

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
MONDAY, NOVEMBER 4, 2019 – 7:00 PM

MINUTES

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

Roll Call:

Present: Mayor Driver, Mrs. Engelhardt, Mr. Cook, Mr. Runion, Mrs. Pedrick, Ms. Giffen, Mr. Budney, Mr. Hill, Mr. Norton, Attorney Kaczynski, Engineer Clerico, Planner McManus, Traffic Engineer Troutman.

Excused: Mr. Campion, Mr. Hain

Ms. Kaczynski discussed that the Historic District Map revisions would not be heard tonight noting that after further review by the Borough attorney the revisions to the map would require to go through the process of an Ordinance adoption and not an amendment to the Master Plan.

A motion to amend the agenda to move the 2020 Census discussion to after approval of the minutes was made by: Driver, seconded by: Engelhardt. All were in favor.

Ms. Kaczynski stated that the resolution for the Flemington Outdoor, LLC application would be prepared for the next meeting as the transcripts had just been received.

1. **Public Comments:** None.

2. **Mayor Comments:** None.

3. **Council Items:**

Mr. Runion discussed that Council had adopted the ordinance regarding Planning Board appeals at the last Council meeting with a vote of 4-2.

The Board discussed that there were several suggested revisions to the October 22, 2019 minutes.

A motion to amend the agenda to move the minutes to after the bills item was made by: Hill, seconded by: Engelhardt. All were in favor.

4. **Discussion: 2020 Census - Allison Jackson**

Allison Jackson from the Census Bureau appeared and discussed the impacts and opportunities that the 2020 Census data could have for the Borough. Ms. Jackson discussed a survey/questionnaire for the Planning Board members to fill out online which would focus data on the needs of the Borough and possible grant funds noting that she had submitted for a \$50,000 grant to set up the Census Bureau's own kiosk in the County building and she would work with the public libraries. Ms. Jackson discussed that she had a power point that could be placed on the website directing people to a questionnaire. A 'solutions workshop' was to be setup for the Planning Board leaders, she was now scheduling these workshops, the first would be January 8, 2020 for the superintendents. The questions would help work

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on the needs of the group i.e. infrastructure, health care, economic development, etc. to determine what data would be given to the Borough and what resources could be directed to the Borough and what the town can use it for. Ms. Jackson discussed the planning solutions workshops which were formed into groups from the community to discuss the important challenges for Flemington, the workshops would be attended by data specialists. Mr. Cook asked when the workshop should be scheduled and who would attend noting that he would like the Council, Board and Flemington Community Partnership to all attend a joint meeting. Ms. Kaczynski noted that any meeting where there may be quorum should be properly noticed. The Board discussed the survey and a list of data points which were distributed to the Board, how much money would be available for each item, where to apply, city and regional planning tools, how much time in advance would be needed to prepare for the workshop. Ms. Jackson discussed that the Board should look at the questions, that they can add their own data point if something was missing, that universities were helping to track the surveys to provide the data and added that there was a December 20, 2019 deadline to complete the survey and recommended that the Board provide a few possible dates for the solutions workshop in January so that the time can be scheduled at the Route 12 County building. Mr. Cook discussed that all Board members should participate in the survey and suggested a subcommittee to review. Subcommittee members to include: Cook, Engelhardt, Budney, Giffen. Ms. Jackson stated that she would send the survey via email tomorrow to Ms. Parks to distribute to the Board. Ms. McManus asked if the census tracts could be broken down into smaller areas just for the Borough. Ms. Jackson discussed.

5. Public Hearing: 70 Church Spice Factory, LLC – Block 39 Lot 3 – 70 Church Street

Continued from October 22, 2019

Mayor Driver and Committeeman Runion were recused from the application and stepped down from the dais.

Ms. Kaczynski discussed that the application had previously been deemed complete and had been continued from the October 22, 2019 meeting and noting that this was for final site plan and a request for design waivers, whether those conditions had been satisfied and any comments from the Board professional and that this was not a re-review of the original application which included approval of a use variance and preliminary approval.

The applicant's attorneys, George Dilts, appeared and discussed the application which had received preliminary approval to renovate the Spice Factory building to add residential floors with the existing office space and hair salon to remain as well approval to construct a new building on the property with parking beneath and residential units above with a green roof. Mr. Dilts discussed that the applicant had received a parking variance and was now applying for final site plan approval with some additional design waivers adding that he was in receipt of reports from Mr. Clerico, Ms. McManus and Mr. Troutman.

The applicant's engineer, Christopher Nusser, was sworn in for testimony and having appeared numerous times before the Board was accepted as a professional engineer. Mr. Nusser discussed that

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there had not been any significant changes from the plans dated September 2017 with the main change being adjustments to the main building to comply with the exhibits and comments presented during the hearing. Per Mr. Troutman's comment regarding truck circulation Mr. Nusser agreed to not allow WD-50 tractor trailers on site. Mr. Trouman asked for clarification on the number of parking spaces on the plan noting some discrepancies. Mr. Nusser clarified 199 spaces total with a mislabeling error in the building and agree to provide a turning radius as a continuing condition of the approval. Mr. Nusser discussed that he met with the fire marshal and resubmitted plan addressing his comments and would follow up with him to his satisfaction as a continuing condition. Mr. Nusser had no concerns agreeing with any of the requests in Ms. McManus's report and agreed to follow the suggestion in Mr. Clerico's report to plant trees in the detention basin and change this to a bio-retention basin although noting concerns for the viability of the trees in this space with the limited depth of soil to solid rock noting that he did not want a maintenance issue and agreed to work with Ms. McManus. Ms. McManus discussed that she would visit the site to see if trees are viable that she did not want to encourage trees to be planted in areas where they would not be viable.

Mr. Nusser discussed that at the time of preliminary approval that there was a problem in getting the water capacity where the project was originally phased noting in the meantime water has become available for the entire project, he discussed with the water and sewer department which had some minor comments that would be addressed and he sees no issues with water or sewer at this time.

Mr. Dilts discussed the overall scope of the project to renovate the existing building and construct a new building which each comply to the affordable housing requirement on its own as an ongoing condition of preliminary approval. Mr. Clerico discussed his concern if the phase 1 renovations of the Spice building was completed and phase 2 was never constructed would leave a partially completed project and asked how the town can be protected to have a good project. Mr. Nusser agreed to bond to pave the remaining parking with part of phase 2 to be done now including the trash enclosure, reconstruction of sidewalks to ADA code and stormwater controls. Mr. Nusser discussed the comment on page 6 of Mr. Clerico's report regarding a cross vehicular easement in the event that Lot 3.01 was developed in the future which would reduce parking. Ms. McManus recommended that the note be added to the plans for a future connection area. Mr. Dilts stated that the owner of Lot 3 would be willing to participate in discussion at the time of site plan application for Lot 3.01, based on parking feasibility note to be placed on the plans to the satisfaction of the planner with language to give some flexibility on the number of spaces to be removed, approximate location and added as a deed restriction. Mr. Dilts discussed the requested waivers: waiver from downward facing lighting where the applicant is proposing globe lighting similar to the existing lights that projects upward; waiver from the 25 foot minimum buffer area for parking where less than 25 feet is proposed shown on the original site plan but not addressed at the time of hearing, Mr. Nusser added that fencing, existing vegetation provide screening; waiver from the planting requirement where the applicant was originally 19 trees short and where an additional 17 locations had been found for trees around the parking lot resulting in a deficiency of 2 trees remaining where a payment in lieu of planting these trees would be made to the Shade Tree Commission and would continue to work with the planner to find any additional locations; waiver from having not more than 10 parking spaces in a row without having a landscape area where this has not changed from the

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original site plan and is being requested again with the reasoning that complying would reduce the parking spaces on site. Mr. Nusser discussed that the building parking circulation had been revised per the comments during the public hearing to deter residents from parking on the adjacent property and the relocation of the bike racks per Ms. McManus's comments including in the parking garage area.

Mr. Troutman clarified the parking count under the building as 24 spaces for a total of 200 spaces on site.

Ms. McManus referred to the compliance with affordable housing and suggested the number of units per building required be put into the resolution including affordability controls.

Mr. Cook asked if a fire truck could navigate the site. Mr. Nusser explained that the fire marshal did not want trucks all around the site and was satisfied with the access drives proposed onsite. Mr. Cook asked how you would restrict tractor trailers onsite. Mr. Dilts agreed to place the restriction in all of the lease. Mr. Cook asked if the trees in the retention basin would count toward the tree requirement. Ms. McManus stated that they would be separate from the requirement. Mr. Cook asked if the parking bank with 20 spaced could be a possible location for an additional tree now that the parking space total was up to 200 spaces, Mr. Nusser agreed to look into the possible location of an additional tree.

Ms. Giffen asked if the adjacent property for American Tire were aware that they could not maneuver through the subject site noting that she did not want to limit the neighbors truck access. Mr. Nusser discussed that the geometry of the access drive was not changing and truck will not need to change the route through the site. Ms. Kaczynski stated that the adjacent owners were noticed of the public hearing for preliminary site plan.

Mr. Budney asked about the ADA access and if there were dedicated spaces. Mr. Nusser discussed that there were designated spaces under the building only. Mr. Budney asked if a resident lived in the Spice Factory they were not assured a parking space, Mr. Nusser was not sure if there was a requirement to have designated spaces. Ms. Kaczynski explained that this was not something the applicant needed to provide.

Mrs. Engelhardt asked if the architect for the project was still Jeffrey Fleisher and recused herself when it was confirmed that he was still the architect.

Ms. Kaczynski asked for clarification on which trucks would be banned from the site. Mr. Dilts agreed to all tractor trailer. Ms. Kaczynski referenced the phasing of the project with a bond being provided and asked the timing of using the bond to pave the parking area if phase 2 was not built in a certain amount of time. Mr. Dilts suggested anytime beyond the extension of final approvals.

Ms. Giffen asked if there was a plan that showed what the site would look like if only phase 1 were built and confirmed that the pocket park was part of phase 2 and asked if the applicant had the intention to build both phases. Mr. Nusser explained that the applicant intended to build both phases based on the

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market after phase 1 was completed. Ms. Giffen asked how the Borough would be protected from a parking lot that is falling apart. Mr. Nusser discussed that the applicant agreed to bond. Ms. Giffen asked the timing of repaving the parking lot if phase 2 was not built after construction vehicles used the site. The Board discussed. Mr. Clerico stated that the salon was to remain open and parking lot will need to be maintained. Mr. Dilts agreed to the timing of approval period extensions. Ms. Kaczynski noted that safety conditions would be addressed by the applicant. Mr. Nusser discussed that the Borough engineer and construction official will have the applicant address any safety conditions prior to any issuance of a CO.

Lois Stewart, Flemington, asked the location of Lot 3.01; asked how many stories the building would be; asked about the tree requirement and locations; clarified that the applicant was asking for 5 design waivers not variances, asked about the lighting; asked if the Board would require the pocket park be constructed as part of phase 1; Ms. Kaczynski explained that the Board could impose that as a condition; Ms. Stewart asked the timing of the start of construction. Mr. Nusser responded.

Susan Engelhardt, 36 Broad Street, as a member of the public, asked if the applicant was willing to address the problems with the parking lot now, prior to phase 2 starting but after phase 1 noting the history of the applicant and her concern if the applicant does not start phase 2 right away the parking lot will be worse and asked if the timeline of phase 1 and phase 2 could be moved up and the bond to include final coat. Mr. Dilts agreed to add a condition to permit the construction official to address any safety conditions but did not agree to moving up the timing of the phases.

Ms. Giffen noted an error on the lighting detail. Mr. Nusser to correct.

Motion to close public questions was made by: Pedrick, seconded by: Giffen.

