

FLEMINGTON BOROUGH PLANNING /ZONING BOARD MEETING

Relocated to Historic Hunterdon Courthouse, 71 Main St., Flemington

Tuesday, October 22, 2019, 7:00 PM

The meeting was called to order at 7:02 PM by Chairman Todd Cook.

Roll Call:

Present: Mr. Runion, Mr. Campion, Mr. Cook, Mrs. Engelhardt, Mr. Hain, Ms. Giffen, Mr. Hill, Mr. Norton, Attorney Kaczynski, Engineer Clerico, Planner McManus, Traffic Engineer Troutman. Mrs. Pedrick arrived at 7:40 p.m.

Excused: Mayor Driver, Mr. Budney

Chairman Cook announced that Greg Townsend resigned his seat as Alternate 1. Mr. Hill is moving from the Alternate 2 position to the Alternate 1 position, and David Norton has been named by Mayor Driver to the Alternate 2 position. Attorney Kaczynski swore in Mr. Norton.

1. Public Comments:

Steve Tuccio, 61 Elwood Ave., asked the board to keep in mind the impact of planning for the Borough's future. He cited trees being planted under power lines in the new streetscape project, and urged the board to keep potential future projects in mind. He also spoke about expert opinions and the need for local knowledge.

2. Mayor Comments: None

3. Council Items: Mr. Runion said a public hearing on the Planning Board appeal ordinance will be on the agenda for Borough Council's meeting on Monday, Oct. 28, starting at 7:30 p.m. at Borough Hall.

4. Approval of Minutes from the October 7, 2019, regular meeting

Motion to approve the minutes as amended: Hain, seconded by Campion

Ayes: Runion, Campion, Cook, Engelhardt, Hain, Giffen, Hill

Abstain: Norton

Passed: 7-0 with 1 abstention.

The order of the agenda was rearranged, to move Completeness for the 70 Church St. project up to Number 5 on the agenda. Motion was made by Hain, seconded by: Hill.

Ayes: Campion, Cook, Hain, Giffen, Hill, Norton.

Nayes: Runion

Passed: 6-1 with 1 nay.

5. Completeness/Resolution of Compliance: 70 Church Spice Factory, LLC – Block 39 Lot 3, 70 Church St.

Attorney Kaczynski said the board has to determine if one of the preliminary site plan approval conditions was complied with, and if the application is complete. The condition involved making a good faith effort regarding best practices for water treatment.

Engineer Clerico said conditions of the preliminary approval, regarding impervious coverage requirements, called for water treatment. He received additional reports and documentation from the applicant in that regard, and finds that it was a good-faith assessment of the issue. Concerns about their conclusions are a separate matter.

Motion to adopt the board engineer's determination that a good-faith effort was made to satisfy the conditions of preliminary approval: Hill, seconded by Hain

Ayes: Campion, Cook, Hain, Giffen, Hill

Abstain: Engelhardt, Norton

Passed: 5-0 with 2 abstentions.

Attorney Kaczynski said the next step is to determine if the final site plan application is complete. Engineer Clerico said the checklist for final approval is the same as for preliminary approval, and he recommended the application be deemed complete.

Motion to deem final site plan application complete: Hain, seconded by Campion

Ayes: Campion, Cook, Hain, Giffen, Hill

Abstain: Engelhardt, Norton

Passed: 5-0 with 2 abstentions.

Mrs. Pedrick arrived at the Planning Board meeting (7:40 pm)

6. Public hearing: 70 Church Spice Factory, LLC – Block 39 Lot 3 – 70 Church St.

Motion to carry the public hearing to the Planning Board meeting on Nov. 4, 2019, 7:00 p.m. at Flemington Borough Hall, 38 Park Ave., Flemington, NJ: Giffen, seconded by Campion

Ayes: Campion, Cook, Hain, Giffen, Hill, Norton

Abstain: Engelhardt, Pedrick

Passed: 6-0 with 2 abstentions.

7. Public Hearing: Flemington Outdoor, LLC – Block 44 Lot 6, 307 Route 202

Continuation from September 3, September 24 and October 7, 2019.

Preliminary and final Site Plan application with Use and Bulk Variances for Proposed Monument Sign.

Applicant Attorney Jaclyn D'Aminio summarized that each feature of the proposed project creates a positive benefit, that the DOT has reviewed safety on similar installations, and for the D-1 variance, it is well-suited for the best use of the site, promotes the purposes of zoning, benefits local and regional

businesses, and creates a sense of place. She noted the use is essentially passive. She said it also satisfies the negative criteria, in that there's no substantial detriment to the public good. Their traffic engineer testified about the traffic-impact neutrality of similar installations and the DOT expressed no concerns. It satisfies sustainability goals, and while the ordinance prohibits off-site advertising in this area, this use can be reconciled because of its green nature. She said this type of installation is not what the ordinance was meant to prevent.

Chairman Cook said the board will vote on the plans submitted, not renderings presented.

Planner McManus discussed the use variances requested, and recommended the board consider the use variance first.

Mrs. Engelhardt asked about setbacks, since this is a sign wall and not a building. Ms. McManus said the installation is considered a principle structure, and subject to the front-yard setback requirement.

Mr. Cook made notes on conditions the board had discussed for approval, including escrow accounts, fencing, and water supply. Ms. McManus added a condition about the light emitted by the signs.

Mrs. Engelhardt asked Traffic Engineer Troutman to discuss traffic study issues. Mr. Troutman said with a new application, the first thing to examine is the volume of traffic likely to come to a property, but they're not in fact building anything that attracts vehicles; rather, they're removing a use. Rather than doing a traffic study that reviews current conditions, forecasts future traffic conditions, and calculates the capacity of the road to accommodate the impact, the board should expect testimony about the non-traditional impacts of the proposal, mainly the safety implications of distracted driving. He discussed the testimony provided and said that if post-installation data shows an increase in traffic accidents, particularly in the transition from northbound Route 202 to northbound Route 31, the Borough could petition the state DOT to deny renewal of the annual permit it granted for the installation.

Mr. Hill asked who bears the liability if traffic accidents increase due to the sign. Attorney Kaczynski said in litigation, someone suing over an accident includes anybody and everybody that might be involved, but that's not a consideration for this board. This board should be looking at the proofs provided, and whether those are satisfactory.

Planner McManus reviewed the use variance criteria and said there are 2 parts to prove: positive and negative criteria. Under positive, they look at if the site is uniquely appropriate for the proposed use, and what purposes of the Municipal Land Use Law are supported by the proposal. Under negative, they look at if the proposal creates a substantial detriment to the public good and the zoning plan, and reconciling why this use wasn't included in the master plan.

Mr. Cook said the sign ordinance adopted 20 years ago never anticipated a living wall sign. Regarding traffic safety, he said testimony showed all drivers are distracted 20% of the time, and he thinks the proposed sign is less distracting than the use now in place. He asked for a statement from each board member.

Ms. Giffen says this is still a billboard, and it's still prohibited in the zone. Attorney Kaczynski said the reason a variance is needed is because the installation is an off-site advertising sign. Planner McManus said the question is whether the application advances the purposes of the Municipal Land Use Law, and whether the site is particularly suited to this purpose.

The board took a short break at 9:15 p.m., resuming at 9:22 p.m.

Mr. Campion said he had no statement to make.

Mr. Hain said he sees the benefit of local advertising and the lack of curb cuts, but he thinks the height is excessive. He understands it will be on 24 hours a day, and if it's foggy, more lights could make the circle harder to navigate.

Mr. Hill said he has concerns about the Borough's responsibility in the future, concerns about driver distraction, and the sign's location at a point of consequence. He questioned if people will be able to take advantage of an 8-second sign that's displayed. He added that it's the first use of this type of sign on a circle; they're generally installed at controlled intersections.

Mrs. Pedrick said she's been to the area at different times of the day and didn't realize how bad the building in the location looks. She has concerns about traffic safety, and said it all depends on the driver. Her conscience is telling her one thing and her mind is saying something else.

Mrs. Engelhardt said overall it's a quality design, and reminds her of Roger Brooks' advice about branding opportunities. She said the Borough should work with the state DOT to work on obvious signage issues around that circle. She discussed comments made on Facebook and said regarding transparency, before an applicant even applies, the board encourages them to shake out the idea with members informally. They did this in groups so there would not be a quorum, and the intent was to work out the bugs. She also suggested that the regional school district be given some advertising time on the sign.

Ms. Giffen discussed how the Borough might monitor the amount of light emitted from the signs. Ms. McManus said the board could require a post-installation compliance confirmation. Ms. Kaczynski said the board could require that the applicant do a pre-installation and post-installation light study.

Mr. Cook called for a motion to take a vote on the application. He said Ms. Kaczynski will go back into the minutes and determine all the conditions discussed, and come back with a final version for review and confirmation.

Mr. Hill asked that a condition be included about softening the back of the wall, under the solar trees, with shrubs. Ms. McManus said trees are a legitimate environmental concern, and a condition could be added calling for as many trees and shrubs as possible without compromising the solar function.

Motion to approve the D variance and 'c' variances and grant preliminary and final site plan approval with the conditions as discussed: Cook, seconded by Engelhardt.

Ayes: Campion, Cook, Engelhardt, Pedrick, Hill

Nays: Hain, Giffen

Passed: 5 to 2

8. Discussion: HPC Historic Map Revisions – John Hatch.

Motion to move discussion to the Nov. 4 meeting, 7 p.m. at Borough Hall, 38 Park Ave.: Hill, seconded by Giffen.

Ayes: Unanimous.

9. Chair Items:

HPC comments: None.

The next meeting will be Nov. 4, 7 p.m. at Borough Hall, 38 Park Ave.

10. Bills

Motion to pay: Hill; seconded by Campion

Ayes: Unanimous

Motion passed: 7-0-0

11. Executive Session: (None needed)

12: Adjourn

Motion to adjourn at 10:35 p.m.: Hill, seconded by Campion

Ayes: Unanimous

Motion passed: 7-0-0