

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
MONDAY, NOVEMBER 7, 2016 – 7:00 PM

MINUTES

The meeting was called to order at 7:02 PM by Board Vice Chair Susan Engelhardt.

Roll Call:

Present: Mrs. Engelhardt, Ms. Kenoyer, Ms. Melfi, Mayor Greiner, Mrs. Pedrick, Mr. Budney, Mr. Doshna, Mr. Townsend, Attorney Gianos, Engineer Clerico, Planner McManus

Excused: Mr. Cook, Mr. Hain, Mr. Perron, Traffic Engineer Rocciola

1. Public Comments: None

2. Approval of minutes for October 25, 2016 regular meeting.

Deferred to the next regular meeting

3. Approval of executive minutes for October 25, 2016 regular meeting.

Motion to approve the minutes: Budney, seconded by Melfi

Ayes: Greiner, Melfi, Doshna, Pedrick, Budney, Townsend

Nays:

Abstain: Engelhardt, Kenoyer

Motion passed: 6-0-2

4. Resolution: Parade Enterprises, LLC (Burger King) - 309 Route 202, Block 44 Lot 7

Approval of Sign Variances for a Burger King Restaurant.

Mr. Gianos stated that the resolution made been sent to the applicant for comments. The Board asked that the property owner's name be verified.

Motion to approve the resolution: Budney, seconded by Melfi.

Ayes: Greiner, Melfi, Doshna, Pedrick, Budney, Townsend

Nays: (None)

Abstain: (None)

Motion passed: 6-0-0

5. Public Hearing: 6NMS, LLC - 6 North Main Street, Block 14 Lot 11

Mr. Townsend was recused from the application.

The applicant's attorney, Kara A. Kaczynski, Esq. of the firm McNally, Yaros, Kaczynski & Lime, LLC. Ms. Kaczynski discussed the application to replace the barrier free ramp which would require a front yard variance of 13.3 feet where 25 feet was required and requests for site plan and sewer & water waivers. Ms. Kaczynski stated that the applicant's architect could not attend the meeting tonight and offered that the architect could be present at the next meeting if the Board deemed his testimony necessary. Ms. Kaczynski continued with discussion and stated that

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a new survey had been submitted as requested from the completeness hearing which showed the location of the new ramp.

The following exhibits were entered:

A-1 Notice, Affidavit of Service, Affidavit of Publication, List of Property Owners, Certified mail slips and Proof of Publication (white and green slips); and

A-2 Survey by Morgan Engineering dated October 25, 2016; and

Ms. Melfi asked if the variance was being required to bring the ramp up to code. Ms. Kaczynski explained that the proposed ramp would be more code compliant and improve safety and the aesthetics of the building noting that there had been no violations.

Christopher T. Cassetty, M.D., a member of the LLC, was sworn and gave testimony stating that he agreed with statement of his attorney and discussed the application noting that the building would be used as a dermatology medical office to which he had made extensive renovations to bring the building up to code and had obtained HPC approval. Mr. Cassetty stated that he was replacing the ramp due to the presentation to patients adding that the support of the existing ramp was unsure and that the ramp met the required width but with the replacement of the railings the width was tightened to give no leeway. Mr. Cassetty stated that relocating the ramp to the rear of the building would be cost prohibitive due to the topography. Mr. Cassetty stated the sewer system was replaced and the water service had been located and renovated with the cooperation of the town.

Ms. McManus discussed her review letter dated November 7, 2016 stating that the use was permitted, reusing the building for a medical office was consistent with the Master Plan, that the proposed ramp was not a significant change in appearance and maintained the historic nature and continued the historic attributes of the building.

Mr. Clerico discussed his completeness memo which included the updated survey submitted and discussed the site plan waiver and waiver from the water & sewer 'Form A' submission. The Board discussed. The applicant agreed to provide a completed 'Form A' as a condition of any approval. The Board discussed the site plan waiver request.

Ms. Kaczynski discussed the positive and negative criteria of the variance requests.

Mr. Clerico stated that the survey and the deeds did not indicate any easements or exceptions regarding the rights of the public on the portion of the sidewalk on the subject property and asked if the applicant would agree to the conveyance of rights to the public to travel on the sidewalk. Ms. Kaczynski agreed provide proof of public access.

Motion to close the public hearing: Melfi, seconded by Greiner.

Ayes: Kenoyer, Greiner, Melfi, Engelhardt, Doshna, Pedrick, Budney

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

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Motion to approve the variance and grant the waiver for site plan: Melfi, seconded by Doshna.
Ayes: Kenoyer, Greiner, Melfi, Engelhardt, Doshna, Pedrick, Budney
Nays: (None)
Abstain: (None)
Motion passed: 7-0-0

7:50 p.m. - Mr. Clerico left the meeting and did not return.

6. HPC Resolutions:

September 21, 2016:

- 150 Main Street & 110 Broad Street - David Dallas (Cut Glass)

The applicant's attorney, Steven Gruenberg, appeared for the applicant. Mr. Gruenberg stated that the applicant, in an effort to create an aesthetic appearance and safety for the vacant lots, provided temporary vinyl fencing with shrubs planted behind the fence to provide security until such time as construction began per the approved site plan. Mr. Gruenberg stated the applicant then was told that the fencing had to be reviewed by the HPC and was denied. Mr. Gruenberg discussed his letter dated October 25 2016 adding that the HPC resolution was on the October 25, 2016 Planning Board agenda

The Board discussed the application and ordinance. Mrs. Engelhardt stated that a definition of temporary fencing should be drafted for the ordinance.

David Dallas, applicant, was sworn in for testimony. Mr. Dallas stated that he had conversations with numerous Borough employees and sent a cut sheet to Jeff Klein, construction official and zoning officer, on July 14, 2016 and that after speaking with Mr. Klein received a verbal approval to install the fencing. Mr. Dallas stated that he then contacted contractors and ordered the materials adding that he had hoped to move along with the development and not spend extra money but garbage was being dumped on the site and piping had been stolen further stating that it was not his intent to circumvent the procedures.

Mr. Doshna stated that if the construction official had given approval to proceed why was the applicant here now. Mr. Dallas stated that Mr. Klein did not say to go to the HPC. Mr. Melfi stated that there was a chain link fence installed during the demolition and was now replaced with vinyl fencing and shrubs which looked much better than the chain link fencing.

The Board discussed the procedures and definition of temporary and whether the fencing was covered by the ordinance.

Mr. Budney asked how long the temporary fence would be in place. Mr. Dallas explained.

HPC Chair, Elaine Gorman, appeared and discussed the procedures of the HPC and the application and stated that the applicant was scheduled to come back to the HPC to discuss options including painting the vinyl fencing a more historic color.

Mr. Dallas stated that painting vinyl would be a mistake and suggested that he could plant fast growing vines around the fence to break up the whiteness.

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Mayor Greiner asked the expense of the fence. Mr. Dallas explained.

Mr. Gruenberg requested that the Board either approve the fencing as proposed or determine that the HPC did not have jurisdiction to review.

Mr. Doshna noted that the applicant had voluntarily submitted an application to the HPC and that there was a HPC resolution which denied the fence.

Ms. Melfi stated that she was in support of the temporary fence as installed with no additional vines being planted and should remain as long as it was under site plan approval and clarified that the applicant could have come directly to the Planning Board if they did not want to go to the HPC.

Motion to not accept the HPC recommendation and approve the fence as proposed: Melfi, seconded by Doshna.

Ayes: Kenoyer, Greiner, Melfi, Engelhardt, Doshna, Pedrick, Budney, Townsend

Nays: (None)

Abstain: (None)

Motion passed: 8-0-0

8:30 p.m. - Ms. Melfi left the meeting and did not return.

- 117-119 Main Street - Large House - Hunterdon Chamber Foundation

HPC Chair, Elaine Gorman, discussed the application and the materials to be used as approved by the State.

Motion to approve: Doshna, seconded by Budney.

Ayes: Kenoyer, Greiner, Engelhardt, Doshna, Pedrick, Budney, Townsend

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

November 2, 2016:

- 87 Mine Street - Niece

HPC Chair, Elaine Gorman, discussed the application

Motion to approve: Doshna, seconded by Budney.

Ayes: Kenoyer, Greiner, Engelhardt, Doshna, Pedrick, Budney, Townsend

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

- 176 Main Street - Butler

HPC Chair, Elaine Gorman, discussed the application to replace the porch which had been removed.

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Motion to approve: Budney, seconded by Greiner.
Ayes: Kenoyer, Greiner, Engelhardt, Pedrick, Budney, Townsend
Nays: (None)
Abstain: Doshna
Motion passed: 6-0-1

7. Council Items

None.

8. Chair Items

Vice Chair Engelhardt stated that the next meeting was scheduled for December 5, 2016.

9. Bills

Motion to approve: Greiner, seconded by Doshna
Ayes: Kenoyer, Greiner, Engelhardt, Doshna, Pedrick, Budney
Nays:
Abstain: Townsend
Motion passed: 6-0-1

10. Adjourn

Motion to adjourn at 9:15 p.m.: Pedrick; second: Budney
Ayes: All were in favor
Nays: (None)
Motion passed: 8-0-0

Respectfully submitted

Eileen Parks
Planning Board Secretary