

REGULAR MEETING

**Lebanon Township Planning Board
Municipal Bldg 530 West Hill Road Glen Gardner, N.J.**

March 5, 2019

The 921st regular meeting of the Lebanon Township Planning Board was called to order 7:00 p.m. by Chairman Gary MacQueen. Present were: Mr. Wunder, Mr. Schmidt, Mr. Piasecki, Mr. Rich, Mr. Weiler, Mayor Schmidt, 1st Alternate Skidmore, Attorney Gallina, Planner Kyle and Engineer Risse. Mr. Duckworth arrived at 7:05 p.m. **Excused:** Ms. Bleck

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 15, 2019, faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the Lebanon Township Website and the Bulletin Board in the Municipal Building on February 26, 2019.

SWEAR IN: Adam Duckworth Class II Liaison-OSEC 2 Year Term

Attorney Gallina had Mr. Duckworth swore in at this time for a 2 year term.

APPOINTMENTS:

- a. Beth McManus, Alternate Planner
- b. Ted Bayer, Alternate Engineer

Motion by Mr. Schmidt and seconded by Mr. Skidmore to appoint Ms. McManus as Alternate Planner and Mr. Bayer as Alternate Engineer. Unanimously approved.

PRESENTATION OF MINUTES: January 15, 2019 Reorganization/Business Meeting

Motion by Mr. Piasecki and seconded by Mr. Rich to approve the minutes as presented. Unanimously approved with Mr. Duckworth abstaining.

INFORMAL DISCUSSION:

VC Social Enterprises LLC Block #7 Lot #6
P.O. Box 210 Route 31 B2
Succasunna, N.J. 07876

Discuss existing building and parking lot and future use of the property

Present and representing VC Social Enterprises were the applicant Edward Vazquez, Attorney Jay Thatcher, Engineer Robert Templin, Architect Mark Chrisman and the owners of the property. Attorney Thatcher said this is an informal appearance this evening and what we want to do is go over the history of this property which is known as the Christie property. Attorney Thatcher said they have received

Lebanon Township Planning Board

March 5, 2019

Page 2

correspondence from the board Engineer Steve Risse dated November 15, 2018 which speaks about a series of questions. Attorney Thatcher said they would like to address Engineer Risse's report and to see where we go from there. Chairman MacQueen made a statement that this is just an informal discussion and nothing said by the board is binding and with discussion to see which direction the applicant would like to go. Attorney Thatcher agreed and added that they have brought with them this evening all there professionals, the applicant and the property owners.

Attorney Thatcher said they are not looking to amend the prior Site Plan but to amend the approval that came with the Site Plan. Attorney Thatcher had Mr. Vazquez give testimony on what he has learned about the property since there may be board members who don't know all the history of the property. Mr. Vazquez stated the property started out as the old Stoney Brook which was at the north side of the property. There used to be an old house there where the restaurant started which was up front near the road. The owners then built a pavilion in the back portion of the property so people could eat outside. The restaurant burned down and once everything was cleaned up they moved the restaurant to the back at the pavilion. It then got sold to the Brookside Inn. They got permission to put up a roof up and a porch. The next owner put in windows and they were to get approvals which didn't happen and then it got sold to Christie's. They operated for about 2 and half years. Attorney Thatcher noted that the property changed hands in September of 2005 which was to Christie's Riverside Café & Bar. They were in business from 2005 to 2008.

At this point Attorney Thatcher had Engineer Robert Templin give testimony. Engineer Templin referred to page 1 paragraph 3 of Engineer Risse's letter dated November 15, 2018. In the resolution dated July 18, 1985 the approval legitimized the improvements existing at that time and specifically allowed the erection of a 25' by 80' roof to be constructed on existing piers where previous dining was conducted outdoors on the deck. Condition #6 in the resolution states "If any portion of the roof alteration shall create an enclosed area, then such space cannot be used for any purpose unless they come back to the Planning Board." Engineer Templin said when they come back for their public hearing they will want to get approval for that area. Attorney Thatcher interjected stating that this is not a site plan change, but it's from the site plan resolution approval. Regarding the parking lot, there was an extension of 30'. Engineer Templin said they plan on having 95 parking spaces compared to the original site plan that showed 103 parking spaces. Engineer Templin said about 15-20 of those parking spaces are unusable. Engineer Templin said they have a better site plan and they will reduce the pavement to the south to be more in conformance with the original plan.

On page 2 paragraph 2, it states "it appears that the outdoor dining area was enclosed in violation of the resolution of approval and therefore the space cannot be used for any purpose without amending the site plan approval which we are requesting. Also, there is not record of any approved amendment to the 1985 site plan that would cover this expansion. Engineer Templin said engineer Risse is referring to the southerly side of the parking lot. Engineer Templin said they are looking to remove that area. Engineer Templin referred to paragraph 3, on April 15, 1987 the Hunterdon County Board of Health

Lebanon Township Planning Board

March 5, 2019

Page 3

issued a notice of violation documenting that sewage was observed breaking out onto the surface of the ground at the far western corner of the parking lot. Engineer Templin said that they do not feel there is any problem with the septic system on site. Engineer Templin referred to the last paragraph which states that on August 1, 1988 the applicant appeared informally before the Planning Board to present a plan that documented a 3 story structure with a parking deck on the first floor and restaurant and retail space on the 2nd and 3rd floors and the applicant did not move forward with this plan.

On page 3 paragraph 3, the applicant filed a Wetlands L.O.I.-Line Verification application with the NJDEP. The L.O.I. was issued on September 17, 1990 and confirmed the presence of wetlands on-site and determined that the wetlands were of exceptional resource value. The applicant applied to NJDEP for an exemption from the Freshwater Wetlands Protection Act and was granted an exemption on May 20, 1991. The exemption was granted because the Site Plan had been approved in 1985 predating the July 1, 1988 expiration of the prior approval exemption clause of the Freshwater Wetlands Protection Act. The exemption states that it becomes null and void if significant changes are made to the approved plan. It defines significant change as something that would require an amended application under the MLUL. Although the Line Verification expired in 1995, wetlands and wetlands transition areas are likely still present on-site. Engineer Templin said they are not looking to change anything that would compromise the approval from NJDEP. That is why they are only looking for an amended approval.

On June 3, 1992 the Zoning Officer issued a notice of violation that included the enclosure of the outdoor dining area in violation of the approved site plan, size of the free standing sign exceeding the ordinance and the parking of outdoor trailer and alternations to the existing parking lot. Per Engineer Risse, there is no record that the applicant corrected these issues under an amended site plan which would be required by the MLUL. On March 30, 2004 the Zoning Officer issued a letter to the new owner concerning the installation of windows within the outdoor dining area. The Zoning Officer conditionally approved the windows subject to the filing of an amended site plan to the Planning Board. The property again changed hands in September 2, 2005. An application was made to the Planning Board by Christie's Riverside Café and Bar. The application was deemed incomplete and the applicant never completed the amended site plan application. At this point, testimony being given by Engineer Templin is unclear because of the noise of the rustling of paper.

Chairman MacQueen asked if the board had any questions of Engineer Templin. Mr. Piasecki said this is a question for Engineer Risse or Planner Kyle and asked how can we restart this application. Engineer Risse said this started as a minor site plan and he didn't feel it was that deminimus and said it would be an amendment to the original site plan to show what is going to stay and what will go. Mr. Piasecki said just from the enclosure that was a big enough change to be a concern of the Planning Board. Engineer Templin said in the original resolution, the concern was if it was enclosed then the dining area would be expanded and then there would be a need for more parking spaces. Engineer Templin stated that he was under the impression that if it were to be used for dining then they would have to come back to the

Lebanon Township Planning Board

March 5, 2019

Page 4

board. Mr. Piasecki asked what was the plan now for the use of the enclosed area. Engineer Templin said that the Architect will address it. Mr. Duckworth noted that back in 1985 the original structure was still there. Engineer Templin said no the original structure had burned down. Mr. Duckworth said then this is the primary structure. Engineer Templin said this is the primary structure from 1985. Mr. Duckworth said that from reading thru all the documents, there are wetlands, septic issues, additional impervious coverage, it is less than a mile from the Spruce Run Reservoir and next to a critical river. Also, 33 years have gone by since the Site Plan was originally approved. Mr. Duckworth said it is now 33 years later and a lot has changed and stated that the board needs to take a fresh look at this. On behalf of Mr. Rich, Attorney Gallina will ask the questions. Mr. Rich said this application should be restarted from the beginning will all the existing problems and many discrepancies. Mr. Skidmore asked what exactly is the business that will be going in. Mr. Vazquez said it will be a social club. Mr. Skidmore asked if they will have a liquor license. Mr. Vazquez said no. Mr. Skidmore asked what goes on in a Social Club. Mr. Vazquez said they have parties, special functions, Halloween parties, fund raisers and raise money for cancer patients. Mr. Skidmore asked if they would rent out to the public. Mr. Vazquez said no. Mr. Skidmore said he heard the words that CO's were granted. Mr. Skidmore stated that he would like to see more details. Engineer Templin said there is a whole list of items, but we are not changing anything. The board discussed the issues at hand. Mayor Schmidt questioned that we didn't issue CO's but what they got were CA's. When properties change hands a Continued Certificate of Occupancy (CCO) is issued.

Mr. Weiler asked if there is a certain amount of change that happens, how would you determine when a new site plan is needed. Engineer Risse said you would be amending the site plan to show what is being change/added and what is being eliminated. Engineer Risse said that pavement was added after the original site plan was approved. Engineer Risse went on to say there were other items that are not on the original site plan and should have been brought to the board as an amended site plan. What they can do now is show what is there now as proposed and if there is anything they don't want, then it can be eliminated. This can be done as an amended site plan. Mr. Schmidt asked if the applicant would have to file with the DEP. Engineer Risse said only if they do something that would warrant them to file with DEP. Attorney Gallina said that any approvals would be subject to outside agencies approval if applicable. Planner Kyle said he agreed with Engineer Risse on having the applicant provide an amended site plan. The question was asked about serving food since there is a kitchen. The board was informed that they will be using outside vendors who will supply all the food, there is no plan on having a kitchen. Engineer Risse stated that he has a copy of the original site plan that was approved. Planner Kyle stated that the site plan was a preliminary and final site plan in 1985, then it would an amended preliminary and final site plan now 2019. The board discussed with their professionals what will need to be done to bring the property up to date with the amended preliminary and final site plan. The board continued to discuss the issues at hand.

At this time, Architect Mark Chrisman gave testimony. Mr. Chrisman said he did a walk thru about 2 weeks ago and explained what all they are planning to do. Mr. Chrisman noted that they don't have a

Lebanon Township Planning Board

March 5, 2019

Page 5

signed contract at this point in time. Mr. Duckworth asked what the building capacity was built for, in reference to the septic system. Mr. Chrisman said it wouldn't be any greater than what was allowed as a restaurant. Mr. Duckworth asked if that changes how this would be handled. Planner Kyle asked if there are sprinkler systems in the building. Mr. Chrisman said no and didn't know if there were a requirement for them to have sprinklers. But that he would go thru the BOCA codes and to see what would be required. Mayor Schmidt asked about the square footage for the building and the square footage for the porch area. The building is 5,000 square feet and the porch is 2000 square feet which is 25x80. Planner Kyle said a club or lodge is permitted in the B2 zone. Mayor Schmidt said the main area in the building is 5000 square feet and 95 parking spaces and 225 tables & chairs. Mayor Schmidt asked about the Hi-Boys. The Hi-boys are pub tables & chairs per Mr. Chrisman.

Chairman MacQueen asked Attorney Thatcher if he had anything else to add. Attorney Thatcher said they are not really changing anything, they are planning to reduce the size of the parking area and deal with the enclosed porch situation. Planner Kyle asked if they object to the classification of the site plan or do you feel you shouldn't have to come back to the board at all for site plan approval, Attorney Thatcher doesn't have a problem calling it an amended site plan. Attorney Thatcher said they plan on cleaning up the site that the Township would be proud of. Chairman MacQueen told Engineer Risse that he did a great job on his letter regarding this application and wants to see a full site plan but if Engineer Risse feels they can do an amended site plan and that would take care of the issue. Engineer Risse said anything that was added to the site after the approval of 1985 needs to be addressed. During the discussion, it was pointed out that the Fire Official will be doing an inspection, along with any building codes that need to be addressed.

When opened to the public, the following people addressed the board, Janelle Braun-Shanahan & Kevin Shanahan owners of the property in question. Planner Kyle said they are responsible for the mess that is there now. Chairman MacQueen asked if the covered area would still be used for dining. Attorney Thatcher said they will be filing an amended Site Plan addressing what has taken place since the 1985 approval as follows: modification to the porch, signage, lighting, fire issues, expansion of parking lot and any BOCA codes that need to be addressed.

NEW BUSINESS:

Home Occupation request - Ord. #400-49 Continuation of Use - Planning Board Review

The board reviewed the request. Ms. Glashoff will inform the Zoning Officer that the Home Occupation request was found to be in order for him to sign off.

ITEMS FOR DISCUSSION:

a. **Wastewater Management Plan Draft (from Highlands Council) – Engineer Risse**

Lebanon Township Planning Board
March 5, 2019
Page 6

Engineer Risse said the Highlands Council wrote the Wastewater Management Plans for all the municipalities that are in the Highlands area. Engineer Risse said they had all of us all come in and went over each portion that was for your municipality. There were 3 areas in the Draft specifically addressing Lebanon Township. The first change is on page 6, under Summary of Significant Actions Proposed in this WMP, on page 24 under Strategies to address capacity deficiencies and under Septic Maintenance Program Plan. Engineer Risse said the Highlands accepted the proposed changes for Lebanon Township. The board was happy with the proposed changes that Engineer Risse made to the Wastewater Management Plan. Planner Kyle said that typically the Counties are responsible for putting all this together. The Highlands Council agreed to do all these for Hunterdon County.

b. Article - NJ Lawmakers advance legislation to permit farmers to grow industrial hemp

Ms. Glashoff said she wanted the board to be aware of what is going on with all of this. There is a lot of discussion going on down in Trenton and these articles reflect it. Chairman MacQueen asked if we need to have an ordinance if we are not interested in having marijuana being sold in the Township. There are a lot of municipalities that are passing ordinances not to allow marijuana being grown and sold in there municipalities.

c. Article - Hemp vs Marijuana

d. Article –Cities battle trying to regulate AIRbnb’s

e. Governor signs new law that Airbnb’s will be paying taxes just like the hotels/motels as of 10/2018

The board briefly discussed articles c, d, & e.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 300.00
b. Bayer/Risse Engrs.	\$1,040.00
Total:	\$1,340.00

Mr. Weiler said the bills are in order and made a motion to approve with Mr. Schmidt seconding the motion. Unanimously approved.

Being no further business to come before the board, nor comments from the public, motion by Mr. Skidmore and seconded by Mr. Weiler to adjourn the meeting at 8:25 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK