

MINUTES

PLANNING BOARD

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

February 6, 2013

The Regular Meeting of the Planning Board was called to order at 7:30 PM by Michael Einbinder in the Public Meeting Room.

Mr. Einbinder confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

Mr. Cresitello administered the oath of office to Mr. Franchino before the start of the meeting.

Roll Call:

Members present were Mr. Einbinder, Mr. Johnson, Mr. Bruno, Mr. Niceforo, Mr. Franchino, Mr. Graziano, Mr. Hall, Mr. Russo and Mr. Monaco. Mr. Cuocci and Ms. Perna and were absent. Mr. Cresitello, Board Attorney, and Mr. Solfaro, Board Engineer, were also present

Adoption of Minutes:

Regular Meeting January 16, 2013

A motion was made by Mr. Einbinder, seconded by Mr. Graziano, to adopt the Minutes of the Regular Meeting of January 16, 2013 as presented. The voice vote was unanimous.

Application for Review:

App. #SP-4-12: CVS Pharmacy (First Hartford Realty Corp.), Springfield Avenue & Lone Pine Drive, Block 701, Portion of Lots 2 & 3

First Hartford Realty Corporation proposes to construct a new CVS pharmacy with two drive-through lanes. The property currently contains a Pizza Hut which is not in service and is proposed to be demolished as part of the pharmacy development. (DD Zone)

Joseph Murray, attorney for the applicant reviewed the notices that have been published with regard to this application with respect to the variances and waivers being requested

by the applicant. Mr. Murray discussed the various plans that have been prepared during the course of the hearings before the Planning Board and the Board of Adjustment and noted that in view of the interest in the application the applicant wants to be assured that the notice requirements have been met.

Michael Tobia, Planner, was sworn and accepted as an expert witness. Mr. Tobia reviewed the notice published for this hearing and stated that the variances are consistent with the Neglia report with the exception of the variance for minimum building height. The notice stated the building height to be 23' and it is actually proposed to be 28' where the ordinance requires a 35' minimum.

Mr. Cresitello asked if the notice included the usual language regarding any and all other variances that may be determined at the hearing.

Mr. Murray advised that the notice did include that language.

Howard Geneslaw, attorney for Stop & Shop, stated that he has not seen the notice but from discussion that has taken place and the time he has spent preparing for tonight's hearing he is confused as to what plans are before the Board. He noted that there is a discrepancy in the number of variances listed on the plans and sheets submitted and he is having a difficult time determining what relief the applicant is seeking. He thinks it would be helpful for the Board, himself and his professionals to have an understanding of what the applicant is seeking and to have it set forth on the plans.

Mr. Murray stated that the applicant is not here tonight to obtain an approval of the Lone Pine Drive location or the street light placement. They are seeking approval conditioned upon the ultimate resolution of how Lone Pine Drive should be designed and that is still under discussion between the Township Engineers and Kevin Page.

Mr. Cresitello noted that there is confusion regarding the plans. The applicant's most recent legal notice included language as to other variances as may be determined to be needed. Mr. Cresitello stated that in his opinion the Board has jurisdiction to proceed to continue to hear this application but it is up to the applicant to proceed at their own risk since a decision could be appealable by the objector.

Mr. Geneslaw stated that he acknowledged Mr. Cresitello's opinion and noted for the record that he reserves his client's rights with regard to the sufficiency of the notice.

Mr. Einbinder stated that the Board will consider Mr. Cresitello's opinion and proceed with the application.

Mr. Graziano advised that his position with Union County will require him to be involved in the County's consideration of the intersection. He has discussed this with the Board attorney and determined that he should recuse himself from the hearing of this application.

Sharon Burke, applicant's engineer, was sworn, gave her background and education, and was accepted as an expert witness. Ms. Burke stated that her firm was responsible for preparing the plans and she participated in the preparation of the maps and changes. She gave an overview as to how the maps originated and what changes have been made and where they are today with regard to them. The plans were submitted in March of last year, in June they received the first report from Neglia Engineering and since then they have been working to satisfy all their comments. The last review letter that she received was dated November 6, 2012 and with the exception of a few minor items she believes they have satisfied the comments in that report. She has met with Mr. Solfaro, Mr. Stimmel and with the Fire Department and has attempted to satisfy all the requirements of the review letter. The current plan shows modifications which are based on the Lone Pine Drive improvements that have been discussed. Those modifications did not affect the internal CVS site plan which is basically the same plan as was submitted in October 2012. The new plan reflects the right hand turn only onto Springfield Avenue. The sidewalk has been relocated but everything else remains the same including parking, landscaping and lighting. Depending on the Lone Pine Drive configuration there may be less right of way dedicated but the configuration of the CVS site will not change.

In response to questions from the Board, Ms. Burke stated that everything that has already been discussed about the building, materials, access, lighting and signage will not change. The footprint of the building has not changed at all.

Open to the Public

The hearing was opened to the public for questions with regard to Ms. Burke's testimony.

Mr. Geneslaw questioned Ms. Burke with regard to the plans being referred to in her testimony and the plans for the Lone Pine Drive intersection.

Ms. Burke stated that she received the Neglia report that included a few minor items and then the hearing scheduled on November 6, 2012 was canceled due to inclement weather. Ms. Burke was unable to respond to the questions regarding the Lone Pine Drive plans. She reiterated her testimony that the only change was the relocation of the sidewalk. The setback variance along Springfield Avenue is no longer required and the proposed wall is now in the right of way area. The poles along Springfield Avenue are 12' ornamental poles and the poles on site have been reduced in height from 26' to 21'. The Neglia

report requests irrigation details and the system will be provided by a vendor with details to be provided to the Board at that time. Striping and signage has been reviewed with the Fire Department. The jog in the access aisle has been reduced to the extent possible. There was a question in the report about traffic counts needing updating which has been referred to the traffic engineer. She emailed a response to Mr. Solfaro but then the meeting was cancelled.

Mr. Geneslaw asked if there exists a single plan that shows improvements relating to CVS, the Lone Pine Drive improvements and the hotel improvements and whether such a plan will be provided.

Ms. Burke said a single plan does not exist at this time. She is not aware if such a plan is being created.

In response to questions from Mr. Geneslaw, Ms. Burke stated that the CVS will be 14,884 square feet, there are 64 parking spaces dedicated to CVS in the front on along the access drive. Those spaces do not have signage prohibiting people from using them but they are adjacent to CVS. There are 53 parking spaces shown on the plan for the hotel.

Mr. Geneslaw presented Exhibit O-1- agreement of limited parking easement that indicates 53 spaces for the hotel.

Mr. Murray objected to the questions regarding the hotel parking.

Mr. Geneslaw stated that he is trying to demonstrate that the applicant's plan shows a greater number of parking spaces than is the case. The agreement would reduce the amount of spaces available for the applicant and he believes the number reflected on the applicant's plan is in error.

Mr. Einbinder noted that Ms. Burke did not testify as to parking.

Mr. Geneslaw stated that she did not testify as to parking tonight but he has reserved the right of cross examination at prior meetings.

In response to further questions from Mr. Geneslaw, Ms. Burke stated that she has visited the property and seen the Stop & Shop parking area. She is not aware of any corrals and those are not shown on the plan. Ms. Burke did not know if there are designated parking spaces for postal vehicles in the area of the Post Office or if there are any maintenance vehicles stored on the property. There are approximately five parking spaces in the vicinity that extends partially into the right of way but she had no information regarding authorization by the Township for those parking spaces. There is a retaining wall proposed in the drive-thru area.

Ms. Burke was unable to respond to a question regarding the dimensions of the drive-thru and stated that she would prefer to defer further questions until a full set of plans has been prepared and submitted.

Mr. Solfaro stated that his office has not reviewed the January 4, 2013 drawings since they are conceptual. They would like to review that and prepare a report for Board consideration.

Discussion took place as to when the traffic issues will be resolved and a full set of plans provided. Mr. Cresitello noted that the final determination of the intersection design will probably not be done by the time the applicant returns. He suggested that Mr. Page provide an update on the status of the intersection and traffic signal.

Kevin Page, engineer, was sworn and accepted as an expert witness. Mr. Page stated that when the hotel was approved a set of drawings for widening of Lone Pine Drive was approved. Upon review of the plans it was found that to implement them would require encroachment on private property so the alignment of Lone Pine Drive was adjusted. The Township Council has hired the Township Planner to review it and he has made suggestions. The plan presented by the applicant shows that the CVS plan can be implemented without any impact on the decision of the Township Council about the intersection. He has met with Mr. Mistretta and they will continue to discuss the intersection plan and he is confident a resolution can be reached. The configuration of Lone Pine Drive is not a Planning Board issue but will be decided by the Township Council.

Mr. Page further stated that the CVS plan has not changed; it was the Township plan that changed. He believes there is no parking variance required and that there will be enough parking. An exhibit was recently presented to Stop & Shop showing 171 parking spaces along their building frontage and based on their calculations they need 150 spaces. He does not believe the CVS will have any impact on the parking in front of Stop & Shop and does not think people at the hotel will want to park by Stop & Shop. He is comfortable representing to the property owner that he has enough parking that is distributed appropriately around the site.

Discussion took place and it was noted that the Board could grant preliminary approval only and as part of compliance the applicant would have to come back for final approval and would have to demonstrate changes in the plan.

Open to the Public

The hearing was opened to the public for questions with regard to Mr. Page's testimony.

In response to questions from Mr. Geneslaw, Mr. Page indicated the location of the hotel and the overflow parking for the hotel. The hotel has only rooms, no banquet facilities, and the parking demand will be greatest in the evening.

Mr. Geneslaw stated that he has a number of additional engineering questions relating to lighting, drainage and landscaping, and will defer them until the plans are prepared. He also has witnesses to testify but the testimony would be pointless since the plans are changing.

Discussion took place regarding how to proceed with the hearing of the application. New plans will be submitted and testified to by the applicant's experts and Mr. Geneslaw would have an opportunity to question the experts and present testimony by Stop & Shop's expert witnesses. Final plans would be submitted following the Township determination as to Lone Pine Drive.

The hearing of the application was carried to the meeting of the Board on March 20, 2013. The applicant will submit plans and a report from the Planner summarizing the relief being sought. No further notice will be required unless the applicant determines that there are additional variances that need to be noticed.

Adjournment:

A motion was made by Mr. Johnson, seconded by Mr. Bruno, to adjourn the meeting. The voice vote was unanimous and the meeting adjourned at 9:40 p.m.

Regina Giardina, Secretary Pro-Tem