



LEBANON BOROUGH
PLANNING BOARD & BOARD OF ADJUSTMENT
MINUTES
August 13, 2014

The Regular meeting of the Lebanon Borough Planning Board/Board of Adjustment was called to order by Chairman 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: Alexander Saharic, William Skene, Joseph Hauck, Councilman Sam Berger, Henry Hopkins Ron Lapczynski, and David Abeles
Absent: James Newman, William Wilson, Dr. Christopher Uchrin and Mayor Reino
Also present: Clerk Karen Romano, Attorney William Shurts and Engineer Robert Brightly

MINUTE APPROVAL:

Mr. Hauck moved, and Mr. Abeles seconded, a motion approving the Minutes of May 2014.

The motion passed with the following roll call vote:

Ayes: Saharic, Hopkins, Skene, Hauck, Berger, Lapczynski, and Abeles

Nays: None

Absent: Reino, Wilson, Newman and Uchrin

Abstain:

ROLLIN' FAST CYSCLE AND SPORT BLOCK 5 LOT 39.01 -FORMAL

Rollin' Fast Cycle Sports has filed an application with the Lebanon Borough Planning Board/Board of Adjustment ("Board") to further develop the property known as Round Valley Industrial Park, Block 5, Lot 39.01, which is located in the COMM-ROM 100,000 square foot zone and contains approximately 3.31 acres (144,094 square feet) of land.

The applicant seeks approval to convert a portion of the existing building on the lot into a motorcycle dealership with service facilities.

The applicant has requested a determination that no variance is required even though this facility is located within 1,000' of another existing service facility in violation of Ordinance Section 8.04-7 or, alternatively, for a variance to allow the establishment of the use.

Variations are also required for the front yard setback for the proposed new facade structure; for overall impervious coverage on the lot; and to allow the use of certain elements for outdoor display purposes.

The applicant has also requested a site plan waiver as there already is an overall site plan on file for the subject property.

The application has been the subject of hearings before the Board (sitting as a Board of Adjustment) including a public hearing on August 13, 2014, at which time the applicant was represented by Timothy McKeowen, Esq., and John Costa and Gregory Faiella, principals of the applicant, appeared and gave testimony under oath as did John Belle, P.E., the applicant's engineer and Art Hance, the applicant's builder.

Proper notice was given to all adjoining property owners and to the general public and all other jurisdictional requirements of the applicable state statute and local ordinance have been met.

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

1. This applicant previously received Board approval for a motorcycle dealership which is located on Main Street in Lebanon Borough. The applicant has been at that site for approximately 10 years. The applicant stated that he now wishes to expand the use and also to get highway frontage to provide more exposure for his business.

2. The property in question is already developed with a large office building as shown on the drawings submitted by the applicant. Those drawings are entitled "Site Improvements for Rollin' Fast Cycle Sports at Round Valley Industrial Park, Block 5, Lot 39.01." The drawings consist of four sheets which were prepared by Kinsey Associates Consultants and are dated July 18, 2014. The plans consist of four individual sheets. Sheet 1 is a title sheet. Sheet 2 shows existing conditions,

site preparation and a demolition plan and notes. Sheet 3 shows proposed construction details and notes. Sheet 4 shows additional construction details.

3. Mr. Costa testified that he and his partner will be purchasing one-half of the existing building on the site. They will purchase the front half of the building on the site as well as one-half of the overall site improvements exclusive of the building. Mr. Costa also stated that his company will be establishing a new franchise, Indian Motors, and that additional space will be needed to accommodate same. At this time, he felt that the business needs highway frontage as he has encountered many local individuals who did not know that he has a business located in this immediate area.

4. Mr. Costa described the business operation that will be set up as being 70% sales and 30% service. He himself was a service tech for 6 to 8 years before starting up the business in Lebanon. He advised that sales and service go hand in hand and that a dealer is required by the manufacturers to have trained service people who can do service work on the retail products which are sold.

5. In his testimony, Mr. Costa stated that there will not be any outdoor storage. Any machines and equipment which are outside at any point will be moved inside at night. The work will be done on mini lifts which are air powered. The fear of theft makes outdoor storage impractical for this type of use.

6. The applicant will take over three separate units. It will be the landlord for the two units immediately south of his unit. The portion of the building at the front will be the applicant's portion and a new facade treatment will highlight the new use. The proposed changes should dress up the front facade. The property will be getting a bit of a face life from the new facade treatment which the applicant contemplates and from the resurfacing of the outside parking area which Mr. Costa said has been promised by the property owner as part of his overall agreement.

7. Mr. Costa testified that he will have four employees and there will two additional parking spaces needed for customers. There are ten parking spaces at the current location with eight or nine of those spaces used for motorcycles. The applicant has considerably more space available for parking use at this site.

8. The subject of the outdoor display of materials was discussed at some length. Mr. Costa testified that there will not be very much outdoor display of product for fear of theft. The applicant stated that it would be satisfactory to have four machines displayed at the front of the facility during business hours. At the end of the business day, all outdoor display items will

be brought back inside the facility.

9. The applicant's engineer, John Belle, P.E., testified from Exhibit A-3. He noted that the rear one-half of the building would continue to be for the current owner's exclusive use. The front half, however, which is the half closest to Route 22, will be used by the two current tenants which are located behind the applicant's 7,500 square foot area. The front unit of the building will be converted into a motorcycle distributorship with a service business.

10. The engineer testified that the middle of the parking area is available to accommodate tractor trailers, if needed. There are twenty banked parking spaces in the middle of the lot. The applicant will attempt to do business with just the existing parking. It was the engineer's opinion that the existing parking will be more than sufficient.

11. The Board is satisfied that the applicant will want to provide sufficient parking spaces in order for its business and the other businesses on the site to flourish. Therefore, the Board is reasonably confident that the applicant will develop additional parking spaces if they are needed. Nonetheless, the Board will retain jurisdiction over issues involving parking for a period of one year following the issuance of a certificate of occupancy for the new motorcycle dealership. The applicant will be required to comply with any requests for additional parking if the Board determines that additional spaces are needed.

12. Mr. Belle testified that the applicant's desire was to create an attractive area that will cover the space at the front of the building and to put a truss structure between the columns. All the runoff from the front (north) part of the site will be collected and carried into an existing drainage structure. The owners of the property, as previously noted, will be redoing the parking. The applicant will be required to provide the necessary barrier free parking to comply with the current requirements.

13. The Board Attorney stated that the items involving the upgrade of the parking area are matters of contract between the applicant and the current owner of the property. Nonetheless, the modifications to the parking area, as shown on the revised plan and as testified to, will be conditions of this approval.

14. The engineer noted that the truss is a free standing structure and the overhang will hang off it. The applicant needs a setback variance. A setback of 75' from the property line to the nearest portion of the building is required in this zone. The applicant could not be completely specific as to the actual variance which is required. Mr. Belle could only testify that the nearest point on the building which is the corner of the pillar was somewhere between 50' to 60' from the front

right of way line. He will provide the specific information to the Board Engineer and Attorney for inclusion in this resolution.

15. Art Hance, the applicant's builder, testified regarding the structure at the park. He stated that he might use wood for part of the facade. The witnesses also noted that at the present time this portion of the building is used by the applicant contains 5,000 square feet of retail, 3,750 square feet of service area and 1,750 square feet of parts department. The primary change is that the applicant will increase the current mezzanine of 2,500 square feet to approximately 3,000 square feet.

16. The witnesses testified that the applicant intended to gut this entire section of the building and redo the interior as well as the front exterior portion of the building.

17. The witnesses testified that the applicant will maintain the existing water main in the middle of the building front.

18. As noted, the mezzanine is about 2,500 square feet and is presently used only for storage. The applicant will increase the mezzanine area by 500 square feet.

19. The drawings contain some incorrect information regarding impervious cover. The actual impervious coverage on the site is 54.1% while only 40% is permitted. When the plans are approved, the impervious cover will be increased to 56.6%. 3,700 square feet of impervious cover will be added to the site.

20. In 1984, the subject property was subdivided from the lot to the west. They had been developed as one site prior to 1984. Most of the open area on that overall site is on the lot to the west. That lot has overall impervious coverage of about 25%. Because of various site and environmental limitations on the lot to the west, it is unlikely to be built out much further. At the present time, the overall coverage for both lots is 37.8% which is within the ordinance limitation of 40%.

21. While the lot in question must stand on its own, the fact that the site was developed in conjunction with another site at least provides an answer as to why this recently created site has significantly more than the permitted impervious cover. It also provides some assurance that the impervious cover on the two lots will not likely exceed permitted limits.

22. The concern about impervious cover is somewhat offset by the desire to have the site upgraded and made more attractive than it is at the present time.

23. It should be noted that the applicant has not proposed any signage or lighting at the present time. The applicant will have to submit plans for both design elements. Each of the

plans will have to be approved by the Planning Board prior to construction of the site.

24. The Board advised the applicant that the sight triangle area on the adjacent parcel needs to be cleared. Although the applicant does not control that parcel, this is a safety concern and the applicant will have to make arrangements with the neighboring property owner to be certain that the parcel has been cleared.

25. Mr. Costa testified that the hours of operation will be from 9:00 a.m. to 6:00 p.m. on Monday, Tuesday, Wednesday and Friday. His Thursday hours will be from 9:00 a.m. to 7:00 p.m. The Saturday hours will be from 9:00 a.m. to 5:00 p.m. It is possible that some of the hours of operation might be slightly longer at the new location but the current thought is that the hours will be as stated above.

26. The Board Engineer submitted a written report dated August 13, 2014. There are a number of outstanding items in that report. The applicant testified that it would comply with all of the items in the report and compliance with any remaining outstanding items will be a condition of this approval. As of the date of this resolution, the following items still require additional information or action by the applicant: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 16.

27. The Board will grant the relief requested by the applicant which is necessary to allow for the modification of a part of the existing building on the premises to accommodate the proposed motorcycle dealership described in the application, at the public hearing and in this resolution.

28. Because the proposed dealership includes a service department which will deal with both new motorcycles sold on site as well as machines which were previously purchased at this site and from other dealerships, it technically is also a service station. The service component of this use is not insignificant as it constitutes 30% of the applicant's overall business and revenue according to Mr. Costa's testimony. Nonetheless, the provision in the ordinance was not necessarily intended to apply to new motor vehicle dealerships. Section 8.04-7 is actually intended to apply to service stations which are normally affiliated with a private garage or a gasoline filling station. The Borough's intention was to have sufficient space between such uses that the major roads would not have a sting of that type of use in close proximity to each other.

29. The look of this facility will be significantly different. The use will actually dress up the facility with the proposed facade changes and the related improvements to the parking area. By the very nature of the use, all of the vehicles (motorcycles) which are being offered for sale or are being repaired will be inside during the evening hours. The threat of theft is too great to leave vehicles outside. There will be some outdoor display as discussed above and, during the course of

the work day, it is possible that one or more motor vehicles will be left outside for a period of time.

30. The type of use which is under consideration here is significantly different than the average "service station" and the primary purpose of the zoning regulation is esthetic in nature. This particular application should actually improve the appearance of the subject property significantly once it has been completely constructed and becomes operational.

31. It can be argued, as the applicant did, that this specific use should not be considered as to a service station pursuant to Section 8.04-7. The Board is satisfied that there is a service station component here but acknowledges that it is not the primary reason for the use and is only a component of same. The Board makes these findings to basically interpret the section so that there would be some understanding of what is intended if future applications come before the Board.

32. There are three bulk variances which are being requested by this applicant. The first is a front setback variance for the new structure which will be located at the front of the building. As previously noted, that structure will be ____ft from the right of way line to the nearest portion of the facade structure.

33. The second bulk variance is for an increase in impervious cover. 40% impervious cover is allowed in this zone. There is presently 54.1% impervious cover on the site and it will be increased to 56.6% by the inclusion of 3,700 square feet of new impervious surface.

34. The third bulk variance is for outdoor display. The applicant intends to have a maximum of four machines displayed outside under the canopy during business hours with the understanding that those machines will be stored inside the building at the close of the business day.

35. The Board finds that all of the bulk variances may be granted because all of them will further several of the purposes of zoning. The relief requested will help the applicant to provide sufficient space in an appropriate location for a specific type of commercial use which will help to meet the needs of all New Jersey citizens. The changes will also promote a desirable visual environment through good civic design and arrangement. These are two purposes of zoning as outlined in *N.J.S.A. 40:55D-2(g)(1)*. As a result, these particular variances meet the positive criteria pursuant to *N.J.S.A. 40:55D-70(c)(2)*.

36. All of the variance relief which has been requested also meets the negative criteria. There will be little or no negative impact and, as a result, there is no substantial detriment to the public good nor any significant impairment of the intent and purposes of the zoning ordinance. The changes will enable the applicant to provide a better zoning alternative than would otherwise be achieved under the ordinance. All of the above justifies the granting of the relief requested.

37. The applicant has discussed at some length the proposed driveway to Main Street which would provide an access to and from the site via that street. The applicant has not engineered the driveway and is not asking to do it at this time. The Board is not making any final findings as to the driveway but is simply agreeing in concept that the applicant may come back to the Board and apply for approval for the said driveway. Initially, the Board would like to prohibit truck traffic from using this driveway to the extent possible and will likely want it to be gated at night. This approval is conceptual in nature and it is not intended to provide permission for the applicant to build the driveway at this point. The driveway may not be constructed until such time as the applicant obtains a specific approval for same from this Board.

38. As noted above, the Board's Engineer noted that there are no signage or lighting plans at this time. They will have to be submitted to the Engineer for this review. When these plans have been submitted and reviewed, the applicant will return to the Planning Board for its review and final comments and final approval. The approved signage and lighting plans will be incorporated into the site plan drawings which have been submitted and will become a part of the final approved drawings.

39. The Board is also satisfied that there is no need for any further site plan drawings except those specifically mentioned herein or required by the Board Engineer. The primary physical changes to the site aside from the front facade will be interior changes to the unit in question and those changes will be largely under the jurisdiction of the construction official. The same is true of the approved modifications at the front of the building which are largely aesthetic in nature. The Board has established certain parameters regarding the use which have been set forth herein. Accordingly, the Board will grant all of the relief requested by the applicant.

By the Lebanon Borough Planning Board/Board of Adjustment, County of Hunterdon, State of New Jersey, that the applicant's request for a use variance to allow a motorcycle dealership which has a service component on the premises is hereby granted, for the reasons set forth above, subject to the conditions of site plan waiver.

That applicant's request for variances related to a front yard setback of _____ for the new structure at the front of the building, for increase in impervious cover from 54.16% to 56.6% and for allowance of the outdoor display of four motor vehicles under the canopy as discussed above is hereby granted for this use only as a motorcycle dealership as shown on the plans and as discussed at the public hearing.
that the applicant's request for a site plan waiver is hereby granted, subject to the following

conditions:

1. The operating hours shall be as set forth in testimony. If the applicant intends to lengthen the hours of operation, it will be required to notify the Planning Board of same but no further public hearing will be necessary unless the Board determines that same should be required. There is no prohibition against the applicant lengthening the hours of operation.

2. The applicant will be required to address all of the issues raised in the Planner's report as noted above, specifically including but not limited to the submission of new signage and lighting plans which will be reviewed by the Board Engineer prior to submission to the Board for its final review and approval. Thereafter, these plans will be made part of the approved site plan documents which will be the basis for the construction plans.

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

4. 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.

5. Neither the Board nor its employees will perform any service in furtherance of this approval if there is a deficit in any escrow or inspection fee account. The applicant shall have a continuing duty to maintain a positive balance in all such accounts until all conditions have been satisfied and all charges have been paid.

Chairman Saharic call for a motion to approve the use variance for the reasons discussed above.

Mr. Skene moved, and Mr. Lapcynski seconded, a motion to approve the Use Variance as stated.

The motion passed with the following roll call vote:

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

Nays: None

Absent: Reino, Uchrin, Wilson, Newman, Berger

Abstain:

Chairman Saharic call for a motion to approve all of the bulk variances, parking and outdoor display variances as discussed above.

Mr. Skene moved, and Mr. Hopkins seconded, a motion to approve the Bulk Variances as stated.

The motion passed with the following roll call vote:

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

Nays: None

Absent: Reino, Uchrin, Wilson, Newman, Berger
Abstain:

Chairman Saharic call for a motion to approve Site Plan Wavier with compliance of Engineer Brightly's report. Chairman Saharic stated the Board would reserve the right to evaluate the lighting plan up to one year after insulation.

Mr. Skene moved, and Mr. Hopkins seconded, a motion to approve the Site Plan Wavier as stated.

The motion passed with the following roll call vote:

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

Nays: None

Absent: Reino, Uchrin, Wilson, Newman, Berger

Abstain:

OPEN PUBLIC SESSION

Chairman Saharic opened the floor for public questions. With no questions Chairman closed the floor.

MISCELLANEOUS:

None

ADJOURN

Mr. Abeles moved, Mr. Skene 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 9:45 p.m.

Respectfully submitted,

Karen Romano

Planning Board Secretary

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4-9-14