

MINUTES

PLANNING BOARD

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

April 17, 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.

Roll Call:

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

Executive Session

Pending litigation. Carol Matula, Plaintiff v. Township of Berkeley Heights, Township of Berkeley Heights Planning Board and Church of the Little Flower, Defendants

The Board entered into Executive Session at 7:37 p.m. on the motion of Mr. Einbinder, seconded by Mr. Bruno and carried by unanimous voice vote for the purpose of discussion of pending litigation filed by Carol Matula against the Township of Berkeley Heights, the Berkeley Heights Planning Board and the Church of the Little Flower.

Return to Public Session

The Board returned to public session at 7:46 p.m. on the motion of Mr. Bruno, seconded by Mr. Johnson and carried by unanimous voice vote.

Adoption of Minutes:

Regular Meeting April 3, 2013

A motion was made by Mr. Einbinder, seconded by Mr. Bruno, to adopt the Minutes of the Regular Meeting of April 3, 2013 as presented. The voice vote was unanimous.

Adoption of Resolutions:

The adoption of Resolutions with regard to Application #M-13_Paula D. McQuillan, Executor of the Estate of Irene McQuillan, 159 Emerson Lane, Block 3003, Lot 8 (R-20 Zone) and Application #SP-1-13 Alcatel-Lucent USA Inc., 600 Mountain Ave., Murray Hill, Block 3701, Lot 1 was carried to the next meeting of the Board.

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)

Mr. Cresitello advised that the following members of the Board would be eligible to vote on this application by reason of attendance at the meetings, listening to the tapes of meetings and reading the transcripts: Mr. Einbinder, Mr. Bruno, Mr. Hall, Mr. Franchino, Mr. Russo, Mr. Johnson and Mr. Monaco.

Joseph Murray, attorney for the applicant, advised that the applicant's notice with regard to this meeting indicated that the applicant is seeking approval subject to the subsequent approval of the Township Council as to the Lone Pine Drive alignment. The applicant is seeking approval for everything except that feature of the plan and would accept conditions of approval for any other items of further contingency, such as lighting or landscaping. Mr. Murray noted that the applicant's engineer, Sharon Burke, will testify with regard to the Neglia report and any outstanding issues. Traffic engineer Gary Dean will discuss the ongoing negotiations with the Township Council and then Mike Tobia will testify as to the variances and design waivers being requested.

Mr. Murray handed out copies of Exhibit A-1 4/17/13 – copies of the Neglia report, as annotated.

Discussion took place with regard to the plans presented by the applicant and whether or not those plans are consistent with the plan recommended by Harbor Consultants and supported by the Township Council. This was sent to the applicant by the Township Attorney.

Gary Dean, traffic engineer, was sworn and accepted as an expert witness. Mr. Dean stated that he did not receive a plan from the Township Attorney on behalf of the

Township Council. He understands that there have been meetings with the Mayor to identify the plan and the plan presented by the applicant is similar in scope.

Mr. Murray stated that he was provided with a copy of the Mistretta plan through his client and there was a letter from the Township Attorney.

Lengthy discussion took place regarding the plan that the applicant submitted versus the plan prepared by Mike Mistretta of Harbor Consultants that has been approved by the Township Council.

A short break was taken in order for Mr. Murray to discuss with his client and professionals whether to continue with the hearing tonight with the understanding that the plan may have to be modified to conform to the Township Council's opinions.

The meeting reconvened at 8:35 p.m. at which time it was determined that the Harbor Consultants plan is consistent with the plan presented by Mr. Dean. A member of the public provided a copy of the Harbor Consultants plan that was marked as Exhibit A-2 4/17/13. Mr. Dean stated that the plan depicts the area of development, improvements to Lone Pine Drive that include an easement and improvements in front of the Benham service station to control and regulate traffic. The plan also shows a median in the center of Lone Pine Drive and other streetscape improvements. It is a convertible plan that upon future development for the hotel and the Benham service station can be converted to allow a right hand turn lane and separate left hand turn to continue west. The improvements on this plan call for the installation of a traffic signal and are part of the CVS application as off tract improvements.

