

FLEMINGTON BOROUGH  
PLANNING/ZONING BOARD MEETING  
38 PARK AVENUE, FLEMINGTON, NJ 08822  
HELD VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM  
TUESDAY, JUNE 8, 2021 – 7:00 PM

MINUTES

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

**Roll Call:**

**Present:** Mayor Driver, Mr. Campion, Mr. Long, Mrs. Engelhardt, Mr. Cook, Mr. Budney, Mr. Hain, Mr. Doshna, Ms. Giffen, Mr. Norton, Mr. Levitt, Ms. Weitzman, Attorney Kaczynski, Planner McManus, Engineer Clerico, Traffic Engineer Troutman.

**Excused:** Mr. Hill

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:** No comments had been received to either the planning board email or the Borough's public comment email.

There were no public comments from attendees.

2. **Mayor Comments:** Mayor Driver discussed that the Borough would be moving back to in person meetings for the Council and Committees noting that she would like to keep the technology that has been used and still allow people to attend via zoom if they want to.

3. **Council Comments:** None.

4. **HPC Comments:** None.

5. **Approval of minutes for the May 25, 2021 regular meeting.**

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

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

Nays: (None)

Abstain: Driver

Motion passed: 8-0-1

Mayor Driver and Mr. Long was recused from the next use variance item and did not participate.

6. **Resolution 2021-09:** Application #2019-03 - 70 Church Spice Factory, LLC - Block 39, Lot 3

Motion to adopt the resolution was made by: Cook, seconded by: Hain

Ayes: Campion, Engelhardt, Cook, Budney, Hain, Doshna, Giffen

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

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7:13 pm Mayor Driver and Mr. Long were recused from the next 2 Use Variance applications and did not return to the meeting.

**7. Public Hearing: Application #2020-03 - Lee B. Roth - Block 21, Lot 25 – 91 Main Street**

Continued from February 23, March 9 & 23, April 13 & 27, May 5 & May 25, 2021

Ms. Kaczynski discussed that she saw no conflicts with Mr. Lanza representing the owner of 95 Main Street as an objector.

Motion to determine that there was no conflict upon the recommendation of the Board attorney Kaczynski was made by: Cook, seconded by: Engelhardt.

Ayes: Campion, Engelhardt, Cook, Budney, Hain, Doshna, Giffen

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

Ms. Parks discussed that the applicant had agreed to an extension of time for the Board to act to June 22, 2021 at the last meeting but had not submitted the extension in writing. Mr. Roth agreed to provide an email extending the time to act.

Attorney and applicant, Lee B. Roth, appeared and discussed that he would like to proceed tonight with continue and expanded testimony from Mr. Bernard.

Mr. Bernard appeared still under oath and recapped his testimony on affordable housing noting that after discussion Mr. Roth agreed to provide a 2 bedroom low income unit based on the recommendation of Ms. McManus. Ms. McManus confirmed that the affordable housing unit would comply with all standard regulations and requested that the applicant use the Borough's administrative agent instead of using their own with a 30 year deed restriction, Mr. Roth agreed.

Mr. Lanza appeared, representing Brian Blake at 95 Main street, and discussed that the site had 6 permitted existing residential unit without variances and asked how much parking would be required. Mr. Bernard did not testify on parking per RSIS 10 or 11 would be required for the 6 units permitted as a right.

Wayne Ingram appeared still under oath and discussed Mr. Clerico's supplemental report dated June 4, 2021 including the 3 primary areas to be addressed including the applicant's intention to comply with the stormwater ordinance where the impervious coverage was increasing by less than 200 sf from 95% to 97% proposed coverage noting that it would be impractical to get down to the 50% per ordinance where the proposed design would be putting a lot more water into the ground than the existing condition adding that it would be reasonable to grant the relief if necessary; the second point was

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circulation and turning points noting that no further testimony was to be provided where the vehicles could make the turning maneuvers; and the third point of utility connections where there was an application to the water and sewer departments which would not provide a location until after the Board discussion noting that the applicant would agree to work with the utilities and comply with any regulations necessary. Mr. Clerico discussed.

Ms. Kaczynski marked the Planning Board exhibits PB – 1 – Fire Marshal report; PB-2 – Mr. Clerico's first report; PB-3 – Mr. Clerico's supplemental report; PB-4 – Mr. Troutman's report; PB-6 Ms. McManus's report.

Mr. Lanza referred to the sight distance and turning plan Exhibit A-12 and asked how wide the driveway was that supported this project. Mr. Ingram responded that the only existing driveway on the property was 10 ft wide which allowed only one vehicle in the drive where tenants may need to wait to retrieve a vehicle to exit the site before another car can be accessed and agreed that there would be times with more than 1 vehicle trying to exit and enter the site onto Main Street depending on the time of the day and discussed which vehicle would need to back up. Mr. Lanza asked the number of available parking spaces as 12 for unlimited parking with one space to be an ADA space for the total of 13 spaces proposed.

Mr. Budney referred to the vehicle access and turning movement and the fire marshal review letter and asked what measures would be provided for emergency vehicle access with the limited width of the access drive. Mr. Ingram discussed possible access from the County property to the rear of the building and noted that the project would be sprinkled, and ambulances would park on the street. Mr. Budney asked if all the units would have washer and dryer units and if they where they would be vented. Mr. Roth stated that the dryers would not be vented.

Mrs. Engelhardt asked if the dimensions from the architectural drawings were updated onto the civil drawings and asked Mr. Ingram to identify any changes in his plans from the previous revisions which included adding the turning templates; revising 1 space to compact parking and stormwater system estimations that will change per soil testing. Mrs. Engelhardt discussed the front building where there was a proposed 5 foot addition on the back and was getting taller by 3 feet and asked if the 5 ft was not added would the turning access be affected. Mr. Ingram responded that all the stalls would be regular size and it would provide move flexibility in turning. Mrs. Engelhardt asked if there were any proposed barriers, signage or speed hump onto Main Street or signage on the adjacent building, Mr. Roth asked the Board to really think about adding traffic elements such as a hump noting that there was enough sign pollution.

Mr. Doshna asked if it was the client's choice to not do the soil testing now. Mr. Ingram discussed that it was not the cost so much as the damage to the pavement. Mr. Roth was confident about the water table issue, Mr. Doshna discussed that it was a permeability issue not water table.

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Mr. Shotland appeared still under oath to address some outstanding questions including roof access which would be tenant only using the deck with access from the front building which would be locked; architectural Exhibit A-13 dated 6/1/2021 was entered which indicate a 2 – 1 7/8" gap from the proposed deck to the adjacent building, Mr. Shotland did not see a concern with the cable rails which were not meant to be climbed on; Mr. Shotland indicated the wood trash/recycling enclosure noting that all of the trash location would be enclosed; addressed the concern for the area of wall with no window and provided an elevation of the southerly façade of the building with the existing adjacent wall noting that the new structure would provide less of an impact than the existing wall adding that the applicant can add simulated windows as an option or add a recessed area with a painted window and was open to Board suggestions. The wall elevation Exhibit was marked A-14.

Mr. Lanza referred to A-13 and addressed the gap from the proposed deck to the wall at 95 Main and asked the distance from the deck to the ground and asked if children would fit between the spaces. Mr. Shotland responded that the distance was 12'-6" and would comply with the building code. Mr. Lanza asked if the historic district ordinance was reviewed including the contributing historic building definition and asked how many historic elements would be eliminated by the design. Mr. Shotland listed the items. Mr. Lanza referred to A-14 which showed 436 sf of the parking carousel to be seen above the existing wall and asked if a historic the view would be seen from the street. Mr. Shotland discussed that the proposed metal material was consistent with the Agway site and the view would be obscured by a tree.

Mrs. Engelhardt confirmed that the building being rehabbed would have to be sprinkled per code and that both garbage/recycling areas would be screened. Mrs. Engelhard asked why the front building was being extended 5 feet and extending the height. Mr. Shotland discussed that the addition would provide better floor plans for the residential units and with the cost of sustainable net zero building construction required the number of units. Mrs. Engelhardt confirmed that the applicant was volunteering to make the building net zero.

8:56 pm the meeting recessed.

9:03 pm the meeting resumed.

Mr. Stearns appeared still under oath and discussed the Blank White Walls plan which was marked as Exhibit A-15 which had photos of other blank walls in the downtown noting that the blank wall did not impair the zone plan or ordinance. A 20 page Parking Analysis Exhibit was marked A-16. Mr. Stearns discussed the overnight parking available to the tenants adding that the proposed project was the highest and best use of the site opining that the parking relief could be granted and compared the site to the property at 123 Main Street and discussed the parking management on site with the ground parking and carousel and parking deck noting that there was no substantial detriment to the zoning plan or ordinance and discussed the positive criteria.

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Mr. Troutman asked if the site performed at a higher demand where RSIS required 17-18 spaces per night there would be up to 5-6 off-site spaces overnight needed. Mr. Stearns agreed.

Ms. McManus clarified that the handicap space could not be reallocated if there was not a tenant that qualified for the ADA space and asked the walking distance for legal overnight parking noting that the County lots were not guaranteed to be relied upon and asked if there was any attempt for a parking lease from other lots. Mr. Stearns responded.

