

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD SPECIAL MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
TUESDAY, FEBRUARY 11, 2020 – 7:00 PM

MINUTES

The special meeting was called to order at 7:03 PM by Mrs. Engelhardt.

Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that a Notice was published in the “Courier News” and transmitted to the “Hunterdon County Democrat”. Notice was posted on the municipal bulletin board in the Borough Administration Building in Flemington Borough, New Jersey and notice was filed with the Township Clerk. Notice of this meeting was also posted on the official Borough website.

Roll Call:

Present: Mayor Driver, Mrs. Engelhardt, Mr. Cook @ 7:39 p.m., Mr. Campion, Mr. Long, Ms. Giffen, Mrs. Pedrick @ 7:29 p.m., Mr. Budney, Mr. Hain, Mr. Norton, Attorney Kaczynski

Excused: Mr. Hill, Engineer Clerico, Planner McManus, Traffic Engineer Troutman.

1. **Public Comments:** None.

2. **Mayor Comments:**

Mayor Driver discussed the March 25, 2020 presentation for the Nilkanth property which was noticed as a joint meeting with Council, Planning Board and HPC noting that she had spoken with the developer regarding the historic train depot building which was to be preserved, possibly being moved off-site but would remain in the Borough. The Board discussed whether the Redevelopment Plan which included 2 different redevelopers would need to be separated or whether the separation could be accomplished with the redeveloper agreement. Ms. Kaczynski would review.

Mayor Driver discussed that the railroad owned a siding track in Liberty Village and had been discussing to rehabilitate the area into an Air B&B, self-contained mobile unit which would have a bilge tank, noting that the Board would have limited input as the property was owned by the railroads which had different rules put in place many years ago.

3. **Council Items:** None.

4. **HPC Comments:** None.

5. **Approval of minutes for the February 3, 2020 regular meeting.**

Motion to approve the minutes was made by: Hain, seconded by: Campion.

Ayes: Giffen, Long, Budney, Hain, Norton

Nays: (None)

Abstain: Driver, Campion, Engelhardt

Motion passed: 6-0-0

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6. Discussion: Ordinance 2020-1 - Eliminating the Option of Appealing a Grant of “D” Variance to the Governing Body and Amending Chapter 14 Entitled “Planning Board and Historic Preservation Commission”.

Ms. Kaczynski discussed that the ordinance was referred to the Board by Council according to law and discussed that the original ordinance to allow appeals of approvals of ‘D’ variance only to the governing body was introduced last year, was referred to the Board where the Board recommended that the ordinance not be adopted and the Council adopted the ordinance. Ms. Kaczynski discussed that this new ordinance would appeal the prior ordinance and read Ms. McManus’s recommendations from a report dated February 11, 2020 into the record which indicated that the ordinance was not inconsistent with the Master Plan and was more in conformance with general procedures State wide where an appeal to the governing body was not common in other municipalities and recommended returning the ordinance to the previous status.

Mrs. Engelhardt discussed the recommendation letter sent to Council last year and stated that she was happy to see the ordinance reversed. Mr. Budney asked if it puts the burden of appeal on the Borough. Ms. Kaczynski discussed. Mayor Driver discussed that the reversal was recommended by Borough Council where the old ordinance placed a burden on an appellant due to the extra step in the process that would still end up in court whether Council approved the appeal or not. Mrs. Engelhardt noted that it was a deterrent to developers that a decision could be appealed which was the opposite of the Boards’ goals. Mayor Driver stated that the public hearing for the ordinance was scheduled for February 24, 2020.

Motion to recommend that Council adopt the ordinance was made by: Hain, seconded by: Budney.

Ayes: Giffen, Campion, Driver, Engelhardt, Long, Budney, Hain, Norton

Nays: (None)

Abstain: (None)

Motion passed: 8-0-0

7. Discussion: Ordinance 2020-2 – Establishing the Mixed-Use Multi-Family Overlay District

Ms. Kaczynski discussed that the ordinance was referred to the Board by Council according to law and discussed the ordinance would provide for an overlay district for parcels known as Block 45, Lots 2, 3, 4, 5, 6, 9, 11, 12, 13, 15 and 16. Ms. Kaczynski discussed that her firm had previously represented the property of Block 45 Lot 16 prior to the overlay district and found conflict of interest. Ms. Kacsynski discussed the report prepared by Ms. McManus regarding the consistency of the ordinance with the Master Plan and read the summarized portions of the report including consistency with the sustainability element, support of mixed uses, complementary infill in development areas, support of diverse housing stock, providing appropriately scaled development for under-utilized lots and support of economic areas downtown and the list of regional uses recommended in the TC zone, Ms. McManus found an inconsistency on page 40 of the Master Plan where the Paradise Golf area was to be included, however, since the site was in the flood hazard area the site was removed from the overlay district. Mayor Driver discussed that during the center designation process the State found that this site was in the floodway Mayor Driver discussed that consideration was taken regarding concern about having

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ingress/egress drives too close to the circle and Council chose not to include lots just west of the circle to avoid any traffic or safety issues. Mayor Driver discussed that nothing in the ordinance was changed to accommodate the Wertsville Properties, LLC application noting that the process started long before the application was submitted and adding that the public hearing for the ordinance was scheduled for the March 9, 2020 Council meeting for second reading which was pushed back from the February 24th meeting citing an issue with preparing the 200 foot list for properties within the proposed overlay zone.

7:29 p.m. – Mrs. Pedrick arrived.

Ms. Giffen asked about the Wertsville application. Ms. Kaczynski discussed that the Board could not discuss any applications pending before the Board noting that an applicant would need to apply for the zoning that was in place at the time of submission. The Board discussed.

Mrs. Engelhardt discussed that the overlay district provides additional uses where the underlying zone remains in place.

Mr. Budney asked if the overlay zone allowed for more density than the inclusionary zone. Ms. Kaczynski stated that the ordinance would remove the inclusionary housing overlay district.

Mrs. Engelhardt provided comments on Section I, Item 1 regarding limiting metal and stucco for building facades recommending that the ordinance be revised to say “cement or metal panels are acceptable” noting that she did not want limit architects design for the large skin of the building where metal was being seen more and more.

7:39 p.m. Mr. Cook arrived.

Mrs. Engelhardt provided comments on Section I, Item 7 regarding the language “Hipped roofs are discouraged” recommending that this be eliminated to not limit the architects design noting that an applicant can ask for design waivers.

Motion to send the consistency review based on Ms. McManus’s report and recommendations as discussed to Council was made by: Budney seconded by: Campion.

Ayes: Campion, Driver, Engelhardt, Long, Budney, Hain, Norton

Nays: Giffen

Abstain: (None)

Motion passed: 7-1-0

8. Discussion: Ordinance 2020-3 – Permitting Social Clubs, and Certain Theater Uses in Downtown Business District, Downtown II Business District and the Village Artisan Shopping District

Mrs. Engelhardt discussed that the Ordinance was reviewed by the Board at the last meeting and the recommendations had been submitted to Council, there would be no further discussion of the ordinance tonight.

9. Chair Items:

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Mr. Cook thanked the Board members for coming out tonight for the Special meeting to try to move the ordinances along. Mr. Cook asked for the subcommittee for the various 2020 projects, i.e. Master Plan, Parking Plan, HPC recommendations, Board by-laws etc. to contemplate about when they would be ready to present a report to the Board.

The next meeting date was February 25, 2020, there were no agenda items at the time, Mr. Cook suggested that the Board wait to see if any items were submitted before making a decision whether to cancel the meeting. The Board discussed.

10. Bills:

Motion to audit the bills: Hain; second: Giffen

Ayes: Driver, Campion, Giffen, Engelhardt, Cook, Pedrick, Long, Budney, Hain

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

11. Professional Reports:

Attorney: Ms. Kaczynski discussed the status of a conference with the plaintiff which had been scheduled, cancelled by the plaintiff and rescheduled for February 25, 2020.

Mr. Cook discussed the New Jersey Planning Official article regarding having separation for 'D' variances from Council, where the article suggested perhaps not even being in the audience during the application. Mr. Cook discussed that he did not want to expose either Board or Council to future litigation. Ms. Kaczynski stated that there was a potential for an intimidation factor for Council members to be in the room and advise should come through the municipal attorney.

Mr. Cook asked Ms. Kaczynski to look into other towns on how they are doing the Master Plan looking to partner with Council, FCP, HPC and reach out to get public input.

Planner: None

Engineer: None

12. Executive Session: None

13. Adjournment:

Motion to adjourn the meeting at 8:00 p.m. was made by: Hain, seconded by: Campion. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary