



LEBANON BOROUGH
PLANNING BOARD & BOARD OF ADJUSTMENT
MINUTES
November 11, 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 Lapczynski, David Abeles, William Wilson, Mayor Reino, William Skene, Henry Hopkins and Councilman Berger

Absent: James Newman

Also present: Karen M. Romano Administrator/Clerk and William Shurts Esq.

MINUTE APPROVAL:

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

The motion passed with the following roll call vote:

Ayes: Saharic, Uchrin, Hauck, Lapczynski, Abeles, Wilson, Reino, Skene, Hopkins and Berger

Absent: Newman

Abstain:

EXPENDITURE APPROVAL:

Mr. Hopkins moved, and Dr. Uchrin seconded, a motion to pass the Expenditures of November 2015.

The motion passed with the following roll call vote:

Ayes: Saharic, Uchrin, Hauck, Lapecynski, Abeles, Wilson, Reino, Skene, Hopkins and Berger

Absent: Newman

Abstain:

GLADSTONE EQUITIES: BLOCK 6, LOT 1

**PROPOSED USE VARIANCE REINSTATING EARLIER APPROVAL
FOR NEW CAR PARKING LOT AND PRESERVING APPLICANT'S RIGHT TO
REVERT TO PREVIOUSLY APPROVED MULTI-USE RETAIL BUILDING**

Attorney Willam A. Shurts marked the Application A1, all Notices Exhibit A2 and the Parking Lot drawing A3. Mr. Shurt swore in Applicant Steve Kalafer of 215 Route 202 Flemington, NJ and Engineer Brett W. Skapinetz PE 245 Main Street Chester, NJ

Gladstone Equities, LLC has applied to the Lebanon Borough Planning Board/Board of Adjustment (Board) for major site plan approval along with necessary variances to reinstate a previous approval given to the applicant's predecessor 1391 Route 22 East, LLC, to operate a 142 space new car parking lot on the premises known as Block 6, Lot 1 located partially in the Commercial ROM 100,000 Square Foot (COMM-ROM 100,000) Zone and partially in the Residential Professional (R-1-15P) Zone on the south side of New Jersey State Highway Route 22 (Route 22) eastbound.

On April 9, 2014, the current applicant previously obtained approval to construct a multi-use retail building along with related site improvements on that same property and that approval is still in full force and effect.

The applicant wishes to reinstate the earlier approval given to 1391 Route 22 East, LLC while at the same time retaining the right to implement the approvals for the multi-use retail building, depending upon the state of the economy. The earlier approvals are set forth more fully in this Board's Resolution No. 1-2010 and No. 2014-1, respectively.

This application requires a use variance because a commercial parking lot is not permitted in the R-1-15P zone district or the COMM-ROM 100,000 square foot zone. Numerous other bulk variances are required primarily because of the split zoning of the property and the fact that it is undersized for the COMM-ROM 100,000 zone.

The matter was heard before the Board, sitting as a Board of Adjustment, on November 11, 2015, at which time the applicant was represented by Sara L. Monaghan, Esq., and testimony

was given under oath by Brett Skapinetz, P.E., the applicant's project engineer, and by

Steven Kalifer, a principal of the applicant.

The Board determined that all jurisdictional requirements of the applicable state statute and local ordinance had been met, thereby conferring jurisdiction upon the Board (sitting as a Board of Adjustment) to consider the matter.

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

1. The applicant submitted plans entitled "Use Variance Plan for 1391 Route 22 East, LLC Proposed New Vehicle Storage Plan". They were prepared by Dynamic Engineering Consultants, PC and consist of four sheets. They are: Sheet 1 - Cover Sheet; Sheet 2 - Aerial Map; Sheet 3 - Site Plan; and Sheet 4 - Schematic Landscape Plan with all sheets dated August 4, 2009 with no revisions. They were part of the file and were not marked at the hearing.

2. The applicant's current plan for the parking lot is shown on a one sheet drawing titled "Site Plan" which was marked as Exhibit A-3. The drawing was prepared by Dynamic Engineering. It is dated February 19, 2010 and revised through January 11, 2011. A notation states that it was plotted on November 11, 2015.