Sharon Burke, previously sworn, discussed the various plans that she has reviewed for the applicant. She stated that she believes that Exhibit A-2 is substantially the same as the Mistretta plan.

Howard Geneslaw, attorney representing Stop & Shop, pointed out that Exhibit A-2 is dated 2/27/13 and designated as 4E but the plan that he received has the same date but is designated as 4D. Mr. Geneslaw suggested that in order to intelligently proceed it should be determined which is the latest plan.

Mr. Bruno stated that Exhibit A-2 is the final plan that was presented to the adjoining property owners.

The consensus was in favor of proceeding with Exhibit A-2 as the latest plan.

Mr. Geneslaw asked Mr. Dean if he will be providing testimony regarding typical traffic impact issues and if there will be testimony concerning on-site traffic.

Mr. Dean said he will be the witness with regard to traffic and can answer specific questions regarding the report that has been submitted.

Mr. Geneslaw stated that he has questions regarding the traffic study and he does not recall any direct testimony with respect to the study. He noted that it would be customary to have testimony by the person who prepared the report and that person would be available for questions.

In response to questions from Mr. Geneslaw, Mr. Dean stated that there are off-tract improvements proposed as part of the application. All improvements shown on Exhibit A-2 and the traffic signal would be completed and ready for use before CVS opens for business.

Richard Ossi, 395 Springfield Avenue, stated that he is an adjoining property owner. He and another neighbor met with Mayor Bruno and Mr. Mistretta regarding the plan and discussed the driveway which now requires someone entering to cross over his property. He has asked for a change in the plan.

Mr. Dean stated that what is depicted on the Mistretta plan is a future improvement of properties outside this application and the plan shows one possible configuration of a shared access. The requested revision will have to be considered by the Township Council and Mr. Mistretta and also Union County would have to agree. The applicant will take Mr. Ossi's concerns under advisement but it is beyond their control.

Mr. Bruno stated that he believes Mr. Mistretta indicated it could be done pending approval of the County. Mr. Cresitello suggested that Mr. Ossi express his concerns to Mr. Mistretta.

Sharon Burke stated that she has reviewed the Neglia reports with regard to the application and has discussed the outstanding issues with Mr. Solfaro. With regard to the NJDEP approvals they have reviewed Mr. Solfaro's opinion as to work in the flood plan and will provide what is required as to grading in the parking area. With regard to the storm water management system the plans will be corrected to indicate that it will not be connected to the municipal system. Ms. Burke noted that ornamental light fixtures will

be provided along Springfield Avenue but the property owners would prefer that the interior lighting match the existing shoebox lights. The applicant requests that the Board decide that issue. Ms. Burke further stated that they will provide the technical details for rain water recirculation requested by Mr. Solfaro and the applicant will provide landscaping improvements within the Lone Pine Drive improvement area in accordance with whatever the Board wants.

Mr. Cresitello noted that the applicant has agreed to a condition of approval whereby the Lone Pine Drive improvements will be done before a certificate of occupancy is obtained. The landscaping will be addressed at the next meeting.

Ms. Burke stated that Mr. Solfaro has suggested that two drive-thru lanes plus a bypass lane may be a safety problem and suggested that one drive-thru lane and the bypass lane would be enough. They will review the recommendation and respond more definitively at the next hearing. Ms. Burke has also discussed the slight jog in the access aisle with Mr. Solfaro and will work with him on traffic calming measures that he feels are appropriate.

Mr. Dean responded to traffic related comments in the Neglia report. With respect to the request for updated traffic counts, Mr. Dean stated that he believes there has been enough data provided in terms of levels of service and he does not believe there have been tenancy changes in the center to warrant a new traffic survey. The analysis of future conditions with the project and without it has been provided. What has not been provided is a no-build analysis since there is no point in doing an analysis that includes a signal but does not include CVS.

