

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, NOVEMBER 24, 2020 – 7:00 PM

MINUTES

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

Roll Call:

Present: Mr. Long @ 7:15 pm, Mrs. Engelhardt, Mr. Cook, Mr. Budney, Mr. Hain, Mr. Doshna, Ms. Giffen, Mr. Hill, Mr. Norton, Attorney Kaczynski, Planner McManus, Engineer Clerico.

Excused: Mayor Driver, Mr. Campion, Traffic Engineer Troutman.

Ms. Kaczynski asked if any Board members had a conflict of interest with any items on the agenda for this evening, none were heard.

1. **Public Comments:** None. Ms. Parks discussed that no public comments regarding any agenda items had been submitted as of 3:00 pm to either the planning board email or the Borough's publiccomments email.

2. **Mayor Comments:** None

3. **Council Comments:** None

4. **HPC Comments:** None

5. **Approval of minutes for the October 27, 2020 regular meeting.**

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

Ayes: Long, Engelhardt, Cook, Budney, Hain, Doshna, Giffen, Norton

Nays: (None)

Abstain: Hill

Motion passed: 8-0-1

Ms. Kaczynski discussed that the resolution 2020-10: Amendment to the Master Plan that was scheduled as item #6 was straight forward and would complete the Master Plan adoption process with a copy emailed late today.

Motion to amend the agenda to move Resolution 2020-10 to the end of the agenda to allow time for the Board to review was made by Engelhardt, seconded by Doshna.

Ayes: Long, Engelhardt, Cook, Budney, Hain, Doshna, Giffen, Hill, Norton

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

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6. **Planning Board Completeness:** Lee B. Roth – Block 21 Lot 25 - 91 Main Street
Use Variance Application and Site Plan Waiver request.

7:15 pm Mr. Long entered the meeting and was recused due to the use variance for this application and did not participate in the discussion of the application.

The applicant/owner and attorney, Lee B. Roth, Esq., appeared for the application.

Mr. Clerico discussed his completeness report dated November 19, 2020 and the site plan waiver request from the applicant noting that the application was not exempt from site plan review under the Borough ordinance or the MLUL criteria. Mr. Clerico discussed that the applicant had submitted a planning statement which was a narrative description of the proposed project and that the plan submitted had elements of a site plan where the rest of the documentation was architectural plans proposing a 2 floor addition on the building in the back of the property; part of the front building to be removed with apartments proposed on the first floor and an proposed new building to provide additional parking with a mechanical unit to store parked cars inside on site. Mr. Clerico discussed that the application included use variance for residential units on the first floor, raised a question that the mechanical building to store cars was a permitted use; and that the proposed height exceeded the 10% standards and would require a use variance adding that he would defer to Ms. McManus for any additional variances required and noted that a survey was not submitted but that part of the driveway was on the adjacent lot by 1.5 feet; there were no dimension of the parking spaces and the plan did show maneuverability or circulation for emergency vehicles, garbage trucks etc.; did not show how the utilities would connect to the buildings; Form A for water and sewer capacity was not submitted for review; accessibility to the roof with proposed solar panels was not shown; and how the apartments fit into the building was not submitted. Mr. Clerico recommended that the site plan requirement not be waived and would need to see the site plan issues addressed.

Mr. Cook asked if the Board could proceed without the consent of the adjacent owner for filing of the application. Mr. Roth discussed that all the driveways along Main Street were paved from building to building and had been in place for 60 years and opined that there was a descriptive easement to access the driveway portion on the adjacent lot. Ms. Kaczynski stated that there should be a judgment from the court if there was a descriptive easement and discussed that without consent from the owner that this may be a jurisdictional issue and asked if it would be difficult to obtain the owners consent. Mr. Roth discussed that the adjacent owner was in California and that he had worked with the owner on a cooperative basis for maintenance issues adding that the owner would get notice of any hearing. Ms.

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Kaczynski discussed that if the Board moved forward without all owner's consent it may cause a delay and expensed to the applicant and the Board if there was an objection noting that it was a jurisdictional issue.

Mr. Clerico discussed the plan from a site perspective where there would be a deficiency in parking spaces where some parking would be on the rotary parking unit; water and sewer capacity was not known since Form A was not submitted adding that the connections and line locations would need to be addressed and if the replacement of pumps were necessary was not known; whether sprinklers were needed was not known and would need to be reviewed by the fire marshal and emergency services; power requirements for the rotary parking unit was not known; documentation for the demolition of part of the front building would be required to show how the foundation would be removed; plans were not clear if the applicant was proposing to add 2 floors to the existing rear building or demolishing and constructing a new 4 story building; details on the solar panels on the roof would be required; plans did not address ADA parking regulations; there were no building elevations; concluding that the application was lacking information and did not recommend granting the waiver for site plan requirement.

Mr. Roth discussed the waiver request citing that the site had 2 existing buildings with no increase in impervious coverage with some changes being made to the footprint which were not on the historical portion of the site to provide 2 parking spaces which would make the site closer to what was required by ordinance for parking adding that the items in Mr. Clerico's letter could be dealt with during construction and if there was not adequate water and sewer the project would not be able to be built and did not feel these were site plan issues and wanted to put the expenses into the building instead of into a design engineer to prepare plan noting that the rear building was structurally sound where the architect assured him the 2 stories could be added; that the only site plan issue was parking which all properties on Main Street could not meet and the parking garage would increase the parking; the front building was not changing except adding residential on the ground floor to prevent vacancies and was doing something highly unusual; adding the height to the rear building provided the economics to put in the parking structure and provided an amenity to the residents to sit on the roof of a green building by using solar panels to be more efficient; adding that nothing in Mr. Clerico's letter needed extensive planning and expense and that it would be a nice project. Mr. Roth discussed that if the Board did not waive the site plan requirement would cause a delay and add expense to the project which would increase the rent and if the project could not be constructed he would need to file a tax appeal for a vacant building.

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Ms. McManus discussed that a site plan was necessary where the plans were not clear that the rear building was to remain and that there were other information the Board may want to see including lighting, landscaping, grading, stormwater management that would not be provided without the site plan checklist information noting that the packet submitted was more of a concept plan.

Mr. Cook discussed that he did not want to put the onus on the building official for site issues including turning radius, circulation, sight lines exiting the driveway and would like to see the traffic engineer take a look at these items noting that he did not want to cause undue expense to the applicant. Ms. McManus discussed that there were health and safety issues regarding traffic, lighting, circulation, aisle width which all indicate that a site plan was required. Ms. Kaczynski discussed that from a legal perspective it was the Board discretion to grant waivers but they needed to be supported. Mr. Cook stated that the applicant was changing how the site functions on a basic level and should not be the burden of the building official. Mrs. Engelhardt discussed that the architectural plans submitted did not meet the level and depth of detail needed and did not feel comfortable waiving site plan requirement and did not know how the accessory parking structure effected the site plan requirement. Ms. McManus agreed that the parking structure was not common and would generate questions and would need more information. Mr. Budney discussed that this was not just an addition of residential units on the first floor but expanding outward and higher which would change the function of the site itself and that he would need more information to render a decision which would be difficult with the information provided.

Motion to deny the site plan waiver request was made by: Doshna, seconded by: Engelhardt.

Mr. Hill had a power outage for approximately 3 minutes and asked if he could vote. Ms. Kaczynski did not see a substantial detriment to Mr. Hill voting of the waiver.

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

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

8:08 pm Mr. Cook asked what Mr. Roth would like to do but Mr. Roth was frozen and unable to respond. The Board would wait for Mr. Roth to come back online.

8:11 pm Mr. Long returned to the meeting.

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7. Chair Items:

Mr. Cook stated that there were 2 meetings remaining in 2020 on December 8 and December 15.

Mrs. Engelhardt discussed the 2021 meeting dates and suggested that two meetings be scheduled for December 2021 similar to this year noting that it was easier to cancel a meeting than to schedule an additional meeting during the year.

Mrs. Engelhardt asked if any Board members would not be available for the December 8 or December 15, 2020 meetings – none was heard.

8:16 pm Mr. Roth returned and discussed bi-furcating the application and appearing on the December 15, 2020 agenda.

Ms. McManus discussed what items would be needed to be submitted for the bifurcated application noting that she was satisfied with the information submitted for the 'd' variances and was sufficient for the 'c' variances as well; noting that it was a complicated application where her report would likely ask questions for additional information and that the Board may need more details to make a decision on the 'd' variances. Ms. Kaczynski discussed that there were other completeness issues including an amended application for the bifurcation detailing what was being requested and the applicant would need to provide the adjacent owner's consent to the filing of the application which will need to be provided prior to a public hearing and that it should be clear to the public as to what type of approval is being requested noting that any approval of the use variances would be conditioned upon site plan review and approval.

The Board discussed whether a vote on completeness would be appropriate tonight. After discussion the Board concluded that the applicant would need to submit the items as discussed and weight the decision to bifurcate the applicant or not. The application would need to be deemed complete prior to scheduling a public hearing. The Board suggested additional items that the applicant should submit. Mr. Roth asked if a letter amending the application would sufficient, Ms. McManus recommended a complete amended application be submitted.

Mrs. Engelhardt requested that Mr. Troutman be notified to be ready to appear at the December 15, 2020 meeting if the applicant submitted the amended application to address any traffic concerns. Ms. Parks would contact Mr. Troutman.

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8. Bills:

Motion to audit the bills: Engelhardt; second: Hain
Ayes: Long, Engelhardt, Cook, Budney, Hain, Giffen, Hill, Norton
Nays: (None)
Abstain: Doshna
Motion passed: 8-0-1

9. Professional Reports: None

10. Executive Session: The Board discussed that an executive session would be necessary to discuss the 2021 professional contracts noting that to be transparent would list the reasoning to go into executive session on an agenda when possible. The executive session discussion of the 2021 professional contracts would be scheduled for the December 8, 2020 meeting.

11. Resolution 2020-10: Amendment to the Master Plan - Historic District Map Revisions

The Board discussed the resolution to complete the Amended Master Plan adoption process.

Motion to adopt the resolution was made by: Hain, seconded by: Engelhardt.
Ayes: Long, Engelhardt, Cook, Budney, Hain, Doshna, Giffen, Norton
Nays: (None)
Abstain: (None)
Motion passed: 8-0-0

12. Adjournment:

Motion to adjourn the meeting at 9:13 p.m. was made by: Hain, seconded by: Doshna. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary