

**REGULAR MEETING  
ZONING BOARD OF APPEALS  
CHARTER TOWNSHIP OF MILFORD**

**MAY 11, 2011  
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**MEMBERS PRESENT:** Richard Chowaniec, Chairman; George Joerin, Vice-Chairman; Keith Cheresko, Secretary; Members Richard Huber, Richard Lemke, Lance Oberg, Dale Wiltse

**ALSO PRESENT:** Andy Knowlton, Bryan Huggett, Schupan & Sons; Chris Milani, UBCR; Rodney Knudsen, Knudsen Engineering & Training Services; Mike Palchesko, DTE; Timothy Brandt, Building Official, Planning & Zoning Administrator; Holly Brandt, Township Clerk

Chairman Chowaniec called the meeting to order at 7:28 p.m. and determined a quorum was present.

The Pledge of allegiance was recited.

**PLANNING COMMISSION LIAISON REPORT**

Mr. Lemke reported on the meeting of April 28, 2011.

**TOWNSHIP BOARD LIAISON REPORT**

Mr. Wiltse reported on the meeting of April 20, 2011.

**PUBLIC HEARING**

CASE V-11-001, SCHUPAN & SONS, INC., 4820 HOLTZ DRIVE, 16-36-451-018.  
M-2 ZONING DISTRICT, ORDINANCE 196, SECTIONS 32-655 (13) LANDSCAPE ISLANDS; 32-587 (g) (7) FRONT YARD LANDSCAPING; 32-600 (g) (5) LIGHTING; 32-480 (13) REQUIRED CONDITIONS IN M-2 ZONING DISTRICT; and 32-480 (7) (j) (i), OPEN STORAGE AREAS.

Chairman Chowaniec opened the public hearing at 7:31 p.m.

Mr. Andy Knowlton, Chief Financial Officer, Schupan & Sons, Inc., explained each of the six variance requests and the reasons for the requests. Mr. Knowlton stated the first variance request was for the rock-covered landscape islands and the lack of irrigation. Mr. Knowlton stated during initial facility construction the paving schedule did not leave enough time to install proper landscaping and irrigation. Chairman Chowaniec asked about compliance with the approved site plan. Mr. Knowlton responded that the items of the variance requests were not on the originally-approved site plan. He also stated their building contractor did not follow through and provide a final site plan to the Township for approval.

Mr. Knowlton stated the Ordinance was not intentionally disregarded with respect to the

variance requests and they had expected their contractor to follow through to complete the project. He said the facility had been open for five years and his firm didn't become aware of the outstanding issues until after the facility was operating. Mr. Knowlton stated these reasons were the basis of their hardship for each variance.

Chairman Chowaniec asked if there were any comments from the public and being none closed the public hearing at 7:35 p.m.

Chairman Chowaniec stated each portion of the variance request would be voted on individually.

**NEW BUSINESS**

CASE V-11-001, SCHUPAN & SONS, INC., 4820 HOLTZ DRIVE, 16-36-451-018.

Mr. Lemke stated the original site plan was reviewed by the Planning Commission and the facility as-completed was not built to the approved plan. Rather than meeting the requirements of that plan, applicant seeks a number of variances to approve what was constructed. Mr. Lemke, as the Planning Commission liaison, indicated his strong belief the Planning Commission would take issue with the present appeal due to the alteration of the approved site plan. Mr. Lemke stated the variances would alter the originally approved site plan and the Planning Commission should review the as-built plan for ordinance compliance and offer alternatives in the review process.

Mr. Brandt stated some site plan changes could be approved administratively as indicated in the Ordinance and would not require further Planning Commission review. Mr. Lemke stated there were aspects of the site plan that should be reviewed by the Planning Commission such as the lighting, fuel storage, and traffic issues and they could recommend site plan approval subject to obtaining variances.

The Board discussed the site plan approval process, timing to complete the process and if variances were needed when that would occur for the site. Mr. Cheresko stated consideration and determination of the variance requests at issue before the Board would be as if the site was vacant and the improvements were not already constructed.

Mr. Huber stated the variance requests were not consistent with the site plan, which was approved almost six years ago, and asked why applicants were requesting the variances now. Mr. Knowlton stated their site had been constructed over five years ago. Several years ago they became aware of the outstanding site plan issues that needed addressing. He stated it was his understanding obtaining variances was the only way to address the open issues and was unaware they would need to have their plan reviewed by the Planning Commission prior to the variance requests. Mr. Knowlton said their construction contractor was supposed to take care of the construction details and the contractor went out of business prior to completing the project.

The Board and Mr. Knowlton discussed having the Planning Commission review the revised site plan and the variance requests. Mr. Lemke stated if a site plan amendment was proposed to consider variance requests, the Planning Commission should have

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input, considering the project was not built to the original approved site plan specifications. Mr. Brandt advised it was the Township's Planning Consultant recommendation to have the matter heard by the ZBA.

Mr. Wiltse advised the applicants the Board was charged with following the Ordinance unless there was some unique feature of the property that prevented applicants from adhering to the requirements of the Ordinance.

Mr. Oberg asked if Mr. Knowlton reviewed the Zoning Variance Decision-Makers Checklist (on file in the Township Office), which described in detail reasons for granting or denying a variance request. Mr. Knowlton responded that he had read them. Mr. Oberg stated the applicant had not sufficiently demonstrated a recognized, justifiable reason for granting a variance with the information provided to the Board.

After discussion, Chairman Chowaniec stated it would be appropriate for the applicant to have a revised site plan reviewed by the Planning Commission.

Mr. Rodney Knudsen, Engineering & Training Services, stated his interest was in the construction a proposed new project and he addressed the variance request for the storage area lighting. He stated the four light poles, added after site plan approval, were necessary to provide safe lighting for employees and were shielded to reduce light pollution.

Mr. Bryan Huggett, Plant Manager, Schupan Recycling, Milford, stated their justification or hardship was the loss of their construction manager before the facility construction was completed. He said his organization would like to get the property into compliance so they can expand the facility and create more jobs and revenue in the Township.

Chairman Chowaniec stated the Board was trying to determine the proper direction for the applicant.

The Board asked Mr. Brandt why the Planning Consultant had recommended the applicant appeal to the ZBA instead of approaching the Planning Commission. Mr. Brandt stated the Planning Consultant indicated the proposed new project could be approved administratively once the variance requests were approved. The Board and Mr. Brandt discussed the proposed new project to install natural gas fuel storage tanks and other equipment to switch truck fueling from diesel to natural gas and the Planning Commission's input regarding what was installed and what was proposed.

Mr. Chris Milani, Director of Operations, UBCR, a subsidiary of Schupan & Sons, stated he managed transportation for the facility. He stated they were proposing significant capital improvements to the facility providing they can be completed by November 1, 2011. Mr. Milani explained the timeline was due to restrictions of a grant received from the U.S. Department of Energy. He explained the benefits to the community and the environment of the natural gas fuel conversion and stated they were willing to return to the Planning Commission if the process could be expedited.

Mr. Lemke stated if the facility expansion needed to be reviewed by the Planning Commission the variance requests could also be reviewed at that time. He stated the hardship for the requests would be understood more clearly at that time; however, any outstanding violations would need to be corrected.

Mr. Brandt stated the proposed capital improvements would minimally change the physical aspects of the site in regard to the fuel tank conversion. He explained the Planning Consultant agreed the proposed improvements could be approved administratively as specified in the Ordinance.

The Board discussed at length the variance requests and the site plan that was approved-and-not followed. The Board reached consensus that the Planning Commission and the Township Board should be made aware and have input in the process of Ordinance compliance and improvements to the site. They discussed at length the timeline for moving the project through the approval process and the inability for administrative approval without Ordinance compliance.

Chairman Chowaniec stated the applicant could request the Zoning Board vote on each request at this meeting or get Planning Commission review as the Board indicated should be the proper process. Mr. Milani and Mr. Knowlton stated they wanted the Board to vote on their requests at this meeting.

Discussion continued at length regarding the individual variance requests and why each was originally installed in violation of the approved site plan and the Ordinance. It was discussed the Planning Commission may have been able to offer alternative options for Ordinance compliance at the outset of the site plan approval process for the issues driving the variance requests.

Mr. Mike Palchesko, DTE Energy, the facilitator of the energy grant, requested a brief recess. Chairman Chowaniec recessed the meeting at 9:12 p.m.

Chairman Chowaniec resumed the meeting at 9:23 p.m.

Mr. Knowlton requested their case be postponed for Planning Commission review.

Mr. Wiltse moved, Mr. Cheresko seconded, to postpone V-11-001, Schupan & Sons, 4820 Holtz Drive, 16-36-451-018 as requested by the applicant to permit applicant to go before the Planning Commission at the Commission's next regularly scheduled meeting.  
**Vote unanimously carried.**

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**REVIEW REVISED ZBA VARIANCE APPLICATION**

The Board reviewed the application and discussed whether or not to address removal of signage and direction for applicants that are denied a variance in the application form. It was determined to address these matters in the decision letter sent to applicants after the matter was presented and resolved.

Mr. Oberg moved, Mr. Lemke seconded, to approve the application subject to the most recent amendments presented. **Vote unanimously carried.**

**APPROVAL OF MINUTES, NOVEMBER 10, 2010**

Mr. Lemke moved, Mr. Wiltse seconded, to approve the minutes of November 10, 2010 as amended. **Vote unanimously carried.**

**APPROVAL OF MINUTES, DECEMBER 8, 2010**

Mr. Wiltse moved, Mr. Huber seconded, to approve the minutes of December 8, 2010 as amended. **Vote unanimously carried.**

**APPROVAL OF MINUTES, JANUARY 12, 2011**

Mr. Cheresko moved, Mr. Wiltse seconded, to postpone the approval of the minutes of January 12, 2011. **Vote unanimously carried.**

**CALL TO THE PUBLIC**

There was no public present.

**BOARD MEMBER'S REMARKS**

There were no comments from the Board.

**ADJOURNMENT**

Mr. Lemke moved, Mr. Wiltse seconded, to adjourn the meeting at 9:43 p.m. **Vote unanimously carried.**

Charter Township of Milford,

Keith Cheresko  
Secretary