

MINUTES

PLANNING BOARD

TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY

Regular Meeting

May 15, 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. Niceforo, Mr. Franchino, Mr. Hall, Mr. Russo and Ms. Perna. Mr. Graziano, Mr. Cuocci and Mr. Monaco were absent. Mr. Cresitello, Board Attorney, and Mr. Solfaro, Board Engineer, were also present

Adoption of Resolutions:

App. #M-1-13: Paula D. McQuillan, Executor of the Estate of Irene McQuillan, 159 Emerson Lane, Block 3003, Lot 8 (R-20 Zone)

Seeking preliminary/final site plan approval for a proposed three (3) lot subdivision.

A motion was made by Mr. Einbinder, seconded by Mr. Hall, to adopt the above Resolution. The voice vote was unanimous with Mr. Einbinder, Mr. Johnson, Mr. Bruno, Mr. Franchino and Mr. Russo voting in favor.

App. #SP-1-13 Alcatel-Lucent USA Inc., 600 Mountain Ave., Murray Hill, Block 3701, Lot 1

Seeking preliminary and final site plan approval. Due to obsolescence and no longer needing the space, Applicant is requesting approval to demolish the front portion of Building 1 and part of Building 2 covering approximately 280,000+/- square feet in all. (OR-Zone)

A motion was made by Mr. Einbinder, seconded by Mr. Bruno, to adopt the above Resolution. The voice vote was unanimous with Mr. Einbinder, Mr. Johnson, Mr. Bruno, Mr. Franchino and Mr. Russo voting in favor.

Request for Waiver of Site Plan Hearing:

App. #SP-3-13: Mazzocchi Mortaruolo LLC, 417 Springfield Ave., Bl. 208, L. 18 (DD Zone)

Proposed 7-Eleven will undergo interior renovations exceeding \$10,000 and therefore requires site plan approval according to Section 10.1.2.A.2 of the Land Use Procedures Ordinance. Applicant is requesting waiver under Section 10.1.3.B which allows the Planning Board to classify the application as a Minor Site Plan and waive the requirement of notice and public hearing if the application meets all of the stipulated criteria.

Joseph Murray, attorney for the applicant, stated that the applicant is seeking a site plan waiver.

Grace Mazzocchi, principal of the applicant, was sworn and stated that if the proposed improvements were less than \$10,000 a site plan hearing would not be required. She has received the Neglia report and is here to address the outstanding issues. Ms. Mazzocchi stated that she is the President of Mazzocchi Mortaruolo LLC and they are proposing to convert their store into a 7-11 which would require certain interior modifications. The existing interior will be demolished and restored to a 7-11 store with new furnishings, walls and equipment. The exterior changes will include painting and new paving. The owner of the property will be doing the parking lot work which will include striping and construction of handicap spaces. The applicant and the owner will comply with all of the issues raised in the Neglia report.

Mr. Cresitello advised that the Board has to determine if the criteria in the ordinance for a site plan waiver have been satisfied and if public notice can be waived. Even if the Board is inclined to grant the waiver, the applicant will be required to comply with the Neglia report.

Kathleen Urban, representing her mother, Lynn Mortaruolo, who is the owner of the property, was sworn. She stated that she is a member of AM Real Estate LLC, the property owner, and is authorized to speak on behalf of the owner. Ms. Urban stated that she is familiar with the Neglia report and the property owner is willing to make the site improvements as indicated in that report.

In response to questions from the Board, Ms. Urban stated that they will take care of replacing the curb and sidewalks, they will put in pavers instead of just patching the sidewalk, they would like to do the work after the CVS is approved but will still do the work even if the CVS does not get done. Ms. Urban further stated that she understands that street lights according to the Township's downtown design standards will be required.

In response to questions from the Board, Ms. Mazzocchi stated that the hours of operation will be 5 a.m. to 11 p.m. 7-11 wants a 24-hour operation but she is not interested in being open 24 hours. There is a clause in their agreement that states the 24-hour requirement unless the municipality does not allow it.

Open to Public

The hearing was opened to the public for questions or comments with regard to the application. There were no members of the public with questions or comments and the hearing was closed to the public.

A motion was made by Mr. Einbinder, seconded by Ms. Perna to grant a site plan waiver with respect to Application #SP-3-13: Mazzocchi Mortaruolo LLC, 417 Springfield Ave., Bl. 208, L. 18 (DD Zone), subject to the conditions listed in the Neglia report, the conditions discussed during the hearing with respect to sidewalk and curbing, and the requirements, restrictions and limitations that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting.

The Motion was carried 8-0 with Mr. Einbinder, Mr. Johnson, Mr. Bruno, Mr. Niceforo, Mr. Franchino, Mr. Hall, Ms. Perna and Mr. Russo voting in favor. There were none opposed.

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 representing the applicant, stated that he will present witnesses including Sharon Burke, who will review the details of the Mistretta plan, Kevin Page who will discuss the interior parking, and Mike Tobia who will testify regarding the variances.

Sharon Burke, previously sworn, presented site plan drawing showing the layout and materials plan of Lone Pine Drive dated 5/3/13. She has confirmed with Mr. Mistretta that the plan has been sanctioned by the Township and it has been incorporated into the applicant's plan. They have made a slight modification in the area before the driveway to Delicious Heights to accommodate the retaining wall in that area and will work with Mr. Mistretta to widen the sidewalk.

Mr. Solfaro noted that the sidewalk issue was deferred to Mr. Mistretta and the applicant will work with him on that.

Mr. Cresitello noted that if this application is approved one of the conditions would be to enter into a developer's agreement that would be very detailed and include everything in the reports from Mr. Mistretta and the Planning Board's professional staff.

Ms. Burke stated that the Mistretta plan shows three street trees along the edge of the walkway but there is not adequate space for them. They have included decorative plantings and will work with the Board and Mr. Mistretta to add trees where there is available space to do so.

In response to questions from the Board, Ms. Burke stated that the retaining wall will consist of modular textured blocks. She indicated the location of the retaining wall from Delicious Heights to Benham's garage and said the applicant will work with Mr. Mistretta and Mr. Solfaro to provide something attractive. As to the drive-thru lanes, CVS would like to proceed with the two-lane drive-thru because they feel it provides great convenience for customers and is a benefit to senior citizens and people with children. The estimated volume is 5-6 vehicles per hour and the purpose of having two is to reduce wait time and improve maneuverability around the site.

Mr. Solfaro noted that he made the comment at the last meeting that having three lanes could be a safety issue and confusing to motorists.

Discussion took place regarding the two-lane drive-thru and whether two lanes are needed and if there will be signage or lights indicating if the lanes are open.

Ms. Burke suggested that the applicant could incorporate signage and other measures to make the lanes safe. She noted that during busy times two lanes can be very useful and stated that the applicant will work with Mr. Solfaro to make it satisfactory.

With regard to site lighting, Ms. Burke stated that the applicant is asking for a variance to allow the interior lighting not to be ornamental but to match what is in the shopping center now.

Frank May, Berkeley Development Company, owner of the shopping center, who was previously sworn, said that the lights will be controlled but they will be on all night. CVS will control their own lights and the owner will control the parking lot lights. They want to use the same lights as in the rest of the shopping center.

Open to the Public

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

Howard Geneslaw, representing Stop & Shop, asked if Ms. Burke had knowledge of the operating protocol of CVS with respect to the drive-thru lanes such as if they are open at all times or only when busy. With respect to turning restrictions from the bypass lane, Mr. Geneslaw asked how a CVS customer would go to other stores in the center if there is a right turn only restriction and how a tractor trailer would exit.

Ms. Burke stated that she has no knowledge of the operating protocol. With regard to the turning restriction, the applicant is willing to do whatever the Board wants and they will discuss that with Mr. Solfaro.

Ms. Burke stated that she prepared a summary letter that was sent to the Board Secretary with regard to the changes in the plans. The changes include revisions to coordinate with the Harbor Consultants plan, recalculation of the coverage numbers, recalculation and redating of the zoning summary chart, revision of the parking summary to reduce available parking by 14 for the post office vehicles, inclusion of stop signs and speed limit signs, and landscaping. The parking is adequate even with the 14-space reduction. A letter was received from the Environmental Commission stating that the applicant's landscaping architect has satisfied their comments.

Mr. Geneslaw pointed out a mathematical error in the impervious coverage calculations that would result in an increase in coverage and asked if that would have any impact on the storm water analysis.

Ms. Burke stated that the difference would be a very small amount and would not result in going over on impervious coverage.

In response to questions from Mr. Geneslaw regarding the plan, Ms. Burke stated that the light poles are within the sidewalk area and the sidewalks will be 6' with a 6" curb.

Mr. Geneslaw asked which witness would testify with regard to the old Grand Union plan that was submitted with a letter from Mr. Murray.

Mr. Murray stated that this is the original parking plan when this was Grand Union. It is a sheet that has been submitted to the Board Secretary showing parking back then and no cart corrals. The property owner would address questions regarding the plan.

Frank May, Berkeley Development, stated that his company will be doing the improvements on Lone Pine Drive. Some of those improvements have been started and as of this week the road has been widened, paved and Belgian blocked.

Open to the Public

The hearing was opened to the public for questions with regard to Mr. May's testimony. There were no members of the public who had questions.

Kevin Page, previously sworn, stated that he will testify as to the improvements on Lone Pine Drive and answer questions about parking in the center in general.

Mr. Page stated that as part of the hotel approval it was proposed that Lone Pine Drive be improved from the hotel to Springfield Avenue and his firm designed that. Prior to completion of the full design CVS approached Berkeley Development about leasing and that changed the plan. The final design has been held off awaiting the conclusion of the negotiations. His firm will finalize the design and work with Mr. Dean's office on design of the signal. They will follow the Mistretta plan and make sure the plan is consistent with the Mistretta plan and the CVS plan. Mr. May's company will actually build it.

With regard to parking, Mr. Page advised that there have been discussions between the shopping center owner and Stop & Shop regarding the adequacy of parking. Parking studies were conducted and each business in the center was looked at as to parking requirements, peak hours, etc. A matrix was created showing how parking works out for different businesses and the actual parking count was reviewed. Based on those studies he is satisfied that there is sufficient parking. He has suggested some parking be added in the rear of the center and improvement of the postal employee parking. The property owners are working with Stop & Shop and taking their concerns seriously.

Open to the Public

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

Mr. Geneslaw asked why an easement rather than right of way dedication is proposed for Lone Pine Drive.

Mr. Page stated that it is 30' road and the owners do not control or own the properties on the west side of Lone Pine Drive.

In response to questions from Mr. Geneslaw regarding the parking study, Mr. Page stated that a staff member from the shopping center performed the counts and the counts were recorded manually. The staff member was given the boundaries and instructed to count the cars. Mr. Page discussed his experience with parking counts he has done for the DOT and for other properties. The shopping center owner talked to the operators of the stores and asked them what their busy times were and their hours of operation. He collected the raw data and then drew conclusions. In his opinion, there is more than enough parking.

In response to questions from the Chairman regarding his client's position with regard to parking, Mr. Geneslaw stated that his client contends that there is inadequate parking and he has witnesses who will testify on that issue. Mr. Geneslaw noted for the record that he has a number of additional questions regarding the credibility and methodology of the parking counts but he will proceed to present his witnesses as requested by the Board.

Gary Dean, traffic engineer, who was previously sworn, stated that the internal east/west aisle connecting Springfield to Lone Pine will allow motorists to access individual parking fields. He does not know if the public will perceive it as a street but additional traffic control measures can be implemented and there are jogs in the alignment so it is not a through street. He does not believe a speed limit can be enforced. If it becomes an issue the owners will address it. He has been involved with 100 different CVS stores and the double drive-thru has become the industry standard. The drive-thru lanes operate at a low speed and do not create an unsafe traffic condition. It is unlikely that two cars would be exiting at the same time. The bypass lane is there only to allow customers to exit if they do not want to wait in line. It is not designed to serve as an exit for the parking field. He is not concerned about the drive-thru and bypass lanes operating safely and he does not recommend directional signage.

Discussion took place about potential problems with traffic flow with two drive-up lanes and a bypass lane. Mr. Dean stated that he has seen some TD Bank sites with four lanes and has seen them work safely because all vehicles are exiting from a stopped position. The probability of having three cars leaving at the same time is very low.

Open to the Public

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

In response to questions from Mr. Geneslaw, Mr. Dean stated that he was engaged in April of last year by the May family to design the traffic signal for Springfield and Lone

Pine Drive. He did not prepare the traffic impact statement and does not know why the person who prepared the traffic impact study is not at the hearing. He has reviewed the report in its entirety and is familiar with it. The predictions were done by him as part of the warrant study for the signal. The traffic counts were a collaborative effort in which he was involved. He does not know what the occupancy of the center was when the counts were done. To his knowledge, no other developments were taken into account for the report and he believes the hotel is the only project of significant magnitude to have an effect on the findings. Mr. Dean further stated that he has evaluated the drive-thru and bypass lanes. The bypass lane is 15' wide and the two drive-thru lanes are 13½' wide.

In response to questions regarding the CVS parking spaces, Mr. Dean said he did not know if the CVS spaces are entirely within the CVS demised premises. He did not believe that those spaces are intended to be exclusively for CVS. He has not seen the lease between the landlord and CVS.

Robert Olenschlager, signage consultant for CVS, who was previously sworn, stated that revisions have been made to the sign package per the Board's request. There are nine wall signs proposed. Most of these signs are informational type signs, providing store hours, name of pharmacist, name of manager, etc. Mr. Olenschlager indicated the location of the main identification sign and drive-thru signs on the various elevations. Originally there were 10 signs and one was eliminated. The building color has been changed from yellow to a reddish brown. Free standing signs were originally proposed to be internally illuminated and that has been changed to exterior illumination.

Open to the Public

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

Mr. Geneslaw asked if Mr. Olenschlager was involved with the proposed sign at the corner of Lone Pine Drive and Springfield Avenue for the hotel.

Mr. Olenschlager said he was only involved with the CVS signs.

Frank May, principal of Berkeley Development, who was previously sworn, stated that there are no existing tenants in the shopping center that have exclusive parking spaces.

Open to the Public

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

Mr. Geneslaw asked if the lease with CVS has been signed, if CVS will have exclusive parking spaces, how many exclusive spaces and where they are located.

Mr. May stated that CVS is leasing the pad of about 13,000 square feet and their exclusive spaces are inside the pad. He does not know how many exclusive spaces there will be. No other tenants in the shopping center have exclusive parking and he does not anticipate any future tenants having exclusive parking.

In response to questions regarding the effect of the exclusive spaces on the parking count, Mr. Page stated that the parking study was based on existing conditions. The assigned spaces will have an impact on the number of spaces that can be used by other tenants and he has provided a plan to add 8-12 spaces in the back.

Discussion took place regarding dates for further proceedings on this application. Mr. Geneslaw stated that he has more questions for Mr. Page regarding the parking study.

The hearing of the application was carried to a Special Meeting of the Board on June 10, 2013 and the Regular Meeting on June 19, 2013 with no further notice required by the applicant. The Board Secretary will publish notice of the Special Meeting.

Adoption of Minutes:

Regular Meeting April 17, 2013

A motion was made by Mr. Einbinder, seconded by Mr. Bruno, to adopt the Minutes of the Regular Meeting of April 17, 2013 as presented. The voice vote was unanimous.

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 11:05 p.m.

Regina Giardina, Secretary Pro-Tem