Ms. Burke stated that she believes this plan conforms to the design standards of the municipality with the exception of variances and waivers that the applicant has asked for. In response to a question regarding the parking lot lighting, Ms. Burke stated that the waiver being requested is for aesthetic reasons and to maintain the look of the other areas of the center.

Open to the Public

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

In response to questions from Mr. Geneslaw, Ms. Burke stated that the plans will be changed to show that the storm water management system is not connected to the municipal system. The jog in the parking area will not be eliminated but a stop sign or other device will be added to the plan. The square footage for purposes of computing parking requirements was obtained from the architect and that number is 14,884 square

feet. The number was based on the definition in the ordinance of gross floor area.

With regard to Mr. Geneslaw's questions regarding the parking requirements, Ms. Burke stated that she did observe the cart corrals but she did not know when they were added or who added them. She said those spaces cannot be used as parking spaces and noted that the corrals were not bolted to the pavement. Ms. Burke indicated on the plan the location where postal vehicles are parked in a cluster and estimated that those vehicles occupied approximately 14 spaces. Those spaces were included in the parking table and she did not know if they are designated as postal services spaces. She did not observe maintenance vehicles parked behind the former Drug Fair. The 16 spaces along Lone Pine Drive that would encroach into the easement being proposed as a right of way were also included in the parking count. She does not know the terms of the easement and was unable to answer whether or not those spaces should be removed from the parking count.

In response to questions from Mr. Geneslaw regarding building height, Ms. Burke stated that the 23' to 28' range was provided by the architect based on the ordinance definition of building height.

In response to questions from Mr. Geneslaw regarding signage, Ms. Burke indicated on the plan the location of signs at the southwest corner of the site on Springfield Avenue, at the shopping center entrance on Snyder Avenue, and the retrofitting of the existing pylon sign located on Springfield. There are no variances listed for signage and the Board Engineer has not noted any variances needed for signage.

Mr. Geneslaw stated that since the pylon sign was part of a previously approved site plan for the hotel he believes the hotel site plan needs to be amended if that sign is to be moved. The plans that the applicant presented described the sign as a pylon sign and the original plans show it as a monument sign. There was a variance required when the sign was approved in the prior application so this is an important issue.

Mr. Geneslaw asked about how tractor trailer trucks would enter the site from Springfield Avenue. Ms. Burke stated that the tractor trailer trucks would come down Springfield Avenue and go west around the back of the store in a continuous movement. They believe trucks can also enter from Snyder Avenue and will run a turn model for that entrance.

With regard to parking, Mr. Geneslaw stated that his client is concerned about whether there will be adequate parking. They believe the number of spaces shown in the parking count is not correct because of the spaces occupied by cart corrals, postal service vehicles and maintenance vehicles as well as the spaces in the easement area on Lone Pine Drive and the existing spaces along Springfield Avenue that extend into the right of way. His client has a significant concern about the availability of spaces shown on the plan and

also with regard to the spaces for the hotel. The applicant's plan currently shows a 22 space excess and his client believes there is actually a shortfall of 54 spaces and that a parking variance is required.

Mr. Geneslaw stated that he has additional questions with regard to impervious coverage and would reserve the right to further question these witnesses.

Discussion took place regarding further presentations and testimony with regard to this application. Mr. Tobia stated that his testimony will take approximately one-half hour.

Mr. Cresitello suggested that the applicant return on May 15 with a revised set of plans that depict the intersection improvements as testified to this evening.

Mr. Murray advised that on May 15 the applicant will also address landscaping, the bypass and drive-thru lanes and Mr. Dean will answer questions regarding the traffic study.

Mr. Geneslaw advised that he will present a traffic expert who will provide testimony to refute the applicant's traffic report.

The application was continued to the regular meeting of the Planning Board on May 15, 2013 with no further notice required.

Adjournment:

A motion was made by Mr. Einbinder, seconded by Mr. Bruno, to adjourn the meeting. The voice vote was unanimous and the meeting adjourned at 10:31 p.m.

Regina Giardina, Secretary Pro-Tem