Mr. Lanza discussed the proposed 9 unit apartment with office, parking structure with height variance, back residential building height variance and setback variance where presently there was all office space existing of 6342 sf with a reduction in office space of 445 sf or 5.5% of the site and 7698 sf or 94.5% of residential was proposed. Mr. Lanza discussed that the Master Plan endorses commercial use where the proposed project does not comport with the Master Plan and the ordinance does not permit residential on the first floor adding that with no Floor Area Ratio or density requirements, parking was a way to control density where the project was still 6 spaces short and asked if this was appropriate in his opinion. Mr. Stearns replied yes. Mr. Lanza asked if any other options had been reviewed to address the parking issue. Mr. Roth discussed that the parking structure was enclosed within the rear building where the Master Plan recommends structured parking and opined that it was permitted where the engineer had suggested a variance was required.

Mr. Roth asked to reserve to provide a closing statement and had no further witnesses.

Mr. Lanza requested Mark Remsa to be promoted as a panelist. Mr. Remsa appeared as a professional planner and landscape architect and provided his credentials as same, hearing no objections Mr. Remsa was accepted. Mr. Remsa's resume was entered as Exhibit O-1.

Mr. Remsa investigated the application and found the application too intense and dense for the site where the lot area was 7500 sf with a 3800 square foot, 2.5 story front building and a 3204 square foot masonry rear structure and discussed the proposed changes to the site with 9 apartments, 13 parking spaces with the existing 100% office space to be converted to proposed office of 4.5% and 94.5% apartment space and listed the d1 variances for residential use on the first floor, proposed mechanical parking carousel, parking deck, off street parking by definition required a use variance and listed the bulk variance for lot area, building height, impervious coverage, rear yard setback and parking requirement. Mr. Remsa discussed the 2015 Master Plan Re-examination and reviewed the intensity of use for this property where you usually look at floor area ratio; maximum building coverage or density these were not addressed in the DB zone therefor you had to look at parking requirements and the parking demand for residential and nonresidential uses where the existing office space required 22 spaces far short of the 4 spaces existing and noted that the traffic ordinance did not permit overnight parking on the County properties and opined that there were 3 too many apartment units proposed on

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the site given the impervious coverage, parking and reduction in nonresidential space noting that there was a question of viability of that office space in the future where businesses need a reasonable amount of display area, a back room and storage which a limited use in the amount of proposed space with the addition of the restroom.

Mr. Remsa discussed the historic district impacts, seeing no detriment from the front view, but an impact with the blank wall or faux wall of the parking structure and referenced the HPC letter from February 2021 which cited the generic design which had no relation to Flemington and the taller height than neighbors which would have an impact on the historic district. Mr. Remsa discussed the affordable housing requirement providing a low income 2 bedroom unit and drew the same conclusion that no residential units being allowed on this site on the upper floor the start point was zero. Mr. Remsa discussed that some of the positive and negative criteria to grant the variances were not advanced and was not an appropriate to use to promote the public hearing, morals and welfare of the community where there were too many units, no onsite parking, inappropriately scaled and the negative impact of the building; did not meet criteria E, G, I, M and found that the application was not particularly suited to the site where the required onsite parking could not be provided. Mr. Remsa discussed the negative criteria finding substantial detriment to the public good with the lack of parking and did not reconcile with the Master Plan with the intensity too high for this site and found that the green building techniques did not warrant the higher yield of density. Mr. Remsa discussed the criteria for the bulk variances and found that the variances should not be granted for the same reasons as previously discussed.

Mr. Roth had many questions for Mr. Remsa and suggested that the hearing be carried to the next meeting and that he would like to provide a closing statement.

Mr. Doshna announced that this application would be carried to the next meeting on June 22, 2021 at 7:00 pm to be held remotely and that no further notice of hearing would be provided.

Ms. Kaczynski asked the applicant to provide an extension of time for the Board to act on the application. Mr. Roth agreed to an extension to June 22, 2021 and would follow up in writing to be submitted to Ms. Parks.

**8. Chair Items:**

- Mr. Doshna discussed that the Board will be returning to in person meetings where the Planning Board was trying to ensure remote access participation to continue moving forward. Mr. Doshna noted that the exact date was still under review but the latest would be the last meeting in July to resume in-person meetings.

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- Next meeting: June 22, 2021. Items on the agenda: Continuation of the public hearing for Lee B. Roth; public hearing for Premier Outdoor Media, LLC; Council ordinances regarding parking and cannabis for Master Plan consistency review.

**9. Bills:**

Motion to audit the bills was made by: Campion, seconded by: Cook.

Ayes: Campion, Engelhardt, Cook, Budney, Hain, Doshna, Giffen, Norton, Levitt

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

**10. Professional Reports:** None

**11. Executive Session:** Not needed.

**12. Adjournment:**

Motion to adjourn the meeting at 11:38 p.m. was made by: Budney, seconded by: Cook. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary