



LEBANON BOROUGH
PLANNING BOARD & BOARD OF ADJUSTMENT
MINUTES
July 8, 2015

The Regular meeting of the Lebanon Borough Planning Board/Board of Adjustment was called to order by Chairman 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, Dr. Christopher Uchrin, Joseph Hauck, Ron Lapcynski, David Abeles, William Wilson and James Newman
Absent: Mayor Reino, William Skene, Henry Hopkins and Councilman Berger
Also present: Karen M. Romano Administrator/Clerk and William Shurts Esq.

MINUTE APPROVAL:

Mr. Hopkins moved, and Mr. Dr. Uchrin seconded, a motion that Minutes of June 2015.

The motion passed with the following roll call vote:

Ayes: Saharic, Uchrin, Hauck, Lapcynski, Abeles and Wilson
Absent: Reino, Skene, Hopkins and Berger
Abstain: Newman

EXPENDITURE APPROVAL:

Mr. Hauck moved, and Mr. Abeles seconded, a motion to pass the Expenditures of June 2015.

List of Bills - (1410101001) CASH CHECKING

DEVELOPERS ESCROW

Check#	Vendor	Description	Payment	Check Total
0	46 - FERRIERO ENGINEERING	PO 6935 JUNE 2015 FREEDMAN	325.00	325.00
1	46 - FERRIERO ENGINEERING	PO 6936 JUNE 2015 ROLLIN FAST CYCLES	260.00	260.00
2	46 - FERRIERO ENGINEERING	PO 6937 JUNE 2015 GLADSTONE EQUITIES	552.50	552.50
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	TOTAL			
1,137.50				
Total to be paid from Fund 14 DEVELOPERS ESCROW			1,137.50	
			=====	
			1,137.50	

The motion passed with the following roll call vote:

Ayes: Saharic, Uchrin, Hauck, Lapcynski, Abeles, Newman and Wilson

Absent: Reino, Skene, Hopkins and Berger

Abstain:

FREEDMAN SITE PLAN WAIVER: BLK 1 LOT 5 Resolution Memorialization

Mr. Hauck made a motion to Memorialize Resolution #1-2015. With a second from Dr. Uchrin.

**LEBANON BOROUGH
PLANNING BOARD/BOARD OF ADJUSTMENT
RESOLUTION #1 -2015
JEFFREY FREEDMAN
SITE PLAN APPROVAL
BLOCK 1, LOT 5**

WHEREAS, Jeffrey Freedman has made application to the Lebanon Borough Planning Board/Board of Adjustment (hereafter Board) for a site plan approval to allow a new commercial tenant, Industrial Zombie, to occupy its existing facilities on the applicant's property known as Block 1, Lot 5 located in the Commercial ROM 100,000 square foot zone at 7 Prostack Lane, a private road, located just to the west of Cokesbury Road; and

WHEREAS, this applicant has been before the Board on a number of occasions dealing with this lot but the Board did not have an actual site plan for the subject property; and

WHEREAS, the applicant has now submitted a site plan as part of the current review process; and

WHEREAS, on June 10, 2015, the applicant, Jeffrey Freedman, and a principal of his prospective tenant, Matthew Quilty, appeared at the public hearing on this matter and both gave testimony under oath; and

WHEREAS, members of the public were given notice of the hearing as required by law and were given an opportunity to participate in the hearing; and

WHEREAS, all procedural requirements of the local ordinance and the state statute have been met; and

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

1. The subject property is shown on a drawing entitled, "Final Site Plan for Jeffrey Freedman" prepared by RBZ Enterprises, Inc. The plan consists of one sheet dated April 2, 2015 with revisions through June 3, 2015.
2. The applicant had received various approvals from predecessor Boards through the years without ever submitting a site plan. The most recent approval was memorialized in this Board's Resolution No. 3-2005 and the First Amendment to that resolution.
3. In pertinent part, the First Amendment to Resolution No. 3-2005 reads as follows:
"Any further changes to the subject property will require the applicant to submit a professionally prepared and certified site drawing. The applicant has agreed in writing that such drawings will be provided when changes are requested."
4. The applicant appeared before the Board several months earlier for site plan approval for a tenant known as Collis Crane Works. Those parties did not ultimately agree to final terms and Collis Crane Works did not occupy the site. That applicant did not proceed to a final decision. Nonetheless, most of the site plan issues involving the subject property which were discussed by the Board at the earlier hearing remain relevant to the current review.
5. When Mr. Freedman began discussions with Industrial Zombie, he filed a new application for site plan approval and submitted the revised map mentioned above. This initial revisions to this map were based on a review letter which the Board's Engineer had written for the Collis Crane Works application. All of the issues which dealt with the site plan, however, were still relevant for the current tenant. The resulting site plan is the first actual site plan document which any Board has reviewed for this particular property.
6. The subject property is located on the north side of Interstate Route 78.

Prostak Lane, a private road, provides access to the subject property from Cokesbury Road.

7. A large commercial building is shown on the drawing along with seven paved parking spaces. The applicant will revise the map in order to show ten parking spaces which is the amount required for this tenant. It is apparent that there is sufficient space on site for more spaces if they are needed.

8. The applicant will be required to stripe the seven paved spaces. The applicant will revise the plan to show three (3) additional spaces required for the current use. The applicant will not be required to construct those spaces at this time because the testimony indicates that they will not be needed at this time.

9. The tenant described his operation as an architectural design and manufacturing company. He also has an office in Bernardsville, New Jersey and a facility in Hillsborough, New Jersey.

10. The process normally begins by acquiring containers used to move goods to another site, often an airport or dock. After the primary cargo has been removed from the container, Industrial Zombie acquires the container and either rehabs it for future use transporting industrial goods or, in some cases, reworks the containers to create a very different finished product, a product needed by a client for a specialized purpose.

11. The company primarily does metal working and fabricating of containers used to transport industrial materials from place to place. Generally, most of the fabrication work will be done off site. Most of the work done at this site will be assembly of the units, primarily by bolting or welding. The deliveries and the pickups will be via flat bed and trailers. There is sufficient room on site to allow the necessary maneuvering of the larger vehicles.

The Board Engineer, Robert Brightly, prepared a memo dated April 8, 2015. Although that memo was prepared at a time when the Board was considering another application, essentially all of the issues raised in that report deal with ongoing site plan issues which required answers from the applicant as part of the hearing process.

13. Mr. Freedman acknowledged that there is a C-1 stream very close to the subject property. There is a ditch and a swampy area on site which is sometimes wet but often does not have a large amount of water in it. No additional approvals are required regarding the water on site.

14. Mr. Quilty will have a dumpster. There will be no outside storage and there is a gate shown on the outside fence.

15. Mr. Quilty stated that there will be approximately 20 to 40 containers on the site per year. There is some assembling and some welding but primarily bolting of the component parts will take place at this site.

16. The containers will not be sitting outside the building for a long time. They will be moved into the building as soon as possible after their arrival. When the work has been completed, they will be shipped to their destination as soon as possible. No container may remain outside for any significant amount of time. Outdoor storage of a container for more than seven (7) calendar days is prohibited. Any scrap materials will be placed in the dumpster.

17. The applicant will use approximately 7,200 square feet of the building as a shop with an additional 400 square feet for an office. There will be two or three employees on the site. The hours will be Monday through Friday from 7:00 a.m. to 5:00 p.m.

18. Mr. Quilty testified that there is normally a constant amount of work throughout a calendar year. There is no "busy" season as a result.

19. Based on floor area, the tenant requires 9.5 parking spaces (rounded off to 10 spaces). The Board Engineer and the zoning officer determined that the entire building would require 23 parking spaces at full occupancy. Additional parking spaces may be added to the plan to demonstrate that there is sufficient parking for other tenants. The Board will not require the applicant to show any of the additional thirteen spaces until the owner has a new tenant. Any additional tenant will require variance review since multiple tenants are not permitted. If the plan is amended to show the additional spaces, the zoning officer might be able to administratively review an application for a new tenant if or when Industrial Zombie leaves the site. The applicant has the option to make the modification to the site plan but it is not required.

20. The applicant did not submit a request for signage at this time. As a result, there is no approval of any sign. In the future, the applicant can deal with sign issues as anyone else would. If the proposed sign conforms to ordinance requirements, its approval can be handled administratively by the zoning officer. If not, the applicant will come back before the Board.

21. The Board felt that construction permits and even a CO could be issued prior to the adoption of a written resolution for this approval. As a result, the secretary will be directed to write a letter to the construction official advising him of this finding by the Board.

22. The applicant will of course have to comply with all conditions imposed by the construction official and, if of those conditions require changes to the plan, the applicant will not have to come back before this Board unless such change will require a variance.

23. There are no variances required to approve this application. The Board is willing to grant site plan approval subject to a final review of the most recent plan by the Board Engineer. Prior to the public hearing, Mr. Brightly had very little time to review the revised plan. If Mr. Brightly requires any additional information, he will contact the applicant as well as the Planning Board. Any such changes will be incorporated into the final plan which will become the approved

site plan. If the Engineers cannot work out any issues raised by Mr. Brightly, the matter will be brought back to the Board for a final determination. Accordingly, the Board will grant preliminary and final site plan approval, subject to conditions.

NOW THEREFORE BE IT RESOLVED by the Lebanon Borough Planning Board/Board of Adjustment, County of Hunterdon, State of New Jersey that the application of Jeffrey Freedman for preliminary and final site plan approval allowing the use of the premises known as Block 1, Lot 5 by an architectural and manufacturing company is hereby approved, subject to the following conditions:

1. This approval is generally limited only to the specific use requested by the applicant at this time. The zoning officer will determine whether or not any future tenant must apply to the Planning or Zoning Board.
2. Any future sign plan will be reviewed by the Borough Zoning Officer for compliance for ordinance requirements.
3. The applicant will make any additional changes to the site plan required by the Board Engineer. When the Board Engineer has approved the plan, it will become the approved site plan.
4. Outdoor storage of containers for more than seven (7) calendar days is prohibited. All scrap materials will be stored in the dumpster.
5. All terms and conditions of prior approvals which do not conflict with this resolution will remain in full force and effect.
6. The applicant shall have a continuing duty to replenish all necessary escrow funds upon written notification. Neither the Board nor its employees will perform any services in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant will have a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid.

ALEX SAHARIC, Chairperson

Attest:

KAREN ROMANO, Secretary

DATE MEMORIALIZED:

July 8, 2015

The motion passed with the following roll call vote:

Ayes: Saharic, Uchrin, Hauck, Lapcynski, Abeles, Newman
and Wilson

Absent: Reino, Skene, Hopkins and Berger

Abstain:

TADDUNNI: BLK 5 LOT 11 Formal/Resolution Memorialization

Mr. Hauck made a motion to Memorialize Resolution #2-2015. With a second from Dr. Uchrin.

**LEBANON BOROUGH
PLANNING BOARD/BOARD OF ADJUSTMENT
RESOLUTION NO. 2 -2015
ROSARIO TADDUNI
USE VARIANCE
BLOCK 5, LOT 11**

WHEREAS, Rosario Tadduni has applied to the Lebanon Borough Planning Board/Board of Adjustment (hereafter Board) for a variance to allow a second apartment on the premises known as Block 5, Lot 11 which is located in the Local Commercial (LC) zone at 112 Main Street; and

WHEREAS, the applicant seeks to continue the use of the left (westerly) side of its property as a residential apartment and to convert the right (easterly) side of the building from a business office to an apartment; and

WHEREAS, the applicant requires approval of a use variance to allow a new second use on this property, a residential apartment which will not change the footprint of the building but will necessitate internal changes to the building; and

WHEREAS, the matter was heard before the Lebanon Borough Planning Board/Board of Adjustment (sitting as a Board of Adjustment) at a hearing on July 8, 2015 at which time the merits of the application were reviewed and the applicant appeared and gave testimony under oath; and

WHEREAS, the Board of Adjustment has determined that all jurisdictional requirements of the applicable state statute and local ordinance have been met, thereby conferring jurisdiction upon the Board to consider the matter; and

WHEREAS, the public had an opportunity to attend the hearing and to participate therein; and

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. The applicant's proposal is shown on a drawing entitled "Variance Block 5 Lot 11 112 Main Street, Lebanon, New Jersey" prepared by Rosario Tadduni dated April 23, 2015. The drawing consists of one sheet showing a basement floor plan, a ground level floor plan and a second floor plan along with a sketch demonstrating that there are at least four parking spaces available on the lot in question.

2. In 2008, the current applicant obtained a use variance and a site plan waiver enabling to use the subject property as a business office and an apartment. The terms and conditions of that approval are set forth in this Board's Resolution No. 5-2008.

3. The applicant also submitted a copy of a portion of a prior survey of Block 5, Lot 11 which is unsigned, undated and uncertified. It generally shows the location of the existing two story frame dwelling on the subject property and a schematic rendering of the stone parking area.

4. The subject property is already developed with a two story frame dwelling located on the southwesterly portion of the property. An existing stone parking area is located immediately to the east of the building along Main Street. The subject property is located at 112 Main Street.

5. The Rockaway Creek crosses the northerly part of the property and the property falls off substantially from the improved portion of same to the rear portion which is much lower and slopes significantly toward the Rockaway Creek.

6. For a number of years, the subject property was used as a business office and a residence in the manner in which this applicant proposes to use the subject property. It is uncertain whether or not the approval for those uses was granted by a municipal board or not.

7. During 2003, the property was acquired by George K. Van Hooser who converted the use of the property to a single family residence which is an allowed use in this zone. Among other things, Mr. Van Hooser had the Lebanon Borough Sewer Authority eliminate one of the units for his building since he did not wish to pay for two separate sewerage units.

8. The applicant now seeks to sell the property. It is requesting approval of two apartments as an allowed use. Because there are two separate residential uses on the premises, a use variance is required.

9. Since the multiple use of the building was a non-conforming condition and continues to be so today, the property has gone from a non-conforming use to a conforming use and back to a non-conforming use. The applicant needs a new use variance in order to be allowed to maintain two separate uses (both residential) on the same property.

10. The applicant indicated that there is a need for an apartment units of this type and size. He also indicated that the easterly portion of the structure is readily adaptable for use as an apartment.

11. The Board is satisfied that there is sufficient parking on site available to meet the needs of the two (2) apartments. Because of the relatively small size of the building, it is not likely to have any recurring parking demands that cannot be provided for on site.

12. The more westerly apartment will have a living room, a kitchen and a bath on the ground floor and one bedroom upstairs. There is a basement located under this residential area. The more easterly of the apartments will have the use of that basement area only for storage.

13. The more easterly apartment has a kitchen and a dining room located on the first floor and a living room and two bedrooms on the second floor. The size of the rooms are shown on the drawing mentioned above. That information will be supplied and incorporated in the map prior to the issuance of any further permits.

14. The units do not have individual utility connections. All utilities are joint and the cost of same are included in the rent.

15. No site plan approval is required for this particular application. *N.J.S.A.* 40:55D-37 provides that "subdivision or individual lot applications for detached one or two dwelling-unit buildings shall be exempt from . . . site plan review and approval." This application deals with only one existing lot which will have a single building with two dwelling-units located therein. The applicant will have to amend the plans that have been submitted to include all the items discussed at the meeting and those items which are set forth in this resolution.

16. The Board is satisfied that the variance relief requested herein can be granted without causing any substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and the zoning ordinance.

17. The Board is satisfied that the positive aspects of granting the variance to allow the dual use outweigh any minor negative impacts. The building is relatively small but

has historical significance. It is a rather unique structure and there is sufficient parking to allow these particular two uses on site. As noted, the basement area will be limited to storage and the square footage of the residential areas on the property will be specifically delineated as part of the conditions of this approval.

18. The property is on the State and National Historic Registers as a contributing structure in the Lebanon Historic District.

NOW, THEREFORE, BE IT RESOLVED by the Lebanon Borough Planning Board/Board of Adjustment, County of Hunterdon, State of New Jersey that the application of Rosario Tadduni for a use variance to allow two apartments in the existing building on Block 5, Lot 11 is hereby approved, subject to the following conditions:

1. The plans will be revised to include the square footage of the individual rooms of the two residential units in the building.

2. The basement area will be limited to storage. It may not be used for any other purpose.

3. Prior to the sale of the premises, the applicant must obtain a Certificate of Use for this project from the zoning officer. Any subsequent change in tenancies will trigger the need for a new Certificate of Use.

4. Prior to the sale of the premises, the applicant must also obtain a Continuing Certificate of Occupancy pursuant to Borough Ordinance No. 78-11. Any subsequent change in tenancies on the property will trigger the need for a new Continuing Certificate of Occupancy.

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

ALEX SAHARIC, Chairperson

Attest:

KAREN ROMANO, Secretary

DATE MEMORIALIZED: July 8, 2015

OPEN PUBLIC SESSION

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

MISCELLANEOUS:

None

ADJOURN

Dr. Uchrin 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 9:50 p.m.

Respectfully submitted,

Karen Romano
Planning Board Secretary

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