Ayes: Cook, Engelhardt, Pedrick, Budney, Giffen, Hill, Norton

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

9:30 p.m. Meeting recessed.

9:40 p.m. Meeting resumed.

Public comments.

Lois Stewart, Flemington, hoped the applicant would try to give as much vegetation as possible in phase 1; would ask the developer to provide the pocket park to add to the community; add more vegetation to break up the 20 parking space bank; opportunity to make the site better with lighting; asked the Board to work to make the sky darker; hoped that the project will come to fruition in both phases.

Motion to close public comments was made by: Pedrick, seconded by: Giffen.

Ayes: Cook, Engelhardt, Pedrick, Budney, Giffen, Hill, Norton

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Nays: (None)
Abstain: (None)
Motion passed: 7-0-0

Mr. Dilts reviewed the design waivers, noting that a tree may be added, noted that the light fixtures do have a cap on top and looks like an older fixture in keeping with the Spice Factory, site adds interconnectivity detail agreed to the recommendation from the professionals, and noted that the buffers were discussed.

Ms. Kaczynski reviewed the conditions, including prior conditions; letters from the Board professionals; fire marshal comments to his satisfaction; no tractor trailers on site to be put in leases; plans to be amended per any conditions; basin to be installed per recommendations of Township engineer, alternate planting if not viable in basin; performance bond for paving of lot if phase 2 not built in time period of statutory protection extensions; all items in phase 1; Lot 3.01 future development note on plans and deed restriction to work toward connectivity; deficit of 2 trees applicant to work to add 2 trees with 1 in 20 space bank if possible; bike racks relocated; all safety issues to be addressed in parking lot; exact number of affordable units required in each building to be included in resolution – planner to provide table; affordable controls in deeds.

Ms. McManus suggested that the administration of the affordable units be performed by a qualified agency or work with her and the Flemington administrative agent. Dilts agreed.

Motion to close public hearing was made by: Hill, seconded by: Giffen.

Ayes: Cook, Pedrick, Budney, Giffen, Hill, Norton
Nays: (None)
Abstain: (None)
Motion passed: 6-0-0

Motion to grant the waivers and approve final site plan with the conditions as discussed was made by: Giffen, seconded by: Pedrick.

The Board discussed the application

Ayes: Cook, Engelhardt, Pedrick, Budney, Giffen, Hill, Norton
Nays: (None)
Abstain: (None)
Motion passed: 7-0-0

Mayor Driver returned to the meeting.

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6. Chair Items:

Chair Items: Mr. Cook suggested the Board come up with a rules of engagement for the municipality including procedures for questions and comments during a public hearing. Mrs. Engelhardt recommended that the Board members attend meetings in other towns to see how they run their meetings. The Board discussed. Mrs. Engelhardt clarified the order of the agenda items. Mr. Norton was added to the Sign Review Committee.

Mr. Runion returned to the meeting.

HPC comments: Elaine Gorman discussed that there was vacancy on the HPC for Alternate #2 and would like a member of the Board to join. Ms. Gorman discussed the Historic District Map revisions would need to go to Council and adopted as an Ordinance per the Borough attorney and was concerned about the timeline to adopt the revisions not wanting to start all over again in January and asked if notices were required and to whom. Ms. Kaczynski referred her question on notice to the Borough Counsel

Next meeting: December 2, 2019 (Monday) – Shammy Shine application for completeness.

7. Bills:

Motion to audit the bills: Engelhardt; second: Driver

Ayes: Driver, Runion, Cook, Engelhardt, Pedrick, Budney, Giffen, Hill, Norton

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

8. Approval of minutes for the September 24, 2019 regular meeting.

The Board deferred a vote on the minutes to the next meeting on December 2, 2019. Board members to review and provide revisions to Ms. Parks.

9. Executive Session: None needed.

10. Adjourn

Motion to adjourn at 10:30 p.m.: Engelhardt; second: Hill

Ayes: All were in favor

Motion passed: 9-0-0

Respectfully submitted:

Eileen Parks, Planning Board Secretary