3. The Board also marked a separate one page drawing entitled "Site Plan Exhibit" prepared by Dynamic Engineering which is dated November 11, 2015. The drawing consists of one sheet and was marked as Exhibit A-4 at the hearing.

4. On March 10, 2010, the Board granted site plan, use variance and bulk variance approvals to allow the then current owner/applicant, 1391 Route 22 East, LLC, to construct a 142 space new car parking area on the subject property known as Block 6, Lot 1 on the Lebanon Borough Tax map. The property is located at 1391 Route 22 East.

5. That approval is more fully documented in this Board's Resolution No. 1-2010 which is hereby made a part of this approval. A copy of that resolution will be affixed to this resolution and made a part hereof.

6. It should be noted that the paragraph of the resolution granting the relief, located on page 11 of the above mentioned resolution, contains a typographical error which states that the applicant received approval for a 141 space new car parking lot. As mentioned above, the actual approval was for 142 spaces.

7. Due to the ongoing stagnant economy and its overall detrimental impact on the expansion of businesses, the applicant did not proceed with the plans to construct the parking lot.

8. During the year 2014, a new entity, Gladstone Equities, LLC, filed a new application regarding the same property requesting approval for a multi-use retail building along with related site improvements. That application was approved on April 9, 2014 and was memorialized in written Resolution No. 2014-1 which was memorialized on May 14, 2014. This approval at the present time is in full force and effect. Again, due to the stagnant economy and the lack of commitment for public water from Clinton Water, this project has not yet been constructed. A copy of that resolution will be affixed to this resolution and made a part.

9. The legal effect of Resolution No. 2014-1 was to vacate the earlier approval for the parking lot since, normally, only one use variance may be allowed for any particular property.

10. This is an extremely unusual case. During the last five years, this applicant and a predecessor have presented evidence to prove that the subject property is uniquely situated and suited for a new car parking area as well as a multi-use retail building. The reasons for those approvals are more fully detailed in the earlier resolutions mentioned above which have been made part of this resolution.

11. Very little has changed since the resolutions were approved. The one major change is that the applicant has obtained an approval from the N.J.D.O.T. for the driveway configuration shown on Exhibit A-4. That driveway configuration on Route 22 has one lane in and one lane out with the two lanes being separated by a divider as shown on the drawing. At the present time, the property has four separate openings onto Route 22. When this approval goes forward, there will be only one opening which the one is shown on the drawing. The others will be closed off permanently.

12. All of the plans which were submitted and which have been approved showed a retaining wall being constructed on the site. At this point, the applicant does not want to build the retaining wall. The Board is willing to allow cars to be parked on the site at this time without the retaining wall being constructed.

13. During the hearing, Mr. Skapinetz testified that the failure to build the retaining wall could mean that up to 30 less cars can be parked on the site since the applicant will be limited to building within the footprint that was approved in Resolution No. 1-2010. At this point, the Board cannot determine the specific number of vehicles which may be parked on the gravel lot which will ultimately be constructed. The upper limit on the number of vehicles which may be parked on the site is 142, the amount permitted under the earlier approval.

14. The applicant intends to do some grading on the site which it believes will allow it to accommodate a significant number of vehicles, even without the retaining wall. The appropriate amount of grading is not known at this point. There are also limitations on the amount of hard surface (gravel) which the applicant can install without triggering the need for additional agency reviews and approvals.

15. In order to determine the actual number of vehicles permitted to be parked onsite pursuant to this approval, the applicant's engineer will revise the necessary sections of the previously approved plans to demonstrate what number might be accommodated. The Board Engineer will review the revised drawing or drawings and determine the final number. If the engineers can agree on the final number, it will be final and will be added to the approved plans for this project. If the engineers cannot agree, the parties shall come back before the Board for a final resolution of the issue.

16. Because of the time of year, it will not be possible to do the landscaping now. The landscaping must be installed by April 30, 2016. In the interim, the applicant will post a cash deposit to guarantee the installation of the landscaping. The amount of the cash deposit will be determined by the applicant and reviewed and approved by the Board Engineer.

17. Condition 1f of Resolution No. 1-2010 reads as follows: "Applicant shall apply to the Governing Body for a "no parking - fire zone" designation along a portion of its Main Street frontage as discussed at the public hearing. If the Governing Body acts favorably upon the applicant's request, the applicant will be responsible for installing the signage and doing any necessary pavement markings".

18. Although the parking area was not constructed, the applicant did raise the issue of designating Block 6, Lot 1's Main Street frontage as a "No Parking - Fire Zone" area to the Borough's Governing Body. On April 20, 2011, the Governing Body adopted Ordinance No. 2011-03 designating Block 6, Lot 1's frontage on Main Street as a "No Parking - Fire Zone" area. To date, however, the improvements which the applicant was required to build pursuant to the above referenced condition have not been constructed.

19. It will be a condition of this approval that the current applicant will be required to construct the required improvements along Block 6, Lot 1's Main Street frontage prior to the issuance of any type of Certificate of Occupancy for the parking area. Said improvements will be constructed in accordance with *N.J.S.A.* 39:4-198 and the Borough's Ordinance No. 2011-03.

20. The Board agreed to the applicant's request to construct a flag pole on the site. The plan will be amended to show the location and indicate the height of the pole will not exceed 35', the height approved by Resolution No. 2014-1 and the size of the flag.

22. As previously stated, the applicant's predecessor had previously proved the case for the new car parking lot and, at a subsequent hearing, this applicant proved the case for a multi-use retail building. While it is unusual to allow an applicant the flexibility which this applicant has requested, the limitations of this property detailed in those resolutions constitutes a unique situation.

23. The applicant has proven both the positive and the negative criteria required for the grant of the use variance and the bulk variances which are necessary for any type of development on this property largely because of the split zoning. Those findings are detailed in the earlier resolutions which the Board has readopted as part of this approval.

24. Accordingly, the Board will grant the necessary use variance to allow the applicant the flexibility which it is seeking, subject to the conditions set forth in the earlier resolutions unless modified herein.

Chairman Saharic requested a motion to re-adopt the use variance and the bulk variances required for a new car parking lot.

Mr. Hauck made a motion to re-adopt the use variance and the bulk variances required for a new car parking lot . With a second from Dr. Uchrin.

The motion passed with the following roll call vote:

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

Absent: Newman

Abstain: Reino and Berger

Chairman Saharic requested a motion that the Board reinstate the preliminary site plan approval for the new car parking lot while recognizing that the preliminary site plan approval for the multi-use retail use building may ultimately be implemented at the applicant's option while these approvals remain in effect, and subject to the following conditions:

A. Prior to the issuance of construction permits for this project, the following shall occur:

1. Board Engineer shall review and approve all necessary plan revisions.
2. Board Engineer shall review and approve the revised landscaping plan for the project without the retaining wall.
3. Applicant shall post a cash bond with the municipality to guarantee the timely installation of the landscaping.

B. Prior to the issuance of any type of Certificate of Occupancy, the following shall occur:

1. The improvements to the “No Parking-fire Zone” area on Main Street shall be constructed by the applicant and reviewed and approved by the Borough Engineer.

2. Compliance with all other terms and conditions of prior Resolution No. 1-2010 except as may be modified herein.

C. If the applicant or a successor at any time elects to implement the approval for the multi-use retail building, all terms and conditions of Resolution No. 2014-1 will remain in full force and effect.

D. 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.

Dr. Uchrin made a motion that the Board reinstate the preliminary site plan approval for the new car parking lot while recognizing that the preliminary site plan approval for the multi-use retail use building may ultimately be implemented at the applicant’s option while these approvals remain in effect, and subject to the following conditions as stated. With a second from Dr. Uchrin.

The motion passed with the following roll call vote:

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

Absent: Newman

Abstain: Reino and Berger

OPEN PUBLIC SESSION

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

MISCELLANEOUS:

None

ADJOURN

Mr. Wilson moved, Mr. Hauck 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 9:15 p.m.

Respectfully submitted,

Karen Romano
Planning Board Secretary

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