zoning board we try to be very understanding and try to work with the township residents in working out an amicable solution that will work to the betterment of the township. But I think this one really goes above and beyond what, in my estimation, comes close to what a reasonable difference is going to be. If Mr. Becht's business grows at all it may increase the number of trucks and it would be a tough thing to police. I think as far as the one nonresident employee that is open to interpretation but I can see if his business grows that there could be more than one person. The other aspect of it is the semi's going in and out of that driveway. That road is just a two-lane road and there really is no berm, especially across the street – there might be a foot of gravel and then it drops off. If it would be a straight truck it wouldn't be a problem but when you have semi's trying to get in and out of there, you would need at least a 50' apron to get a truck in there and I don't think it's a good situation. It really goes beyond what I feel is reasonable for granting any type of variances to it.

Daugherty – I was thinking that potentially we could lower the square footage but what you're saying is that is not the only issue.

Oiler – You said it pretty well – it falls under whether the variance is substantial and it is substantial.

Schmidt – And obviously the property is going to be worth the same amount of money whether Mr. Becht buys it or not. It would not increase or decrease the value of the property. The property would yield a reasonable return whether it would be beneficial - the variance substantial – whether the essential character of the neighborhood would be substantially altered – there again that is one of those areas – hopefully the business would grow and I think it could be. Guess we have to look at that also – we can't look at just granting a variance. Once we grant a variance we can't take it back. We can place a lot of restrictions on it but then it becomes a real policing effort to keep up with that.

Bensinger – I hear everything you are saying and I do share some of your concerns and I guess one of the things arguing in favor of the applicant is that he is here trying to raise the issues. We could just as easily have an applicant that just buys it and does what he wants. It is a permitted use if you only use the 800 sq. ft.

Schmidt – And, Mr. Becht, we commend you for being forthright in saying what you wanted to do rather than sliding in the back door.

Becht – That's why I'm not trying to build a dynasty or anything. I'm pretty much where I want to be.

Daugherty – After hearing your concerns, the square footage is one thing but I got over that because they are existing buildings. The one that maybe I hadn't considered heavily enough is the tractor-trailer issue. If it was a straight truck I wouldn't have a problem with it but hearing the concerns about the tractor-trailer, it is a valid concern trying to get them into driveway - even pulling in might be a problem. Even if you did flare the driveway at the end and it was feasible, I would question whether it would be safe.

Becht – Where I'm at now, they have about the same size road and they got about a 50' apron.

Daugherty - The other thing that is a concern is that hill; it's not too far from your driveway. Because it's an 18-wheeler, it's going to take some time to get that thing off the road and back out.

Schmidt – Do I hear a motion? Does anyone else have any more comments?

Oiler – I make a motion to deny the application for conditional use at 9400 Friendsville Road for the purpose of receiving material and storing it for using at a job off-site and for the reasons of traffic hazard and substantial variance required over and above what is in our zoning rules.

Daugherty – Question to Gary Harris – this really isn't a conditional use, is it?

Harris – It wouldn't be a variance, would it?

Daugherty – It's filled out as a conditional use but isn't it really ...

Harris – It would be a variance for home occupation. It was a tough decision to make, what to call it, since we don't have a home occupation application.

Daugherty – I guess I was looking at it as home occupation. I found myself going back to conditional use but then saying, wait, it's not really a conditional use.

Bensingers – It's actually a variance to Section 205 E.

Daugherty – Right, which is home occupation.

Daugherty – I second the motion.

Roll Call Vote:	Bensingers	- I'm against the motion.
	Daugherty	- I'm for the motion.
	Oiler	- I'm for the motion.
	Schmidt	- I'm for the motion

Motion carried with the application being denied.

Chairman Schmidt – Anything else?

There being no further discussion, upon motion by Larry Bensinger and seconded by Ron Oiler, it was unanimous that the meeting be adjourned.

The meeting was adjourned at 8:55 p.m.

Marlene L. Oiler, Certified PP, PLS
Westfield Township Board of Zoning Appeals Secretary

(Minutes approved 4/1/06 as corrected.)