

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
TUESDAY, MARCH 28, 2017 – 7:00 PM

MINUTES

The meeting was called to order at 7:00 PM by Chair Cook.

Roll Call:

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

Excused: Mr. Hain, Traffic Engineer Rocciola

1. Public Comments: HPC Chair, Elaine Gorman, appeared and discussed a memo from the HPC recapping the HPC activities in 2016 and discussed the courtesy review memo from John Hatch regarding the Warren County Gazebo project. Ms. Gorman stated that the HPC was in the process of revising their website to provide a better service to the community.

2. Approval of minutes for February 28, 2017 regular meeting.

Motion to approve the minutes: Melfi, seconded by Budney

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

Nays: (None)

Abstain: Engelhardt, Kenoyer

Motion passed: 8-0-2

3. Approval of executive minutes for February 28, 2017 regular meeting.

Motion to approve the executive minutes: Melfi, seconded by Greiner

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

Nays: (None)

Abstain: Engelhardt, Kenoyer

Motion passed: 8-0-2

4. Public Hearing: Countryside Plaza Affordable Housing LLC - 44 Stangl Street, Block 35 Lot 32

The attorney for the applicant, Donald Scholl, appeared and discussed the application of amended site plan and requested that the Board discuss the variances required stating that the primary element of the application was the proposed patio.

Mr. Gianos stated that the application should be reviewed for completeness. Mr. Scholl stated that the applicant had submitted Form A as requested. Mr. Clerico discussed his report which was updated with the submission of checklist items with the following recommendation to Grant waivers of Checklist items 36, 37, 38, 39, 43, 44, 46 & 47 that were previously approved as part of the original application. Grant the requested waivers outlined in "Exhibit A" for Checklist Items 3, 27, 35, 40, 42, 48, 49, 52, 56, 59, 62, 65, & 68 and Grant a Temporary waiver of Checklist Item 50.

Motion to deem the application complete: Melfi, seconded by Budney

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

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

Mr. Gianos stated that the applicant had provided the proofs of notice marked as Exhibit A-1 all of which he had reviewed and stated that the Board had jurisdiction to proceed with a public hearing.

Applicant and owner, Robert Mortara, was sworn in for testimony to give an overview of the application. Exhibit A-2, a photo of the Lone Eagle Brewery, was entered which showed the front of the building. Mr. Mortara stated that a fence was to be installed with no landscaping to be removed. Exhibit A-3, a copy of the site plan revised to show the patio moved away from the drip line of a tree to the rear of the building with a 6 foot path from the door and a 4 foot walkway to the fencing and a paver path walkway in the front to avoid any customers walking on grass. Exhibit A-4, photo of the existing paver patio at the side entrance of the building, Mr. Mortara stated that the same type of pavers were to be used for the proposed patio. Exhibit A-5, photo of the side of the building, Mr. Mortara indicated the existing lighting to remain. Exhibit A-6, photo of a stone retaining wall, Mr. Mortara stated that a similar type of retaining wall with cap stones with would be 0-18 inches high to be installed to level the patio. Exhibit A-7, photo of the existing tree, Mr. Mortara stated that he would do his best to preserve the tree noting that the tree had lost some limbs in the past year. Mr. Mortara stated that the construction of the patio would take about a week and added that the proposed fence would be 4 feet in the front and 5 feet in the back per the ordinance.

Todd Becker, owner of Lone Eagle Brewing, was sworn in for testimony. Mr. Becker discussed the fencing and patio.

Mr. Budney asked the depth of the material for the patio and if any roots or electric conduit would be damaged during the construction. Mr. Mortara explained.

Mrs. Pedrick stated that the applicant should get in touch with the Shade Tree Commission to determine the viability of the tree. Ms. McManus asked if the tree was removed if it would be replaced. Mr. Mortara stated that it would be too close to the building. Mr. Cook asked that if the tree had to be removed per the Shade Tree Commission could the patio could be bigger. Mr. Mortara agreed that he would want to expand the patio. Mr. Clerico asked that a construction detail of patio be submitted. Mr. Mortara agreed.

Mr. Scholl asked the Board to determine the variances required including a variance pursuant to §2623.F (2.e), which states 'outdoor dining areas shall only be located in the front of a building' where the proposed outdoor dining was in the front and on the side of the building. The Board discussed and determined that a variance would be required.

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Ms. McManus discussed her report dated March 22, 2017 including providing accessibility for ingress/egress from the building for customers. Mr. Mortara stated that the applicant would provide seating that would maintain a 6 foot area around the door entrance access. Ms. McManus discussed the distance for passage and stated that the ordinance required an eight foot area be left for passage between the table and chairs and the curb where the applicant proposed six feet with the installation of the fence in between. The Board discussed and determined that the ordinance did not specify whether a fence was between and concluded that a variance was not required as the overall distance was 16 feet.

Mr. Scholl discussed the parking stating that the site was originally granted approval for a retail site with parking based on the gross floor area requirement and was subsequently approved for the brewery use once that ordinance to permit that use in the zone was adopted and opined that the proposed patio was not an expansion of the gross area of the building but rather was a seasonal assembly area for patrons noting that the brewery had been opened for a year with no complaints and adding that the area was in a walkable, pedestrian friendly location of the Borough. The Board discussed and concluded that there was no variance required for parking.

Mr. Scholl concluded that the only variance required was for a proposed outdoor dining area located on the side of the building.

The applicant's engineer, Erik Rupnarain, was sworn in for testimony, Mr. Gianos stated that Mr. Rupnarain had testified numerous times before the Board and would be accepted as a professional engineer. Mr. Rupnarain discussed the site plan revised per the professionals comments. Mr. Rupnarain stated that providing the location of the patio to conform would be an undue hardship to the applicant noting that the per the State any facility serving alcohol was required to be fenced in which was not practical in the front where the landscaping was to be maintained. Mr. Rupnarain discussed the proposed retaining wall to level the patio noting that it would be ADA compliant. Mr. Rupnarain discussed the positive and negative criteria for variance.

Mr. Budney asked for clarification on the ingress/egress from the building and the patio area locations in case of an emergency . Mr. Rupnarain explained.

Mr. Mortara asked that in the case that the Shade Tree Commission determines that the tree is not viable and would need to be removed would the Board approve an extension of the patio to the end of the building noting that he would install another exit door to the rear of the patio. The Board discussed and asked the square footage of the expansion. Mr. Rupnarain calculated the possible expansion with the removal of the tree to be 170 square feet.

Kim Tilly, 68 Bonnell Street, asked for clarification on the doors. Mr. Rupnarain explained.

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Motion to close the public hearing: Doshna, seconded by Budney

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

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

Mr. Scholl stated that the applicant was seeking amended site plan approval and variance for a patio located on the side of the building and further that upon recommendation of the Shade Tree Commission or passage of time that the tree in question was removed that the Board approve the expansion of the patio to the southwest of an area of 170 square feet without coming back to the Board.

Mr. Gianos discussed the conditions including construction details to be reviewed by the Board engineer prior to construction and an asbuilt site survey prior to occupancy of the patio and a revised plan to show the future expansion of the patio along with all outside approvals and payment of all fees.

Motion to approve: Melfi, seconded by Doshna

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

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

5. Sign Review Committee Resolution:

- 200 Main Street - Kwenyan & Associates

Mr. Cook discussed the sign application stating that the sign had been distributed to the sign review committee. The Board discussed.

Motion to approve the sign as discussed was made by Melfi, second: Greiner

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

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

6. Discussion: Borough Council Resolution 2017-66

Authorizing and Directing the Planning Board to Investigate the Expansion of the Union Hotel Redevelopment Area.

Motion to authorize Board's planner to prepare the report was made by Melfi, second: Greiner.

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Mr. Doshna asked for clarification on the lots in the study. Ms. McManus explained. Mr. Doshna discussed the lots in the study stating that they contained a viable business and stated that he was not sure if they would meet the requirements for a determination of an area in need of redevelopment. Mr. Doshna stated his concerns that the preparation of the study was being paid with tax payers dollars without a estimate of the cost or certainty that the lots would meet the criteria. The Board discussed.

Mr. Gianos stated that the Board was directed by the Borough Council to prepare the study.

Mr. Budney asked for a timeframe for the study. Mrs. Engelhardt stated that for similar reports in the past the Board had asked for a proposal from the planner. The Board discussed and questioned if a proposal for this study could include an estimate with a not to exceed cost.

Ms. McManus discussed the scope of the report and stated that she could prepare a proposal within a few days prior to the meeting on Monday, April 3, 2017. The Board discussed and asked if there would be a stop gap point where work would cease if it became clear that the expanded area did not meet the criteria.

The Board discussed whether to defer a vote to the next meeting to review a proposal or authorize the planner to prepare the study tonight.

Mrs. Engelhardt asked if this study could review whether to take the Chorus building out of the area in need of redevelopment. Mr. Gianos explained.

After discussion Mr. Cook stated that there was a motion on the floor. Ms. Melfi stated that the motion was not withdrawn.

Ayes: Engelhardt, Greiner, Melfi, Cook, Pedrick, Perron

Nays: Kenoyer, Doshna, Budney

Abstain: (None)

Motion passed: 6-3-0

Mr. Cook discussed the process moving forward for the public adding that the report being prepared was to study adding pieces to the existing redevelopment area which measured the lots listed in the Council resolution against the criteria in the statute. Mr. Cook stated that a public hearing would be scheduled once the report was completed and that the Board would hold as many meeting as necessary to have full public input and discussed the timeline for the various steps noting that where the Board would provide recommendations to Council based on the study the final decision would be determined by the Borough Council.

7. Council Items:

Mayor Greiner stated that the court hearing for the affordable housing settlement plan was scheduled for 2 pm on April 25, 2017 in Somerville which was posted on the website.

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8. Chair Items:

Mr. Cook stated that he and Mayor Greiner had attended the Hunterdon Mini Round Table consisting of about 25 people that discussed County planning board issues including COAH, the 'SLAP' sheriff's labor assistance program and an upcoming seminar being presented by the County Planning Board called 'HackHunterdon' which was intended as a think tank for the tech industry for Hunterdon County.

Mrs. Engelhardt discussed that the affordable housing settlement hearing on April 25 was very important for the Borough. Mrs. Engelhardt updated that Board that she had contacted the County regarding the use of grant funds by residents for improvements to the house in the Borough's historic district. Mrs. Engelhardt stated that the County encouraged residents to apply to the HPC and go that process prior to applying for the grant noting that an application could be approved for the higher amount of money to comply with the ordinance. The HPC agreed to provide a link on their website.

Steve Tuccio asked how the Board handled possible conflicts of interests. Mr. Gianos explained. Richard Giffin, 9 Highlands Avenue, asked when the HPC's recommendation were included in the process. Mr. Cook explained.

Mr. Cook stated that the next meeting was scheduled for April 3, 2017 (Monday) and asked if the resolution for the Countryside Plaza would be prepared by then for adoption. Mr. Gianos stated that he would contact Mr. Scholl if the resolution was necessary to have ready for the April 3 meeting or if a letter would suffice.

9. Bills:

Motion to approve: Doshna, seconded by Budney
Ayes: Engelhardt, Kenoyer, Greiner, Melfi, Cook, Doshna, Pedrick, Budney, Perron
Nays: (None)
Abstain: (None)
Motion passed: 9-0-0

10. Adjourn

Motion to adjourn at 9:45 p.m.: Melfi; second: Doshna
Ayes: All were in favor
Nays: (None)
Motion passed: 9-0-0

Respectfully submitted

Eileen Parks
Planning Board Secretary