

**TOWN OF HACKETTSTOWN
MINUTES
Land Use Board
September 24, 2019 Meeting**

Adequate notice of this regular public meeting has been provided in accordance with the Open Public Meetings Act by posting notice on the bulletin board in the Municipal Building; by publishing in the New Jersey Herald and Daily Record, the official newspapers of the Town of Hackettstown; by posting notice on the website of the Town of Hackettstown; filing said notice with the Town Clerk of Hackettstown; as well as furnishing said notice to those persons requesting it pursuant to the Open Public Meetings Act. As advertised, action may be taken at this meeting.

CALL TO ORDER

The September 24, 2019 Town of Hackettstown Land Use Board Meeting was called to order at 7:00 p.m. by Vice Chairman Stead.

ANNOUNCEMENT OF PROPER NOTICE

FLAG SALUTE

ATTENDANCE

Board Members Present

Stead; Bristow; Burke; Moore; Tierney; Stout; Sherman (7:10 p.m.); Lambo; Wolfrum

Board Members Absent

Camporini; Weaver

Also Present

Mennen; Sterbenz

MINUTES

The **August 27, 2019 Meeting Minutes** were approved as written by a motion from Mr. Moore, and the second being Mr. Stout.

In Favor: Burke; Moore; Lambo; Wolfrum; Stead; Stout

Oppose: None

Abstain: Tierney; Bristow

RESOLUTIONS

Moudro Corporation, #19-05, Block 45, Lot(s) 1/01 & 2 – Amended Preliminary & Final Major Site Plan

Motion to approve the Resolution for Moudro Corporation made by Mr. Moore, with the second being Mr. Stout.

In Favor: Bristow; Burke; Moore; Sherman; Lambo; Wolfrum; Stead; Stout

Oppose: None

Abstain: Tierney

COMPLETENESS

Czigmeister Brewing Company, #19-10, Block 73, Lot 3 – Amended Minor Site Plan/Variance.

Mr. Sterbenz stated that the deficiencies outlined in his letter of August 23, 2019 had been addressed by the applicant and its professionals.

Mr. Sterbenz stated waivers had been requested with regard to the Variance application for the following:

- a. The depiction of buffer and landscaped areas;
- b. The delineation of flood plains; The depiction of marshes, ponds and lands subject to flooding within the tract and within one hundred (100) feet of the tract boundary;
- c. The depiction of right-of-way dedications;
- d. The depiction of sight triangle easements;
- e. The depiction of deed descriptions

Mr. Sterbenz stated the following submission waivers with regard to the Minor Site Plan Application have been requested:

- a. The submission of a copy of an application filed with the Warren County Planning Board (provided)
- b. The submission of a copy of an application filed with the HMUA;
- c. The submission of a sixty-year title search (provided)

Mr. Sterbenz stated if the Board approves the various submission waiver requests, the application can be deemed complete.

Motion made by Lambo, seconded by Moore to approve the submission waivers and deem the application complete.

In Favor: Tierney; Stout; Wolfrum; Stead; Bristow; Burke; Moore; Lambo

Oppose: None

Abstain: None

Applicant is to re-notice for public hearing and will speak to the Board Clerk for the date.

PUBLIC HEARING(S)

Kehler – App 19-12, Block 99 Lot 5 – Section 68 Certification

Kevin Kehler, son of owners, testified on behalf of his parents/owners. Mr. Kehler is also a resident of the home.

Mr. Kehler testified the structure is a 2-family home that was built before 1923. Mr. Kehler stated the following documentation was submitted with the application:

- a. Sanborn Map showing a 2-family duplex;
- b. Picture of two bilco door entrances to the basement;

- c. Picture of two water meters;
- d. Picture of two electric meters;
- e. Picture of two front entrances to the structure, mirroring each other; and
- f. September 5, 2019 memorandum from David Diehl detailing the property records of the Town.

Mr. Kehler further testified his grandparents purchased the property in 1976-77 from Centenary University, which had also used the property as a 2-family home.

Vice Chairman Stead asked if there were any questions from the Board. There being none, the motion to grant the Section 68 Certification was made by Mr. Moore, with the second being Mr. Bristow.

In Favor: Burke; Tierney; Stout; Sherman; Lambo; Wolfrum; Bristow; Stead; Moore

Oppose: None

Abstain: None

Baldacchino – App 19-13, Block 60 Lot 3 – Section 68 Certification

Michael Selvaggi, Attorney, Lavery Selvaggi, Abromitis & Cohen, present for application.

Mr. Selvaggi stated Mr. Baldacchino purchased the property in 2005.

Mr. Selvaggi stated the application submitted contained the Sanborn Map dating back to 1875, which depicts a 2-family structure (partial); HMUA documentation dated 1968 showing service to 213-215 High Street; Tax Bills from the Town of Hackettstown itemizing a 2-family structure 213-215 High Street.

Mr. Selvaggi was told by Board Member Burke the Sanborn Map was not showing the full site. A new submission of the Sanborn Map would be needed as a condition of approval for the Resolution (received September 25, 2019).

Vice Chairman Stead asked if there were any questions for the Board. There being none, the motion to grant the Section 68 Certification was made by Mr. Burke, with the second being Mr. Stout.

In Favor: Moore; Tierney; Stout; Sherman; Lambo; Wolfrum; Stead; Bristow; Burke

Oppose: None

Abstain: None

Schiano – App #19-04, Block 137 Lot 6 - Variance

Michael Selvaggi, Attorney, Lavery, Selvaggi, Abromitis & Cohen, present for Application.

Mr. Selvaggi stated the application is for a Variance. The applicants purchased the property one year ago, and the property is a corner lot, with a residence and a garage. Mr. Selvaggi stated the title company for the closing found that the garage encroaches into the front yard setback, and the title company asked for the encroachment to be rectified.

Mr. Selvaggi stated a building permit and zoning permit for the garage were applied for and issued in 1987. The applicants at the time went through the proper procedures, and had all inspections conducted

on the garage. At the April Meeting, it was decided more information was needed, and both Mr. Selvaggi and Mr. Sterbenz tried to get copies of the Zoning Ordinance from 1987, of which none were found.

Mr. Selvaggi introduced Ken Fox, Professional Planner, and asked for Mr. Fox to be accepted as an expert witness. The Board found Mr. Fox's qualifications deemed him an expert in the field of Planning.

Mr. Selvaggi asked Mr. Fox to give his opinion on the C-1 variance being applied for.

Mr. Fox referred to the 1987 zoning permit, granting the construction of the dwelling. Mr. Fox stated the box to the right on the plans for the construction of the dwelling met the setback requirements at that time, which included the construction of the garage.

Mr. Fox stated the hardship for the C1 Variance is the shape of the lot. Mr. Fox stated if the house was parallel to the street, it would not encroach on the setback, however, due to the situation of the dwelling, it now meets the hardship criteria for a C-1 Variance. Mr. Fox stated there is no negative criteria.

Mr. Stead stated the original permit was issued incorrectly, and based on that the owners built the garage at that time, and a CO was issued, correct? Mr. Selvaggi answered everything was done above board and indicated most title companies would have accepted the permits.

Mr. Sterbenz stated for a C1 Variance, the Board must find there is a peculiarity of the site or show a hardship. Mr. Sterbenz referred to the Cohen v. Rumson case, which set a precedent for C1 variances of a nature similar to the Schiano matter, specifically subsection (c) which allows a variance in "extraordinary and exceptional situation[s] uniquely affecting a specific piece of property or the structures lawfully existing thereon."

Vice Chairman Stead opened the meeting to the public, there being no comment, the meeting was closed to the public. Vice Chairman Stead asked if there were any further comments or questions from the Board Members, there being none, Mr. Burke made the motion to approve the variance application, with the second being Mr. Moore.

In favor: Stout; Sherman; Lambo; Wolfrum; Stead; Bristow; Burke; Moore; Tierney

Oppose: None

Abstain: None

NEW BUSINESS

A question was raised regarding the outdoor seating area at Manskirt Brewing, which is in the alleyway. Mr. Sterbenz is to speak with David Diehl about the restaurants in Town and outdoor seating enforcement.

CORRESPONDENCE

Warren County Planning Department re: Lion Gate at Musconetcong

Warren County Planning Department re: 2016 Mountain Hackettstown, LLC

New Jersey Planner

John E. Vitale Esq re: 204 Vail Street LLC.

Mr. Mennen stated the applicant went through the hearing process for subdivision and variance approvals and was approved, when it was found the Public Notice provided was deficient. The Board did not act on the Resolution at the August Meeting as a result, and the attorney for the applicant would like to reopen the proceedings. Mr. Mennen stated the applicant would have to provide new notice, which will provide a list of all the relief being sought and give the public an opportunity to speak.

Mr. Stead stated the letter indicates the applicant will not be bringing their professionals. Mr. Mennen answered the applicant's attorney feels the application has been heard. Mr. Mennen will speak with the applicant's attorney to advise them the application may not be completed in one night without the applicant's professionals present and may want to bring them.

Mr. Lambo asked if a Board Member could ask questions if they are the recipient of a 200-foot notice. Mr. Mennen advised it would not be the right thing to do.

EXECUTIVE SESSION

A motion was made by Mr. Burke, seconded by Mr. Lambo to enter into executive session for the purpose of discussion the upcoming Request for Proposals from Professionals for the upcoming year.

In Favor: Burke; Tierney; Sherman; Lambo; Wolfrum; Stead

Oppose: Bristow; Moore; Stout

Mr. Sterbenz left the meeting at 7:47 p.m.

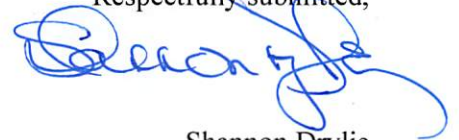
The Board and Mr. Mennen entered into executive session at 7:50 p.m.

The Board returned to the general meeting by a motion from Mr. Moore, and the second being Mr. Lambo at 8:45 p.m. All members in favor of returning to the regular meeting.

ADJOURNMENT

The motion to adjourn the September 24, 2019 Town of Hackettstown Land Use Board Meeting at 8:50 p.m. was made by Mr. Moore, seconded by Mr. Lambo. All members present in favor of adjournment.

Respectfully submitted,



Shannon Drylie
Planning Board Clerk

Motion to approve: Burke

Second: Tierney

In Favor: Stead; Bristow; Burke; Tierney; Lambo; Wolfrum

Oppose: None

Abstain: Camporini