

**TOWN OF HACKETTSTOWN LAND USE BOARD
MINUTES**

December 15, 2020

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; or (4) transmission to residents via nixle notification.

CALL TO ORDER

The December 15, 2020 Town of Hackettstown Land Use Board Meeting was called to order by Chairman Camporini at 7:02 p.m.

ANNOUNCEMENT OF PROPER NOTICE

FLAG SALUTE

ATTENDANCE

Board Members Present

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

Board Members Absent

Stout; Becker

Also Present

Bloch; Mennen; Sterbenz

Mr. Mennen addressed the Board stating a request was received from the Hackettstown Livestock Auction Market to not appear tonight at the meeting, and to be carried to the January 26, 2021 Meeting as they are not prepared to proceed with the application. Mr. Mennen further stated the applicant is asking the notice to be carried as well. Mr. Mennen advised there is not currently an issue with the deadline for the board to take action on the application, and the only question for the Board is if they are willing to grant the applicant's request to not renote.

The motion to carry the notice to the January 26, 2021 Meeting was made by Stead, seconded by Tierney.

An announcement was made advising interested members of the public that the Livestock Auction application would be heard by the Board on January 26, 2021 with no further notice being provided.

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

Opposed: None

Abstained: Lambo

MINUTES November 24, 2020 Land Use Board Meeting

The motion to approve the Minutes of the November 24, 2020 Land Use Board Meeting was made by Moore, with the second being Stead.

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

Opposed: None

Abstained: Lambo

RESOLUTIONS

Garlick, App #20-13, Block 79, Lot 22 – Section 68 Certification

The motion to approve the Resolution Certifying the pre-existing non-conforming two-family structure made by Walling, seconded by Wolfrum.

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

Opposed: None

Abstained: Lambo

COMPLETENESS

109 Grand Avenue LLC, App #20-14, Block 75, Lot 18 & 19 – Minor Site Plan, Bulk Variance Mr. Sterbenz stated the outstanding only item for completeness purposes was the Certification of Taxes paid through November 1, 2020, and that has been received. Mr. Sterbenz recommended the application be deemed complete.

The motion to deem the application complete was made by Moore, with the second being Stead.

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

Oppose: None

Abstain: Lambo

PUBLIC HEARING

PK Petroleum, App #20-10, Block 125, Lot 25.01 – Preliminary & Final Major Site Plan/Bulk Variance

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

Mr. Selvaggi stated the application was presented at the November Land Use Board Meeting, and the owner Mr. Kas, as well as the architect and engineer, gave testimony. Mr. Selvaggi stated the Board Members presented ideas and issues regarding the landscaping, signage, etc., at that meeting, and the plans have been revised by Tyler Vandervalk, Engineer, to incorporate those comments. Mr. Vandervalk was reminded he was still under oath.

Mr. Vandervalk testified to the following:

- The pylon sign has been changed to a monument sign, which is modelled after the WaWa sign and includes a 3'10" high BP logo with LED price display
- A variance is required as 50 sq. ft. of signage area is proposed, and the maximum is 30 square feet.
- Lighting – there are currently two fixtures on the east and west corners of the existing pylon sign, as well as another on the opposing corner of the site, which is not up to current standards. A lighting plan was prepared consisting of three (3) pole mounted fixtures (southwest corner of driveway, east of the proposed parking area, and on the rear of the building on the driveway), which will provide safety lighting for vehicles and pedestrians. These fixtures will be down facing, which is a vast improvement from the existing conditions
- Landscaping – additional shrubs and trees have been added in the rear, which is now overgrown.
- Propane exchange cage to be moved to the rear of the building with protective bollards
- A collection system for canopy runoff will tie into the existing Route 57 drainage system

- Wheel stops, striping and signage have been added to the plan per Paul Sterbenz's technical comments of his report
- The site plan will be further revised to address comments 3.01, 3.02 and 4.01 in the Sterbenz review letter

Mr. Selvaggi asked if there was anything further, Mr. Vandervalk responded no.

Chairman Camporini asked the Board if there were any questions.

Mr. Bloch asked what the setback from the property line was for the new sign. Mr. Vandervalk responded eight (8) feet. Mr. Bloch stated there will need to be another variance for the free standing sign setback. Mr. Vandervalk responded yes, both front and side setback variances.

Chairman Camporini opened the meeting to the public and asked if there were any questions from the public, there being none, the meeting was closed to the public.

Mr. Selvaggi stated the applicant is seeking use variances as service stations and convenience stores are considered two separate uses according to the Town's Ordinances and as service stations are a conditional use with the Applicant not meeting all of the Conditional Use standards. The Applicant also requires bulk variance relief.

Mr. Selvaggi called on John Hansen, Principal Planner, who was previously sworn in and accepted as an expert witness at the November meeting.

Mr. Hansen stated the following:

- Signage can be granted under the C2 criteria of the MLUL as a safety enhancement as the signage promotes safety to the site. The LED letters on the signs can be changed remotely, and the LED makes the signs easier to read.
- Landscape Buffering – C variance – the front of the property three feet setback is proposed, and ten feet is required. There is lack of space due to the location of the building. Relief can be granted under C1 due to a hardship to renovate and have the pumps covered without the variance
- Canopy – C1 variance as the canopy is promoting safety for employees and patrons from the weather. A C2 variance is needed for the height of the canopy for vehicles to clear the canopy, the Ordinance allows for 15 feet in height, and 19.9 feet is proposed.

Mr. Hansen stated negative criteria has been met as there is no substantial detriments to the Ordinance or the public good.

Mr. Sterbenz stated there has not been any testimony regarding the D variances. Mr. Hansen responded a D1 variance is need for the commercial convenience store/gas station, and referred to the Medici case stating the positive criteria met is the site is suitable for the proposed use. Mr. Hansen continued stating:

- The site is one acre which is a sufficient size for the proposed use
- The two-bay garage is being converted
- The redevelopment of the site provides a safer site, which falls under purpose G of the MLUL
- Sufficient space and location of agriculture, public space and personal space is proposed, which is a necessary and desired use in the community
- The site also follows purpose M of the MLUL which allows for the adaptive reuse of structures in their current footprint, which allows for the site to be developed with little to no detriment to the

neighborhood. Mr. Hansen further stated the structure was built in the 1950s or 1960s and has been there safely for years

Mr. Selvaggi asked if both uses are allowed in the HC Zone, but not together, correct? Mr. Hansen replied yes.

Mr. Hansen further stated the negative criteria for the D variances have been met as there is no substantial detriment to the Zoning Ordinance or the public good.

Mr. Selvaggi stated he had nothing further for Mr. Hansen.

Chairman Camporini asked if the signage on the pumps has been clarified. Mr. Sterbenz answered that the Quick Chek and WaWa applications were reviewed, and in neither case were decals on the pumps considered signage.

Mr. Selvaggi stated he hope the Board agrees the applicant is entitled to the use variance, allowing for the service station to be incorporated with the convenience store, and granting the use variance as well as the bulk variance for the signage, and approving the preliminary and final site plan.

Mr. Mennen asked for the conditions to be listed:

Mr. Sterbenz stated the site plan must be revised to address the following comments from his December 10, 2020 report:

Grading/Drainage/Utilities

- 3.01 Discharge points for the convenience store roof leaders must be identified to ensure an icing condition will not be created following the pavement/improvement of the site
- 3.02 Grades in the parking area must not exceed 2% in any direction. The asphalt portion of the parking space will have to be resurfaced/reconstructed to ensure compliance with ADA requirements. A note is recommended to be added to the plan and to indicate that the handicapped parking space area will be evaluated during construction to establish the necessary resurfacing/reconstruction limits

Landscaping/Lighting

- 4.01 Some plant material originally proposed along the building frontage and in the parking area has been removed, and it is recommended that the previously proposed plantings be returned to the plan and the planting schedule revised accordingly; the planting schedule lists a planting symbol of PA, and the plan depicts this symbol labeled as PG, the list must be revised to be in agreement; Burning Bush and Day Lilies are not native plantings, the site plan must be revised to indicate substitutes. Inkberry Holly would be accepted as a substitute for Burning Bush.

Mr. Sterbenz listed the following conditions agreed upon:

- Propane only will be sold outside of the building
- Merchandise currently outside of the building will now be inside
- Hours of operation 5:00 a.m. to 11 p.m.
- Current hours being extended
- No seating inside or outside
- No outdoor storage other than the propane within the caged enclosure
- No ice machine outside
- No junk or inoperable motor vehicles stored on property
- No unregistered vehicles on property
- No sales or servicing of vehicles

- Standard conditions included in all resolutions per Section 6.0 of his review letter

The motion to approve the Preliminary and Final Site Plan/Bulk Variance application with the stated conditions was made by Stead, with the second being Tierney.

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

Oppose: None

Abstain: Lambo

109 Grand Avenue LLC, App #20-14, Block 75, Lot 18 & 19 – Minor Site Plan, Bulk Variance Michael Selvaggi, Attorney, of Lavery, Selvaggi, Abromitis & Cohen present for Application.

Mr. Selvaggi stated the site is the old Claredon Hotel, which was built in the 1870s. In 2000 Charlie Browns purchased the property and submitted a site plan consisting of improvements and renovations. The Planning Board at the time put a restriction of use on the third floor in the resolution, requiring the owners to appear before the Board prior to the use of the third floor. In 2010, a new owner (MBK Investments/Mark Fallow) applied and received approval for a site plan to renovate the site creating a catering facility on the second floor, and for the removal of the carriage house, however the conditions on the third floor continued. Unfortunately, the former owner passed away suddenly earlier this year.

Mr. Selvaggi stated Mr. Steven Bussell is the new owner. Mr. Selvaggi stated Mr. Bussell has renovated the catering facility on the second floor and is now seeking Minor Site Plan/Bulk Variance approval for the third floor renovations which include a Bridal Suite with four bedrooms, including three guest rooms, as well as eight bedrooms for employees.

Mr. Steve Bussell, managing member of 109 Grand Avenue LLC, was sworn in by Mr. Mennen.

Mr. Bussell testified to the following:

- He is a managing member of 109 Grand Avenue LLC, owner of 109 Grand Avenue
- The property sale closed in October 2020 and was in operation by the end of October
- The application is proposing a bridal suite with three guest bedrooms, for the use by guests attending catered functions on the property
- The suites and bedrooms will not be used for patrons of the bar/restaurant ‘who drink too much’
- Additional eight bedrooms will be for the use of employees who do not have drivers licenses and are transient so they can work without worrying about how to get to and from work
- Repairs have already been done on the sprinkler system and alarm system to the third floor
- One employee will oversee the rooms
- Employee facilities will be available for employees and their extended families only, and agrees to a condition of non-employees not being able to rent the rooms. No pets will be allowed.

Board Engineer Sterbenz shared his screen to depict the floor plan for the third floor prepared by Frank Mileto. The floor plan was indicated as Exhibit A-1.

Mr. Bloch questioned whether this is a permitted use or not, there is case law of a Charlie Browns in Chatham, New Jersey heard by the Supreme Court, which found that sleeping quarters for employees is not an accessory use. Mr. Bloch asked where in the TCC Zone is this allowed, Mr. Selvaggi answered the TCC does allow for people to live above the second and third floors in apartments. Mr. Bussell stated he does not want to run a hotel.

Mr. Mennen stated Mr. Bloch raised a good question. Mr. Selvaggi answered it is within the Board's authority to grant approval to the applicant for living quarters on the second and third floor in the TCC Zone. Mr. Selvaggi further stated he agrees this is not an accessory use to the restaurant and bar.

Mr. Bussell stated they are not moving walls, they utilized everything there, and rehabilitated everything there.

Chairman Camporini stated he was on the Planning Board at the time the conditions on the third floor were incorporated into the approval, and the conditions were placed in part due to the structural integrity of the third floor. Mr. Bussell stated those improvements have been made, as well as rehabilitation improvements.

Mr. Bloch made the suggestion of a Bed and Breakfast Inn type of facility. Mr. Bussell stated he does not want to run a hotel.

Ms. Walling asked if the front rooms were being comped or rented. Mr. Bussell answered he has not thought that far ahead.

Mr. Mennen stated the Board wants to be supportive, however, the applicant has stated a few times this isn't what he wants to do. Mr. Mennen stated the applicant's notice states for "employee apartments" not a Bed and Breakfast, and an approved Use does not run with the applicant, it runs with the property. Mr. Mennen recommended the application be noticed again, for what the applicant truly wants the site to be.

Mr. Sterbenz stated the Application can be carried to the next meeting, and the Applicant can notice for the appropriate approvals they are seeking.

Mr. Stead stated the Applicant appears to be defining two different uses which include the Bridal Suite on one side, and the other side of the third floor which proposes neither apartments or a Bed & Breakfast, but eight bedrooms.

Mr. Selvaggi stated the dressing room will be accessible to the bathrooms, and the bedrooms would not be able to accommodate a family. Mr. Bussell stated the bedrooms are not intended for families.

Chairman Camporini requested the Applicant list the specific use of the rooms and the bridal suites.

Mr. Stead stated it should be specified the bedrooms are to be occupied singular or by an adult couple, and children are not to occupy the bedrooms. Mr. Tierney asked if the Board could legally ask for it to specifically list no children. Mr. Stead answered the intended use is for the member of the staff and their spouse, which is no different than a RA in a dormitory. Mr. Bloch stated the applicant testified there would be no children and no pets.

Mr. Sterbenz referred to the floor plan and asked if there is no kitchen facilities or cooking facilities on the third floor. Mr. Bussell answered no.

Mr. Tierney asked what the D1 Variance being applied for is. Mr. Selvaggi answered the third floor is to be used as rooming units for staff only, or their spouse. The other half of the third floor is being dedicated to the bridal suite which includes four bedrooms, including three guest bedrooms, and two bathrooms.

Mr. Selvaggi asked if the Board was prepared to authorize its professionals to draft a resolution for the next meeting. Mr. Mennen answered there are now more questions than answers on how to classify certain things, and based on the testimony given tonight he is not sure how a resolution could be drafted until more information is presented by the applicant such as positive and negative criteria.

Mr. Moore stated he agreed with Mr. Mennen, as did Mr. Tierney.

Application being carried to the January 26, 2021 Land Use Board Meeting, and the applicant will notice for the meeting.

PUBLIC COMMENT

There was no public that wished to comment.

Mr. Sterbenz gave the following updates in response to a question from Mr. Lambo:

- Quick Chek plans to break ground in the first quarter of 2021, and finish construction by October 2021
- 301 Mountain Avenue has a new potential lessee, and construction phases in the Developers Agreement need to be changed

Ms. Walling asked for an update on Bergen Tool. Mr. Lambo answered they are in front of the Town Council for a PILOT program, and if this is granted they will enter into a redevelopment program with the Town.

Mr. Lambo asked if there was a way to request proof of funding in a Resolution for approved Site Plans with Developers Agreements. Mr. Mennen, Mr. Sterbenz and Mr. Bloch all answered they have never see this, however Mr. Mennen will look into this for the next meeting.

CORRESPONDENCE

ADJOURNMENT

The motion to adjourn the December 15, 2020 Town of Hackettstown Land Use Board Meeting was made by Moore, seconded by Tierney at 9:37 p.m. All members present in favor of adjournment.

Respectfully submitted,

Shannon Drylie
Land Use Board Clerk

Motion to Approve: Moore

Second: Becker

In Favor: Sherman; Tierney; Wolfrum; Camporini; Stead; Walling

Oppose: None

Abstain: Stout; Lambo; Anthony; Graf