



LEBANON BOROUGH
PLANNING BOARD & BOARD OF ADJUSTMENT
MINUTES
December 11, 2013

The Regular meeting of the Lebanon Borough Planning Board/Board of Adjustment was called to order by Chairman Alexander Saharic. at 7:00 P.M.

The meeting was convened in compliance with the Open Public Meetings Act of 1975. Three local newspapers were notified and a notice is posted at Borough Hall.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present: Chairman Alexander Saharic, Councilman Berger, Ron Lapcynski, David Abeles, William Skene, Joseph Hauck, William Wilson and Henry Hopkins
Absent: Mayor Reino, Dr. Christopher Uchrin, and James Newman
Also present: Clerk Karen Romano

MINUTE APPROVAL:

Mr. Hauck moved, and Mr. Hopkins seconded, a motion to approve the Minutes of September 2013.

The motion passed with the following roll call vote:

Ayes: Saharic, Berger, Skene, Hauck, Wilson, Abeles, Lapcynski, and Hopkins

Nays: None

Absent: Uchrin, Reino and Newman

Abstain: None

EXPENDITURE APPROVAL:

Mr. Skene moved, and Mr. Lapcynski seconded, a motion to approving the Expenditures December 2013.

12/11/2013	Ferriero Engineering	\$ 397.50	54800	Oct-13	Cutshaw
	Ferriero Engineering	\$ 70.00	55117	Nov-13	Cutshaw
	Ferriero Engineering	<u>\$ 250.00</u>	55116	Nov-13	China III
		\$717.50			

The motion passed with the following roll call vote:

Ayes: Saharic, Berger, Skene, Hauck, Wilson, Abeles, Lapcynski, and Hopkins

Nays: None

Absent: Uchrin, Reino and Newman

Abstain: None

FORMAL- Block 2 Lot 2 CHINA II -MR. PATRICK BALDONI:

Attorney Shurts stated the hearing was proposed from the original November 13, 2013 date due to a notice being overlooked.

Attorney Shurts marked the following Exhibits:

A-1 Application

A-2 Notices

A-3 Amended Site Plan

A-4 LBSA letter

A-5 Clinton Water letter

Attorney Shurts swore in Mr. Patrick Baldoni property owner, Steve Baldoni son of property owner, and Lui Shi Xiang Applicant.

Liu Shi Xiang d/b/a China III has filed an application with the Lebanon Borough Planning Board/Board of Adjustment ("Board") to further develop the property known as the Hunterdon Plaza, Block 2, Lot 2, which is located on Route 22 West in the ROM-Comm 200,000 Zone.

The applicant seeks approval for a Chinese restaurant with limited sit down and take out facilities.

The applicant has requested a variance because a restaurant is not a permitted use in the ROM-Comm 200,000 Zone.

The Planning Board makes the following findings of fact and conclusions of law:

1. The property owner and its tenants have previously received preliminary and final site plan, amended site plan approval and a number of variances and site plan approvals for various types of uses for the shopping center which is known as Hunterdon Plaza. Those approvals establish the shopping center and some of its specific uses.

2. In support of this application, the applicant submitted a drawing entitled "Amendment to Final Site Plan for Hunterdon Hills Plaza, Tax Block 2, Tax Lot 2, Borough of Lebanon, Hunterdon County, New Jersey" prepared by Patrick A. Baldoni, P.E. which drawing consists of one sheet.

3. The applicant also submitted a single sheet drawing of the floor plan layout for the restaurant which will be known as China III and which drawing is dated October 7, 2013 and was prepared by Patrick A. Baldoni, A.I.A.

4. The subject property is already developed containing four (4) commercial buildings, all of which are located on the north side of New Jersey State Highway 22 along that road's west bound lanes. The buildings have a total of 54,000 square feet. Traffic enters the site near its southwest corner. This is only one point of ingress and egress on Route 22 and there is a traffic island at the entranceway. The access allows right turns in and right turns out only.

5. There are a number of different uses in the various buildings on site. Among the uses are a daycare facility, a workmen's compensation court, two existing restaurants, the owner's

offices and various other commercial and service uses.

6. The plan shows that there are a total of 249 parking spaces on the site. Mr. Baldoni testified that the amount of parking on the site has always been sufficient for the uses on the site. The unit projected for the restaurant was formerly used by Weight Watchers for seminars and the sale of miscellaneous products. The expectation regarding traffic generation for the proposed Chinese restaurant is approximately the same as for the former Weight Watchers use. The Board is satisfied that there will be sufficient parking spaces to satisfy the demand for the current uses and the proposed use. As a safeguard, the Board will retain jurisdiction over the issue of parking for a period of one year and will readdress the traffic issue at the end of that period.

7. This applicant proposes to rent a 1,400 square feet suite in building #1. The suite is 70' by 20' and was previously a Weight Watchers facility as mentioned above. The unit will be reconfigured as shown on the drawing which was part of the application and is entitled "Proposed Lin Chinese Restaurant Floor Plan" which is mentioned above. The drawing shows that there will be 18 seats in the restaurant with approximately one-third of the area (the front portion of the facility) used as a dining area with the remaining two-thirds at the rear of the unit being a kitchen and food preparation area along with an office. The applicant will be limited to 18 seats in the facility.

8. The Lin family intends to operate a traditional Chinese restaurant which the witnesses expect to complement the existing restaurants on site, namely Kirsten's and Moe's. Mr. Lin testified that he expects that the people who work at the various commercial and service type units on this site will be his primary customers. He also expects to draw a certain amount of local road traffic and nearby residents as time passes.

9. Mr. Lin indicated that the facility will be open from 11:00 a.m. to 10:00 p.m. on weekdays; from 11:00 a.m. to 11:00 p.m. on Saturdays and from noon until 10:00 p.m. on Sundays. He stated that there may be some activity at the facility even when it is closed as there will be normal prep work and possibly some work for off-site catering if there is a demand for same. Prep work may be done before or after work hours at the facility.

10. Mr. Lin testified that there will be a total of three employees on site at the beginning. He anticipates that there could ultimately be four employees but he is not certain when that might happen.

11. The property owner testified that there will be a bathroom at the front of the unit which may be used by patrons. There will be a second bathroom constructed near the rear of the facility which will be used by the applicant's employees.

12. As noted, the store unit is 70' deep. Mr. Lin agreed with Mr. Baldoni's testimony that approximately the front third of the facility will be the seating and pick up area for the restaurant with the remaining two-thirds of the facility at the rear will be a kitchen and prep area with a proposed office. There was no testimony regarding specific dimensions but they will be as shown on the aforementioned drawing.

13. Mr. Baldoni testified that all of the units in this building are already fully sprinklered.

14. In this case, the Board concluded that the sketches submitted are sufficiently detailed and that the reviewing agencies will be able to determine specifically what has been approved and the

Board will not require an "As-Built" drawing as part of this application. The plan submitted will be considered as the final approved drawing. If something further is required by the construction official, the applicant will be required to comply with any such requirements.

15. The engineer had noted the additional parking spaces are needed because of the change in the use of this unit by the applicant. The Board accepted Mr. Baldoni's testimony that there should be sufficient parking and will not required the applicant to provide additional parking. Accordingly, the Board will grant the variance relief necessary for the parking based on the finding that the existing parking works as a shared parking arrangement because the various uses on site have their peak parking demands at different times. That concept has worked out in practice for approximately 15 years.

16. Mr. Hauck, the zoning officer, noted that the applicant will have to be careful in selecting the type of uses which will become future tenants of this shopping center since there will now be three restaurants on the site.

17. The Board has received a letter from the Lebanon Borough Sewer Authority stating that sewer capacity is available for this specific use. That document was marked as Exhibit A-4.

18. The Board has received a letter from the Town of Clinton Water Company that there will be sufficient water available for this proposed restaurant. That Exhibit was marked as Exhibit A-5,

19. Additionally, the Board is in receipt of a copy of the letter dated December 5, 2013 from James A. Hill, P.E., the Lebanon Borough Sewerage Authority Engineer to the authority regarding outstanding items which will need further consideration. Prior to the issuance of a certificate of occupancy for this facility, the applicant will have to obtain unconditional approval from the Lebanon Borough Sewerage Authority.

20. The applicant testified that the garbage will be picked up once a week. The applicant will have a dumpster located at the rear of its unit.

21. As previously noted, the applicant indicated that it may be doing some catering. If so, some of the prep work for the catering will probably be done during off business hours. It is likely that the work will be done for off-site catering as the limitations on the number of tables and chairs will serve as a natural limitation on catered activities at the restaurant. The Board finds, nonetheless, that it is appropriate to impose a condition that limits the number of tables to five with a maximum of 18 seats as shown on the plans which were submitted.

22. The applicant will be required to satisfy all Hunterdon County Board of Health requirements for a restaurant and all requirements of other agencies having jurisdiction over this matter.

23. The applicant will take all reasonable steps to suppress cooking odors and a provision will be made to see that the unit will be properly vented.

24. The Lin Family has been involved in the management of restaurants of this type in Pennsylvania for approximately 20 years. Mr. Lin is satisfied that the proposed facility will meet his family's needs for the use which is proposed.

25. As noted, the facility will be sprinklered and the applicant does not propose any additional outdoor lighting. The Board has advised the applicant that tables cannot be set up outside the building at any time and the applicant has agreed to that restriction.

26. The Board has determined that the use is an appropriate one which is normally associated with this type of shopping center. The Board will expect the applicant to abide by the hours of operation which were testified to at the hearing since the use is not a permitted one. Noise and other nuisance aspects of this type of use are regulated by other ordinances.

27. The proposed use as a Chinese restaurant is one which seems to be appropriate for this particular shopping center for the reasons which were mentioned above. Based upon the foregoing, the Board finds that the requested use variance can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zone plan and the zoning ordinance.

28. There are special reasons for granting this variance since the structures on this property constitute a unique type of facility in the Borough of Lebanon. The parcel is located on a major highway and is suited only for commercial type uses. Although restaurants are not generally allowed in this zone, this is a particularly appropriate site to allow this type of restaurant use because of the availability of significant off street parking.

29. The Board is also satisfied that a variance should be granted to allow the parking lot to remain as it is presently constituted without expanding the number of parking spaces further. The experience of 15 years has demonstrated that the applicant has taken some care in selecting its tenants with an eye toward maintaining a mix that allows for sufficient parking for all tenants within the confines of the existing lot.

30. The Board is satisfied that both variances can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zone plan and zoning ordinance. The history of this shopping area is that the restaurants on the site have complimented the other service, medical and commercial uses as well as the preschool. The new use will have direct access to a state highway and is an appropriate location for this type of use.

31. The Board is also satisfied that there is no need for a new site plan or an amendment to the previously approved site plan. The only physical changes to the site will be interior changes to the unit in question and those changes will largely be under the jurisdiction of the construction official. The Board has established certain parameters regarding the use which have been set forth herein.

26. The Board is willing to grant all of the relief requested by this applicant.

Chairman Saharic requested a motion for -5- the requested use variance to allow a third restaurant on the premises subject to the conditions of site plan approval.

Use Variance:

Mr. Skene moved, and Mr. Hauck seconded, a motion to approve the Use Variance.

The motion passed with the following roll call vote:

Ayes: Saharic, Berger, Skene, Hauck, Wilson, Abeles, Lapcynski, and Hopkins

Nays: None

Absent: Uchrin, Reino and Newman

Abstain: None

Chairman Saharic requested a motion for the requested variance from the specific parking requirements of the ordinance for this use only which is a Chinese restaurant with limited sit down and take out.

Parking Variance:

Mr. Abeles moved, and Mr. Skene seconded, a motion to approve the Parking Variance.

The motion passed with the following roll call vote:

Ayes: Saharic, Berger, Skene, Hauck, Wilson, Abeles, Lapcynski, and Hopkins

Nays: None

Absent: Uchrin, Reino and Newman

Abstain: None

Chairman Saharic requested a motion for the requested site plan waiver subject to the following conditions:

1. The operating hours set forth in the testimony will be from 11:00 a.m. to 10:00 p.m. on weekdays; from 11:00 a.m. to 11:00 p.m. on Saturdays; and from noon until 10:00 p.m. on Sundays. If the applicant intends to lengthen the hours of operation, it will be required to notify the Planning Board but no further public hearing will, be necessary unless the Board determines that same is necessary. There is no prohibition against the applicant doing prep work or work for off site catering projects during hours when the restaurant is not open to the public.

2. The service area for the restaurant shall be limited to the front one-third of the unit with the remaining two-thirds to be used for food preparation and an office. The actual delineation will be as shown on the drawings submitted as part of this application.

3. It shall be a continuing condition of this approval that there will be at least one garbage pickup per week.

4. Applicant will comply with all requirements of the Hunterdon County Board of Health and any other agency having jurisdiction over this use including but not limited to the Lebanon Borough Sewerage Authority.

5. There will be no outside tables permitted.

6. The applicant and subsequent owners will be limited to a maximum of four tables with not more than four chairs at each table and an additional table with two chairs (a maximum total of 18 seats).

7. This approval will be subject to compliance with all applicable building codes and all requirements of the construction official.

8.

The Board will retain jurisdiction over the issues of parking and lighting for a period of one year from the date of the adoption of this resolution for the limited purpose of determining whether or not further adjustments are needed.

Site Plan Wavier:

Mr. Wilson moved, and Mr. Abeles seconded, a motion to approve the Site Plan Wavier.

The motion passed with the following roll call vote:

Ayes: Saharic, Berger, Skene, Hauck, Wilson, Abeles, Lapcynski, and Hopkins

Nays: None

Absent: Uchrin, Reino and Newman

Abstain: None

DISCUSSION:

OPEN PUBLIC SESSION

Chairman Saharic opened the floor for public questions. There being no questions the floor was closed.

MISCELLANEOUS:

ADJOURN

Councilman Berger moved, Mr. Abeles seconded a motion to adjourn, there being no further business to come before the Board. The motion was passed by unanimous vote. The meeting was adjourned at 9:05p.m.

Respectfully submitted,

Karen Romano
Planning Board Secretary

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