

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, JULY 11, 2023 – 7:00 PM

MINUTES

The meeting was called to order at 7:00 PM by Chair Doshna.

Present: Mayor Karrow, Mr. Doshna, Mr. Levitt, Councilwoman Engelhardt, Mr. Cook, Mr. Campion-remote, Ms. Giffen, Ms. Weitzman-remote, Mr. Cimino, Mr. Eckel, Mr. Weintraub, Mr. Schoeb-remote, Attorney Kaczynski, Engineer Clerico, Planner Jacob Cline

Excused: Mr. Hill, Planner McManus, Traffic Engineer Troutman

1. **Public Comments:** Lois Stewart, discussed the tremendous weather on Sunday and plead the Board to revise the ordinances to assure the wellbeing of the planet being taken under consideration with the climate changes.

2. **Mayor Comments:** None.

3. **Council Comments:** Councilwoman Engelhardt mentioned the passing of Edna Pedrick, a long time member of the Planning Board and resident and all the contributions that she made to the Borough.

4. **HPC Comments:** Mr. Schoeb discussed that the HPC Chair Richard Giffen and HPC Planner Hatch went to Council last night to request that the historic district expand the district boundary and would be going through the process for the expansion and hoped to get that implemented this year.

5. **Approval of minutes for the June 27, 2023 regular meeting.**

Motion to approve the minutes to be revised as discussed was made by: Cook, seconded by: Campion.

Ayes: Karrow, Engelhardt, Cook, Campion, Doshna, Levitt, Weitzman, Cimino

Nays: (None)

Abstain: Giffen

Motion passed: 8-0-1

6. **Escrow Return: Premier Outdoor Media, LLC – Block 49, Lot 2**

The applicant could not replant the dead trees at this time of year. The escrow return would be deferred until such time as the landscaping could be replanted.

7. **Completeness: Wertsville Road Properties, LLC – Application #2022-05-Block 45, Lots 11, 12 & 15**

Attorney, Robyn Wright, appeared and discussed the application for preliminary and final site plan and subdivision which was deemed incomplete June 2022. Mr. Clerico discussed his completeness report dated June 26, 2023 including the items addressed, items requested for waivers, items partially addressed, and an item for legal input from Ms. Kaczynski. The applicant was waiting for State permits, where for the Letter of Interpretation they made submission and did not have response back. Mr. cleric discussed the survey item 'N' regarding the location of the municipal line where a building was proposed to be 6 inches away from boundary line and would affect the lot area with the rear portion of the lot in

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Raritan Township to meet minimum standard or would need variance relief. Ms. Kaczynski noted that the setbacks measure to boundary line and they would need to look at lot area as to whether using land just within municipality itself adding that this was not really a completeness issue and she will confer with applicants counsel to determine what variances would be required. Mr. Clerico noted that they may need to look at fees as well and listed the checklist items for the Board to consider granting temporary waivers including items: 19, 21, 37, 40 & 41.

Motion to the grant temporary waivers as listed and deem application complete was made by: Cimino, seconded by: Giffen

Ayes: Cimino, Giffen, Cook, Campion, Doshna, Levitt, Weitzman

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

The Public hearing was scheduled for September 12, 2023.

Mr. Doshna discussed that the ordinance subcommittee met and would have changes for the July 25 meeting for Board discussion.

7:12 pm Mayor Karrow and Councilwoman Engelhardt were recused from the next 2 agenda items that were involved use variances, left the dais and did not return to the meeting.

8. Public Hearing: Douglas Stryker – Application #2023-02: Block 35 Lot 60 – 13 Brown Street

Attorney, Steven Gruenberg, appeared and discussed that the notice of hearing was provided per the certified list prepared by the tax assessor but the list was incorrect and did not include the property owners in the Block adjacent to the property and though the applicant could rely on the list provided they have decided to get the corrected list and provide notice for those property owners for the public's benefit and asked to continue this matter with just the additional notices being provided.

Mr. Doshna announced that this matter was continued to the August 8, 2023 meeting and new notice would be provided to just those owners not on the list.

9. Public Hearing: Douglas Stryker – Application #2023-03: Block 7 Lot 5 – 53 East Main Street

Ms. Kaczynski confirmed that notice of hearing had been submitted and upon review of same found that the Board had the jurisdiction to proceed.

Attorney, Steven Gruenberg, appeared and discussed the application for use variance noting that the proposed obtained approval in 1988 for a residence on the second floor and the owner's law office on the first floor adding that the prior resolution was for a lawyer specifically and 2 employees where the applicant would like to expand that approval to other uses including a professional office with 2

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employees; barber shop with 2 employees; hair salon or book store with 2 employees noting that they had interest in the book store use so this has been added to the application.

Exhibits were entered into the record:

- A-1 The application and supporting documentation
- A-2 The public notice
- PB-1 June 8, 2023 Clerico, engineering report
- PB-2 July 7, 2023 Remington & Vernick planning report

Douglas Stryker, owner/applicant, appeared and discussed that he was a retired police officer, and had purchased property to renovate the building to sell.

Exhibit A-3: photo of the renovated upstairs apartment with all appliances in the same location; Exhibit A-4: photo of the renovated downstairs area; Exhibit A-5 photo of the stairwell; Exhibit A-6: photo of the other office area downstairs with a side door exit to the porch. There was a half bath downstairs where they had repainted the walls and replaced the trim and flooring. The downstairs would have the ability to have 2 work areas with a small office which was previously a kitchen and break/conference room; the barber shop or hair salon would be limited to 3 chairs: 1 for the boss and 2 employees; the book store would be more of a reference or technical book store. Mr. Stryker had problems marketing the property with an apartment above and lawyers office downstairs where they could not have an accountant or something similar and was limited to lawyer only and was now asking for an owner occupied building use with a professional office, barber shop, hair salon, or book store all with 2 employees only with no site changes proposed which will function as the site exists.

Mr. Clerico discussed the owner occupied condition and confirmed that you cannot separate the uses to create a separate apartment.

Jason Cline discussed the professional offices and asked if this was a medical office which was permitted but would change the parking requirement and if they wanted to take that use out of possibilities. Mr. Stryker discussed that with one room he did not see that a doctor's office would fit into the small area and agreed to limit to medical uses that are limited to the 10 parking spaces on site, any limited professional medical office such as a psychiatrist or counselor and where any medical use that would trigger a parking requirement would have to come back to the Board where by function the building only works with the 10 parking spaces and with 3 employees would limit the office use.

Ms. Kaczynski discussed adding the book store where the principal uses still use SIC codes where a used book store was permitted use or the applicant could add a use variance.

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Lois Stewart, Flemington resident, discussed the limit to 3 service chairs and asked if there were any other limits such as a maximum of 9 people in the downstairs and confirmed that it would be only owner occupied.

Erica Calkin, Flemington, asked how can you have sinks and water supply for a barber shop and if there would be additional plumbing required. Mr. Stryker noted that additional plumbing could be installed from the full basement adding that he would have to get permits to do that.

Mr. Clerico discussed the request for a waiver from site plan and that the Board will need to hear details of potential uses noting that they may need to go through Borough water and sewer department. Mr. Gruenberg made the argument that they are exempt from site plan requirements with no changes to the site where they provided an asbuilt survey. Mr. Clerico noted that the uses may require changes to the site. Ms. Kaczynski discussed the requirement for site plan exemption per the ordinance including parking requirements and loading spaces not changing.

Lois Stewart asked if the applicant did not have to present a site plan to the Board. Mr. Stryker was not qualified to answer and deferred the question to the planner.

David Newton, a licensed land surveyor, appeared and gave his qualifications and was accepted as same having previously appeared before the Board. Mr. Newton noted that there was 1001 square foot existing building footprint and discussed the survey map with all improvements shown including parking spaces, zoning information, all curbing, and the shed location near the southeast property line which was to be relocated to a grass area where the existing movable shed was currently in a parking space.

Mr. Clerico asked if there was any title work done and any known easements and if the driveway was 2 way access on it's own. Mr. Newton noted that there were no easements and the 2 way driveway was on its own property where you could put a fence down the middle. Mr. Clerico asked if there was any stormwater facilities and did the original site plan have an underground stormwater facility on the property. Mr. Newton looked at site plan where underground stormwater may be located in grass area where shed was to be moved – the applicant agreed to remove the shed from the property.

John Madden, a licensed professional planner, appeared, gave his credentials and was accepted as having appeared numerous times before the Board and discussed that the applicant was looking for a live/work use which was common in small towns and has become a popular land use type in walkable areas which have particular benefits to the community with low impact business uses which were limited by the existing floor area and would have less activity; parking demand and traffic in a residential area noting that the building was residential in character. The TC zone does allow the proposed uses with a professional office on the first floor, a beauty shop, a barber and specialty book store such as technical or used book store noted that from a marketing standpoint they will not see a commercial book store in this location.

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Mr. Madden discussed that the applicant was agreeing to conditions including an owner operator use; the building shall retain single family style appearance; no changes to the look of the building; business signage will be limited to the existing law office signage area; number of employees limited to the owner and 2 employees. Mr. Madden found the site particularly suited to the proposed uses, where the intensive uses permitted in the zone were not appropriate as the property sits in the middle of a mixed use area adjacent to a commerce business park with prof offices a vehicle repair shop, a law office and a parachute packing business where the Master plan allows areas with more intense, this building was not usable for an intense use and would not be compatible with the garden apartment use next door. The applicant was asking to permit uses already allowed in zone that meet zoning plan and to continue with just the one bedroom residence above. Mr. Madden found the site particularly suited due to the unique location in a non-residential zone with residential character and noted the criteria being advanced including the general welfare of the residents; residential value with sufficient space for a live/work use that would provide a visual benefit and saw no detriment to the zoning plan or ordinances with no negative impact to the community. The residential use was important where an owner will maintain property and will keep the noise and traffic impact low. The site would be no different than what has been happening here since 1988 with no substantial detriment to the public good and limited to uses to the 10 existing parking spaces.

Mr. Cline asked if the parking demand would be satisfied. Mr. Madden noted that the 10 spaces were sufficient as most of the time it would be by appointment only, not a drop in use and the owner operator would take up one space instead of an additional employee noting that the small floor area not attractive to high impact use which lessens the parking demand adding that the applicant was having a problem marketing the use where granting these uses will help to make the site a productive use for the Borough.

Ms. Kaczynski noted that Ordinance 2629.d: required 7 spaces for a medical/dental use and asked if the parking will be sufficient. Mr. Madden: yes with single practitioner.

Mr. Doshna asked why was this application site plan exempt. Mr. Madden noted that the site was already improved including lighting adding that it may need some striping and some added landscaping between adjoining properties for screening but that there was no additional lot coverage or required parking/loading spaces and no new variances were being created beyond 'd' variances requested with no conditional uses proposed and the site met the 4 standards to qualify as site plan exempt.

Mr. Cook asked if this property was previously located in a residential zone and if the use variance was granted for a different zone district. Mr. Gruenberg noted that the business uses were permitted but they cannot use the second floor as a residence. Mr. Cook clarified that the applicant was asking for variance for the residential owner/operator with uses as permitted. Mr. Gruenberg noted that some of the permitted uses would not qualify based on the property and that they were asking to continue the

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residential use on the second floor and with some additional uses on the first floor adding that the variance approved in 1988 was to allow a residence with conditions to be an owner occupied law office with 2 employee max and are now asking for modification to the conditions of prior application in 1988 to continue the residence and to remove the condition limiting to a law office.

Ms. Giffen asked what would happen if the relief was granted and sold and the business part folds; could they continue to reside in the building without the business. Mr. Gruenberg discussed that this was only being marketed as owner/operated; if the business was removed on first floor it would require a use variance with the abandonment of the approval and would have to come back to the Board to make it fully residential this would be an enforcement issue if being used as full residential. Mr. Cline confirmed that the full basement was only for storage.

Mr. Clerico discussed the improvements on the site plan approval in 1988 within parameters of what the improvements will support noting that the original site plan needs to be submitted as part of record, adding that the site plan was still in force. Mr. Gruenberg will provide the additional pages of original site plan as available.

Lois Stewart asked what was the total visual appearance of the site. Mr. Madden noted that it looks like a single family dwelling attractive building with a well maintain residential character. Ms. Stewart asked if there was any greenery in the back of the property and any trees in the parking area and asked if the owner was willing to plant the trees that were required in 1988 site plan. Mr. Madden agreed site would benefit from some shade trees. Previously submitted photos which displayed the exterior of the building from various angles was used to show the location of existing trees and the grass area in the back with the subsurface detention system. Ms. Stewart asked if the pavement was attractive and if it met the ordinance standards. Mr. Madden noted that they were not proposing any changes to the site.

9:14 pm the Board recessed.

9:20 pm the meeting resumed.

Mr. Gruenberg discussed that they were not going to rip down existing mature evergreen trees to plant new trees per the 1988 plan as they were not proposing any improvements they were exempt from site plan requirement.

Lois Stewart, Flemington resident, commented that the Board spent all the time on type of use with no concern for property improvement for betterment of the community noting that they could make the property better if parking area had some help where a site plan was recommended by Mr. Clerico, the parking spaces were not delineated and asked if the site plan exemption was a state thing or a Borough ordinance they need to look at that to get a better backyard and noted that the driveway was ugly.

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Mr. Gruenberg closing summation: the applicant was a regular guy, not major developer, renovated the building and was trying to make it marketable where it existed since 1988 and was trying to do the market it with an expansion of uses. Mr. Madden's testimony met the positive and negative criteria and meets the criteria as a site particularly suited for the proposed uses which works with the Borough as a transition area and was site plan exempt where existing mature landscaping that do not want to rip out.

Motion to close public hearing was made by: Giffen, seconded by: Cook.

Ayes: Giffen, Cook, Campion, Doshna, Levitt, Weitzman, Cimino

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

Ms. Kaczynski gave a summary of the motion to grant an exemption from site plan approval per the ordinance and also for a use variance to allow a one bedroom residential unit on the second floor with professional office uses as permitted in the zone as well as a beauty salon; barber shop and book store with conditions including that the structure was to remain single family appearance; no separate entrance to the residential unit; signage to meet existing sign area; existing shed to be removed; building must be utilized with a permitted business on the first floor; remains bound by 1988 site plan; the 3 sheets of the original site plan to be provided as possible; 10 parking spaces to remain; any use to be limited to the existing parking requirement or will have to come back to the Board.

Motion to grant the variance subject to conditions and include granting a waiver of site plan requirement was made by: Cook, seconded by: Cimino.

Mr. Cook noted that the book store was testified to as a specialty store and wanted to make sure the Board was not waiving sign review by Sign Review Committee.

Ms. Giffen discussed the site plan exemption noting a beauty shop would require water and sewer department approval. Mr. Clerico noted that there were no modifications to the site and they would need to get approval from water and sewer department and found to be more intense they will have to come back to the Board noting that ADA access was not addressed but would be under the code official enforcement and jurisdiction.

Mr. Cline asked if a medical counselor/single practitioner should be added as a condition with support staff employees only for medical.

Mr. Doshna agreed that the project does not need site plan and the applicant met the proofs noting that the prior site plan remains in force.

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Vote was called on the motion to grant the variance subject to conditions and include granting a waiver of site plan requirement.

Ayes: Giffen, Cook, Doshna, Levitt, Weitzman, Cimino

Nays: Campion

Abstain: (None)

Motion passed: 6-1-0

10. Chair Items:

- Next meeting July 25, 2023: Possible adoption of the Rules on Citizen Input: discussion of ordinance changes.
- Ms. Giffen discussed the Living Wall Sign at the circle which was not finished and asked if there was any recourse on what could be done, it was 4 year since the approvals. A copy of the resolution to be circulated to the Board and the applicant would be asked for a status. Councilperson Parker had been involved. Discussion would be added to the July 25 agenda.
- Mr. Cook asked if a property on Main Street which had been painted had filed an application with the HPC. Mr. Schoeb confirmed that there was no application noting that this would be an enforcement issue and would contact the new zoning officer.

11. Bills:

Motion to audit the bills was made by: Cook, seconded by: Levitt

Ayes: Doshna, Levitt, Cook, Campion, Weitzman, Giffen, Cimino, Eckel, Weintraub.

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

12. Professional Reports: None.

13. Executive Session: None.

14. Adjournment:

At 9:53 pm. Motion to adjourn was made by: Giffen, seconded by: Levitt. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary