

**TOWN OF HACKETTSTOWN
REGULARLY SCHEDULED MEETING
July 28, 2020**

MINUTES

Adequate notice of the time, place and manner of this remote public Land Use Board Meeting, being conducted via teleconference, including the means by which the public may observe and participate, has been provided in accordance with the Open Public Meetings Act by: (1) posting said notice on the municipal building bulletin board and front window of the municipal building; (2) emailing said notice to the press and all others who have requested it; (3) posting on the official Town website; and (4) transmission to residents via nixle notification.

CALL TO ORDER

The July 28, 2020 Town of Hackettstown Land Use Board Meeting, held via teleconference, was called to order by Chairman Camporini at 7:00 p.m.

ANNOUNCEMENT OF PROPER NOTICE

FLAG SALUTE

ATTENDANCE

Present

Sherman; Moore; Tierney; Lambo; Walling; Stout; Becker; Wolfrum; Camporini; Stead

Absent

None

Also Present

Sterbenz; Zakin (for Mennen)

MINUTES

June 23, 2020 Land Use Board Meeting

The motion to approve the June 23, 2020 Land Use Board Meeting Minutes was made by Lambo, with the second being Moore.

In Favor: Sherman; Tierney; Stout; Walling; Becker; Wolfrum; Camporini; Stead; Moore; Lambo

Abstain: None

Oppose: None

RESOLUTIONS

Mars Inc., App #19-08, Block 4, Lot(s) 1 & 4 – Preliminary & Final Site Plan

Mr. Sterbenz advised the Board Members that an additional change was required to the version that was sent after comments were addressed by himself, and Mr. Mennen. Mr. Sterbenz indicated that Finding of Fact #31 must now reflect the one-way driveway being changed to a two-way driveway, per Ms. Abline's testimony.

The motion to approve the resolution, to include the changes to Finding of Fact #31, was made by Moore, seconded by Lambo.

In Favor: Sherman; Tierney; Becker; Wolfrum; Lambo; Moore

Abstain: Walling; Camporini; Stead

Oppose: None

NORWESCAP Head Start, App #20-05, Block 77, Lot 2 – Minor Site Plan

Motion to approve the resolution made by Becker, seconded by Wolfrum.

In favor: Moore; Sherman; Tierney; Lambo; Walling; Camporini; Stead; Becker; Wolfrum

Abstain: None

Oppose: None

COMPLETENESS

Livestock Auction Market, App #20-08, Block 41, Lot 24 - Preliminary Major Site Plan/Final Major Site Plan & Use Variance Approvals

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

Mr. Camporini asked if Mr. Sterbenz had any comments. Mr. Sterbenz referred to his Completeness Report dated July 20, 2020. Mr. Sterbenz stated the application is for preliminary and final major site plan and use variance approvals to convert an existing one-story office building to an animal processing facility, which shall include a fenced-in animal holding pen. Mr. Sterbenz added there are a number of deficiencies for completeness:

- Wetlands area on-site not shown on the site plan.
- Flood plain to be shown on the site plan
- Property owners within 200 feet to be listed on the site plan
- Soil erosion and sediment control plan not supplied
- Floor plan to be supplied
- Warren County Planning Board application
- Types of animals to be listed

Mr. Sterbenz stated the applicant requested the following waivers from the Variance Checklist, and he does not have any issues for waiving for completeness purposes:

- Depiction of features within 100 feet of the property boundary
- Depiction of the flood hazard area within the stie
- Depiction of marshes, ponds, and lands subject to flooding within the tract and within 100 feet of the property boundary
- Submission of a Consistency Determination from the Highlands Council

Mr. Sterbenz also stated the applicant indicated the following items are “not applicable” with regard to the Variance Checklist, which Mr. Sterbenz agreed:

- Location and width of utility easements
- Depiction of existing and proposed monuments
- Depiction of right-of-way dedications
- Depiction of sight triangle easements
- Major Development Stormwater Summary Sheet

Mr. Selvaggi stated with regard to Mr. Sterbenz report and the Environmental Impact Statement, the applicant is not requesting a waiver, as they are seeking an exemption.

Mr. Selvaggi added they take no exception to the application being deemed incomplete.

Mr. Sterbenz recommended the Board deem the application incomplete due to the following:

Variance Checklist

- 1b. Floodplain information from the FIRM for the Town of Hackettstown is not shown on the site plan;
- 1c. Wetland areas on-site are not shown on the site plan

Preliminary and Major Site Plan Checklist

- 1b. Listing of all property owners within 200 feet on the site plan;
- 1c. Inclusion of a soil erosion and sediment control plan in the site plan set;
- 1d. Submission of a copy of an application filed with the Warren County Planning Board

Final Major Site Plan Checklist

- 1a. Submission of a floor plan for the animal processing building

Mr. Sterbenz added the waivers requested are acceptable and agrees with the non-applicable items listed in his report of July 20, 2020.

Mr. Lambo asked if Mr. Sterbenz was okay with all the waivers requested, such as HMUA, since the wastewater would be dispensed into the town system. Mr. Sterbenz answered an HMUA application would be supplied, and the applicant would need to give testimony on the operations, odors, waste, noise, etc., of the processing facility. Mr. Sherman added cattle lots have runoff, dust, etc., which needs to be dealt with by HMUA. Mr. Sterbenz stated that is where the floor plan would come into play.

Mr. Lambo stated his recommendation is to reject the waiver for submitting to HMUA, as well as the waiver for the EIS.

Mr. Selvaggi asked John Hansen to give a narrative on the outdoor pen. Mr. Hansen stated a note will be added to the plan with regard to animal waste, which shall state the waste will be stored in stainless steel coolers and hauled away. The animal pen is a temporary pen, and the animals are not there for an extended period.

Mr. Sterbenz added with regard to the EIS, an operational statement could be supplied.

The motion to deem the application incomplete was made by Lambo, seconded by Moore, due to the following not being submitted:

- Floodplain information from the FIRM for the Town of Hackettstown is not shown on the site plan;
- Wetland areas on-site are not shown on the site plan
- Listing of all property owners within 200 feet on the site plan
- Inclusion of a soil erosion and sediment control plan in the site plan set
- Submission of a copy of an application filed with the Warren County Planning Board
- Submission of a floor plan for the animal processing building

As well as granting the waivers requested, with the exception of the submission of a copy of the application filed with HMUA, and the submission of an Environmental Impact Statement (EIS) of which operational guidelines could be submitted in lieu of the EIS.

In Favor: Walling; Becker; Wolfrum; Sherman; Stead; Camporini; Moore; Lambo

Abstain: Tierney

Oppose: None

INFORMAL PRESENTATION

Paftinos, Block 45, Lots 1.01 & 2 – Preliminary & Final Major Site Plan

Mr. Zakin stated the application was not noticed as it was not necessary as it is not an official hearing. The Applicant is asking for administrative changes without coming back to the Board with a formal application.

Mr. Camporini asked if the Members had any questions of Mr. Zakin. There were none.

Mr. Paftinos addressed the Board and stated an informal plan was presented to the Board, per their request at the June Meeting. Mr. Paftinos stated the approved Site Plan had two clubhouse buildings, one which housed a meeting room and game room, and on the other side of the site there was one with a gym with an adjacent playground. Mr. Paftinos is proposing to put everything into one building by adding a second floor, which would then leave an additional grassy area to the left of the property.

Mr. Lambo stated his first concern with the previous site plan approval was the lack of outdoor space, and he applauds this proposed change.

Mr. Camporini stated the Applicant is now asking if Mr. Sterbenz can review and approve these changes. Mr. Sterbenz stated there will be a change to the site plan which will reflect the two-story clubhouse on the western side, and the open grassy area on the eastern side.

Mr. Camporini asked if there were any questions from the Board. There being none, Mr. Camporini asked if there was a motion from the Board. Mr. Lambo made the motion to direct Mr. Sterbenz to review the changes with the Applicant to the Site Plan administratively as per the submitted informal plan, with the second being Mr. Tierney.

In Favor: Sherman; Moore; Moore; Walling; Becker; Wolfrum; Stead; Camporini; Tierney; Lambo

Oppose: None

Abstain: None

PUBLIC HEARING

DeTombeur, App #20-06, Block 71, Lot 12 – Variance

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

Keith DeTombeur, Applicant, present for application.

Mr. Sterbenz recommended the Board deem the application complete prior to the public hearing. Mr. Sterbenz reminded the Board there were three deficiencies in the application at the July meeting, all of which have been addressed.

The motion to deem the application complete was made by Lambo, seconded by Moore.

In Favor: Sherman; Walling; Wolfrum; Tierney; Becker; Camporini; Stead; Lambo; Moore

Oppose: None

Abstain: None

Mr. Selvaggi stated the application is for a use variance, with bulk variances. The subject property contains two buildings: the front building is commercial on the first floor, and apartments on the second floor; the back building has been used as apartments for the last fifty years. Mr. DeTombeur currently wants to legally obtain a use variance to allow the back building to remain as apartments.

Mr. Selvaggi asked for Keith DeTombeur, Owner to be sworn in. Mr. Zakin swore in Mr. DeTombeur.

Mr. Selvaggi asked for John Hansen, Vice President of Engineering & Land Planning Associates, High Bridge, New Jersey, to be sworn in, and qualified as an expert Engineer and Planner. Mr. Zakin swore in Mr. Hansen, and Mr. Hansen was qualified as an expert witness in the fields of engineering and planning.

Mr. DeTombeur testified to the following:

- Mr. DeTombeur has owned the property since 1985.
- The back structure has had three apartments continuously prior to his ownership.
- The front structure has had a real estate office, and a printer on the first floor, as well as apartments on the second floor.
- The rear building contains three apartments, each with two bedrooms, a kitchen, living room and bathroom.
- The main building apartments consist of a one-bedroom apartment, and a two-bedroom apartment on the second floor and retail/office space on the first floor.
- There has not been a parking problem as there is an adequate number of parking spaces on the property.

Mr. Selvaggi referred to the common boundary with Trinity Church. Mr. DeTombeur clarified the common boundary is a walkway, not the parking areas, as the walkway abuts the parking for Trinity Church. Mr. DeTombeur added he did not object to screening between the parking areas. Mr. Selvaggi referred to Lot 12.01, which is also owned by Mr. DeTombeur, but is a stand-alone lot, and asked if there is a cross easement to allow parking, and Mr. DeTombeur answered yes.

Mr. Camporini asked if the Board had any questions for Mr. DeTombeur.

Ms. Walling asked if the property is registered with the State as a three-family property. Mr. DeTombeur answered yes, both 217 and 221 Main Street are registered.

Mr. Lambo asked if the cross easement with the restaurant would continue if either of the properties were sold. Mr. DeTombeur answered yes.

Mr. Tierney asked if an easement was in place. Mr. DeTombeur answered yes.

Mr. Camporini asked if Mr. DeTombeur would be willing to add vegetation along Trinity Church's property and the fence and parking lot. Mr. DeTombeur answered behind the back building is the only place to add vegetation. Mr. Selvaggi stated Mr. Thorp, a Church member, asked for fencing to be replaced, however he is not sure if that is the same as Mr. Bloch referred to in his report, and if so, Mr. DeTombeur has no issue in replacing the fencing. Mr. Sterbenz added he did not believe there was a specific recommendation of landscaping in Mr. Bloch's report.

Mr. Camporini asked if there were further questions of Mr. DeTombeur from the Board. There were none.

Mr. Selvaggi then asked Mr. Hansen to list the existing conditions. Mr. Hansen stated the following:

- The subject property is an L-shaped lot, which is unique as the thin leg is behind Lot(s) 12.01 and 11.
- Two buildings are located on the property. The front building is office, retail, and apartments; the rear building is apartments (3).
- The buildings are approximately the same size, with the rear building being located close to the property line.
- There is a landscaped area which is located close to Route 46/Main Street.
- The lot is 93.91% impervious coverage.
- There is solid waste, recycling facilities and public utilities.
- Parking is on site as per the Land Development Ordinance.
- Lighting is on site as per the Land Development Ordinance.
- There are no environmental constraints such as wetlands, flood plains or transition areas

Mr. Hansen stated the application for use variances is as follows:

- For the back building to remain as three apartments, as the TCC District allows apartments on the second and third floors of a mixed-use building, with permitted nonresidential uses on the first/ground floor.
- To allow for a second principal building on the lot.
- For apartment size, as the TCC District allows for one-bedroom apartments to be no less than 750 square feet, and two-bedroom apartments to be no less than 900 square feet. The mixed-use building has an existing one-bedroom apartment that is 500 square feet, and the standalone apartment building contains three existing two-bedroom apartments, each with 667 square feet

Mr. Hansen testified the following criteria has been met as per the following special reasons:

- The property is suitable because of the unique shape.
- Parking is available for both buildings, and the size of the parking area allows residents and patrons to maneuver safely.
- Property allows for recycling and waste to be available for both residents and retail tenants.
- The Buildings have been used as apartments for approximately 40 – 50 years, with no interruptions.
- There have been no Zoning infractions on record for either building

Mr. Hansen testified the following positive criteria has been met:

- General welfare has been advanced as the residential use allows the first floor for tenants with mobility issues.
- Adequate open air and space is provided.
- Residential and commercial substandard size of spaces utilized

Mr. Hansen stated with regard to the negative criteria, the Master Plan and Zoning Plan have been upheld and there is no substantial detriment to the public good.

Mr. Selvaggi asked if Mr. Hansen reviewed the 2018 Master Plan Report, specifically page 16, which refers to the North Jersey Program and the goal to increase access opportunities in mixed use neighborhoods. Mr. Hansen answered yes, and the subject property is close to restaurants and retail establishments and provides pedestrians access to the TCC area.

Mr. Hansen was asked to review Mr. Bloch's report dated July 22, 2020 specifically relating to the C Variances requested. Mr. Hansen stated the setbacks are a hardship, however, the positive criteria has been met due to the unique shape of the property; front yard setback keeps the streetscape intact, and the Gross Floor Area is a D Variance.

Mr. Hansen testified there is an ADA parking stall on the property, which is what is required. The stall on site is an eight-foot stall, with an eight-foot area next to it, which could be striped.

Mr. Zakin asked how many spaces are currently on the property? Mr. Hansen answered 23 parking spaces. Mr. Zakin asked if there is one ADA stall, that would be brought to code? Mr. Hansen answered that is correct.

Mr. Selvaggi stated he had nothing further.

Chairman Camporini opened the meeting to the Board for questions.

Mr. Lambo stated with regard to the D Variance, which is for the apartment size, the building was built prior to the existing ordinance, correct? Mr. Hansen answered that may be, and they are not arguing that as the apartment's layout is functional.

Ms. Walling asked if the subject property would remain as part of the TCC Zone. Mr. Selvaggi answered yes.

Mr. Tierney asked if the parking exceed what is required by the Ordinance. Mr. Hansen answered there are 23 parking spaces, the residential requirements are 9.8, and 10 are existing. The commercial requires 8.9, and there are 13 existing. The property has four more spaces than are required by Ordinance.

Mr. Moore asked what brought Mr. DeTombeur to bring in this application now. Mr. Selvaggi answered there is no secret the Town has been very vigilant with the requirement of Section 68 Certifications, and correcting any Zoning issues, and that is partly the reason, as well as Mr. DeTombeur looking to facilitate future options.

Chairman Camporini asked if there were any further questions from the Board, there being non, the meeting was opened to the public at 8:27 p.m. for questions. There being none, the meeting was closed to the public.

Mr. Sterbenz stated as far as the plans submitted, there would need to be the following changes made to the plan as per the Board and the Applicant's testimony:

- Replacing fencing indicated on the plan.
- ADA parking stall modifications to be added.
- Minor corrections such as the rear setback.
- Typical conditions such as taxes, fees, etc., to be noted in the resolution

Ms. Walling asked if this would set precedent for other buildings. Mr. Selvaggi answered every case is unique as there are different fact patterns, and it is easy to distinguish applications from each other.

Mr. Zakin stated the application is for variance relief as follows: Use variance for multiple buildings on one lot; use variance for Apartments on first floor, and apartments being undersized; bulk variance for the unique shape of the property. Mr. Zakin stated the following conditions must be met: fencing to be added/replaced; ADA compliant parking stall to be striped; criteria to be met as specified on the plan; standard items to be contained in the resolution such as taxes paid, fees paid, etc.

The meeting was opened to the public for testimony by Chairman Camporini.

Darrin Matuszewicz, 93 East Stiger Street, Hackettstown, was sworn in by Mr. Zakin.

Mr. Matuszewicz stated the Board is setting precedent because he has seen at many of the Town Meetings other people coming back saying "You did allow this", and this can be an issue for the Board in the future.

There being no further comment, the meeting was closed to the public.

Motion to approve the application, subject to the conditions set forth by Mr. Zakin, made by Lambo, with the second being Wolfrum.

In Favor: Sherman; Moore; Tierney; Becker; Camporini; Stead; Lambo; Wolfrum

Opposed: Walling

Abstained: None

Living Trust of Todd Simonse and M. Kelly Lemon, App #20-07, Block 73, Lot 6 -Section 68 Certification – to be heard at the August 25, 2020 Meeting

Victoria Mews/Jade, Block 21, Lot 18.01 – Amendment to Resolution of Approval Site Plan/Subdivision

Motion to carry the notice to the August meeting made Becker, seconded by Lambo.

In Favor: Walling; Wolfrum; Sherman; Moore; Camporini; Stead; Becker; Lambo; Tierney

ADJOURNMENT

There being no further business, the July 28, 2020 Town of Hackettstown Land Use Board Meeting was adjourned by a motion from Moore, seconded by Walling at 8:44 p.m. All members present in favor of adjournment.

Respectfully submitted,

Shannon Drylie
Land Use Board Clerk

Motion to approve: Stead
Second: Lambo

In Favor: Sherman; Moore; Tierney; Stout; Walling; Becker; Wolfrum; Camporini; Stead; Lambo
Opposed: None
Abstained: None