

WESTFIELD TOWNSHIP BOARD OF ZONING APPEALS

September 20, 2007 @ 7:30 p.m.

Public Hearing – Kokosing Construction Co.

Application for Conditional Use/Site Plan Review

8989 Lake Road; 8683 Lake Road; 8707 Lake Road

Chairman Mike Schmidt called the meeting to order at 7:30 p.m. Roll call indicated five members of the Board of Zoning Appeals were present: Michael Schmidt, Kevin Daugherty, Larry Bensinger, Robert Gecking and Ron Oiler. Alternate Jack Poe was absent. Others in attendance included Trustee Jeff Plumer, Trustee Carolyn Sims, Trustee Tim Kratzer, Zoning Commission member Jim Likley, Zoning Inspector Gary Harris, Fire Chief Jack Snoddy, J. Timothy Snell (102 Baker, Lodi), Wirtie MacPhail (5629 Greenwich Road), David F. Tryon (9068 Friendsville Road), and Mr. & Mrs. Bruce Broadbridge (10352 Wooster Pike).

PUBLIC HEARING

The applicant, Kokosing Construction Co., applied for a Conditional Use/Site Plan Review (Article VI, Section 602 D. Conditional Use for Government Projects and Section 606.33 Specific and Supplementary Conditions pertaining to government sponsored construction projects) to use the properties at 8989 Lake Road, 8683 Lake Road and 8707 Lake Road for temporary storage for excess dirt; field office with offices, storage and parking; and equipment storage area.

On behalf of the applicant, Kokosing Construction Co., Jack Weaver was present and sworn in.

8989 Lake Road (conditional use - temporary storage for excess dirt)

Upon questioning by the board members, the applicant indicated they had stockpiled dirt on the site and when Ruhlin got awarded the ODOT project, Ruhlin assumed the stockpile. They have an agreement with Ruhlin that it was their stockpile and they are to reclaim it. Ruhlin also took over the landowners' agreement that we had. The agreement with Ruhlin was dated September 1, 2006, and essentially Kokosing used the site from April 2006 to September 2006. The dirt was being stockpiled and no one was using it for a period of time until the I-76 interchange job was bid. The dirt then became part of a big fill for the I-76 project.

The Board reviewed with the applicant the specific and supplementary conditions as listed in Section 606.33 as to direct access, fencing, signs, etc. The Board also reviewed the lease agreement submitted with the application. The Board determined from Kokosing's standpoint everything is over and done with at this point of time and that no performance guarantee is needed since they are not in charge of reclamation. Assistant Prosecutor Thorne indicated the Board should do a motion finding that the project is done and there is no reason to grant it.

Larry Bensinger made a motion with respect to parcel #041-15B-44-010 located at 8989 Lake Road submitted by Kokosing Construction that the project as it related to Kokosing is over and done and they have reassigned the lease to Ruhlin on September 1, 2006, and that no action is required from Kokosing at this point.

Ron Oiler seconded the motion. There was no further discussion.

Roll Call Vote:	Larry Bensinger	yes
	Kevin Daugherty	yes
	Robert Gecking	yes
	Ron Oiler	yes
	Mike Schmidt	yes

MOTION CARRIED.

Larry Bensinger indicated that when he and Ron looked at that site there were some sealed barrels on that property and it looked like an oil spill. They were suspicious because one barrel had crossbones on it. Zoning Inspector Gary Harris had been asked to make some calls. Fire Chief Jack Snoddy indicated that he had followed up on this matter and the Bureau of Underground Storage Tanks in Columbus had issued a permit to Ricciardi on 9/12/07 for contractor Fabrizi Trucking to remove three underground tanks (no replacement/reinstall indicated on the permit). The inspector's report isn't back yet but they could have been residual run off tanks for when they cleaned the inside of chemical trucks. Chief Snoddy indicated when the tanks come out the procedure is the tanks have to be cleaned inside and out on site before they can be transported off the site and those barrels are the collection and will be hauled away with that contaminated dirt, which may not be done for months until it is cured. Chief Snoddy further indicated that the township does not have jurisdiction to inspect. After more discussion about this matter, A.P. Thorne stated there is no indication that it is even part of the government sponsored project. Board members indicated that this issue doesn't appear to involve Kokosing at this point.

8686 Lake Road (conditional use – field office with offices, storage and parking)

The Board had questions as to the location of this parcel as compared to the parcel at 8707 Lake Road since both parcels were listed in the same lease agreement. It was ascertained that this parcel is the one closest to Buffham Road on the north side of the sod farm and south of the new road and the parcel with just trailers on it. The application summary indicates the parcel is .93 acres in area while the lease agreement looks like 1.62 acres (difficult to read the copy). This parcel is leased from Medina Sod Farms.

Upon questioning by the Board members, the applicant indicated it was an existing stone lot and they are just going to pick up and leave it as a stone lot. They have made no changes to the lot. This is the parcel where the field offices are located, which they are just occupying for office space. Two of the trailers are supplied for ODOT. The Board reviewed the lease agreement submitted with the application. The lease agreement commences September 1, 2006, and terminates November 30, 2007, with an option to lease month to month for a period of 8 months beyond the termination date (difficult to read whether it was an 8 or a 6). Upon discussion and review, the Board determined it was probably an 8, which would be July 2008. The applicant indicated that they anticipate being done by next summer but those agreements are always subject to negotiation with the landowners.

The Board reviewed with the applicant the specific and supplementary conditions as listed in Section 606.33 as to fencing, signs, lighting etc. Traffic in and out of the site is basically pickups and cars. The applicant indicated that stored on this site are a couple of Con-ex storage containers, some trailers, a few barrels and some construction equipment.

There is no fuel storage or hazardous materials there. The employees and ODOT also use the site for parking. Upon questioning about the large number of paint cans at the back of the area, the applicant indicated that as subcontractors finish at the job site the pails are brought back into the yard. A lot of people like to take those 5-gallon pails home but if people don't want them, then the pails get washed out and thrown away. They will be disposed of properly. A.P. Thorne indicated that it didn't sound like there is a whole lot to be concerned with at this location.

Larry Bensinger made a motion with respect to parcel #041-15B-40-004 located at 8683 Lake Road that the application for conditional use to Kokosing Construction for the government-sponsored project related to the roadway is acceptable through July 31, 2008.

Ron Oiler seconded the motion. There was no further discussion.

Roll Call Vote:	Larry Bensinger	yes
	Kevin Daugherty	yes
	Robert Gecking	yes
	Ron Oiler	yes
	Mike Schmidt	yes

MOTION CARRIED.

8707 Lake Road (conditional use – equipment storage area)

The summary of storage yard for this parcel indicates .716 in acres. It further says that located in the storage yard are two 20' x 8' Con-ex storage containers and a 8' x 10' fuel tank located 98' away from the edge of the road; also a 40' x 8' Con-ex storage container. The entrances are located on the northern and southern edges of the storage yard and there is a 36' drive located at the northern end of the yard and an access road abuts the south end of the yard. The Board had questions about the .716 acres since the agreement looks like there is a total of 4-5 acres. This parcel is leased from Clifford Gregoire.

The Board had questions related to the biggest portion of the lot that is behind the storage area, which is being used for dumping material. The applicant indicated that at one time they were dumping material (dirt and broken concrete) behind the storage site per the agreement and they obviously will have to reclaim the area, dress it and seed it. The concrete has to be buried down two feet below the soil.

Trustee Sims indicated that the back area had been used previously for dumping demolition materials from the old T/A and the county had done elevation studies since it was in the flood plain. It was discussed that additional materials have been dumped back there and the county is requiring of Mr. Gregoire a revised site plan. There was discussion whether this dumping even related to a government-sponsored project. A.P. Thorne indicated it appears to be Mr. Gregoire's responsibility to submit revised plans and get the new permit from the county.

The applicant indicated that he believed other companies are putting material back there but, for now, Kokosing is responsible for leveling it. He further indicated that they haven't placed anything back there for a long time – probably since last fall, and they don't have any plans for the back piece of that property for storage or anything. A.P. Thorne commented that Kokosing is saying there is new material being dumped back

there but it's not them dumping it. As to the liability under the agreement, A.P. Thorne stated that the contract provided they have the right to dump there and they are to level and grade it but it doesn't necessarily say they are going to do it for anybody else who is dumping there but that is their issue. Further A.P. Thorne indicated someone else is dumping there now, which isn't necessarily illegal and may not even be dumping that comes from this job. Mr. Gregoire is apparently trying to bring the area up, which he has a right to do as long as he meets the flood plain requirements.

Upon further questioning from the Board, the applicant indicated that everything is up front other than what's in the Con-ex boxes, which is hand tools, power tools and stuff they don't want stolen. The applicant further indicated that he was not aware of any traffic incidents or accidents during the time they have been there. Fire Chief Snoddy indicated he didn't have any issue with the storage area and the temporary fuel tank complies with the fire code; no traffic issues.

The Board reviewed with the applicant the specific and supplementary conditions as listed in Section 606.33 as to access, no permanent structures, fencing, signs, lighting etc. There was discussion about the orange mesh fence and that complaints were coming into the township about the aesthetics of the fence and that it has become kind of haphazard instead of being stretched tight. The fence is neither for security nor a deterrent to entering the property. The Board suggested that just for the sake of appearances, they might want to stretch it tight or take it down, but obviously they are allowed to have it. The applicant indicated he would take a look at the fence the next day.

There was discussion and different views on whether the conditional use should be for the entire 4-5 acres or the .716 acres that Kokosing was currently utilizing as a storage area. A.P. Thorne indicated you need to go by what the application is for, not the fact that the lease agreement is for more. It was determined that the application summary specifically indicated the .716 acres for the storage yard and a conditional use would apply for just that acreage. There was discussion about the leveling of the back area but that could be an unresolved issue between Kokosing and the landowner. A.P. Thorne further indicated that any conditional given now would apply to future operations, not anything in the past, and Kokosing is saying they don't have any plans for future operations on the back part so the Board doesn't need to grant them anything for something that is already done.

Larry Bensinger made a motion that we grant a conditional use permit for parcel #041-15B-39-023 located at 8707 Lake Road consisting of the portion of property .716 acres in front of the Quonset hut to Kokosing Construction for the uses as per the application as shown in Exhibit A for completion of the government-sponsored project. Such conditional use shall expire July 31, 2008.

Robert Gecking seconded the motion. There was no further discussion.

Roll Call Vote:	Larry Bensinger	yes
	Kevin Daugherty	yes
	Robert Gecking	yes
	Ron Oiler	yes
	Mike Schmidt	yes

MOTION CARRIED.

The public hearing was closed.

ADJOURNMENT

Upon motion by Kevin Daugherty, seconded by Robert Gecking, it was unanimous that the meeting be adjourned. The meeting was adjourned at 8:50 p.m.

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

(Minutes approved 10/8/07.)