

FLEMINGTON BOROUGH  
PLANNING/ZONING BOARD MEETING  
38 PARK AVENUE, FLEMINGTON, NJ 08822  
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM  
TUESDAY, MAY 9, 2023 – 7:00 PM

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

**Present:** Mayor Karrow, Mr. Doshna, Mr. Levitt, Mr. Cook, Mr. Campion-remote, Ms. Giffen, Ms. Weitzman-remote, Mr. Hill-remote, Mr. Eckel, Mr. Weintraub-remote, Mr. Schoeb-remote, Attorney Kaczynski, Planner, Engineer Clerico, Traffic Engineer Troutman, Planner Harris

**Excused:** Mrs. Engelhardt, Mr. Cimino, Planner McManus

1. Public Comments: None.

2. Mayor Comments: None.

3. **Council Comments:** None.

**4. HPC Comments:** Mr. Schoeb discussed that they have meeting next week night and reminded the Board that the house tour was scheduled for June 3, 2023 11 am to 5 pm noting that tickets were on selling.

**5. Approval of minutes for the April 25, 2023 regular meeting.**

Motion to approve the minutes was made by: Cook, seconded by: Hill.

Ayes: Cook, Campion, Doshna, Giffen, Levitt, Weitzman, Hill, Eckel

Nays: (None)

Abstain: Karrow

Motion passed: 8-0-1

7:04 pm Mayor Karrow was recused from the next item and left the meeting.

**6. Public Hearing: BSD Flemington Apartments, LLC – Block 39 Lots 3 & 4, Continued from April 25, 2023**

Attorney Gruenberg appeared and discussed a letter dated May 9, 2023 submitted by the Counsel for owners of 114 Broad Street that stated that they would no longer be appearing as result of accommodations that were made by the application this letter was marked as Exhibit A-6 and discussed the continuation of the testimony of the applicant's engineer.

Chris Nusser appeared still under oath and discussed a revised site plan marked as Exhibit A-7 dated May 3, 2023 which had revisions to the plan which included: along the common property line with the 114 Broad Street property the proposed fence was to be extended to edge of property on the northern spur parking area and in the western portion of the property extended to the end of parking area as a new 6 ft high white vinyl fence which would transition to a 4 foot high fence at the setback line to comply with the ordinance, replacing the entire wood fence with white vinyl; a speed bump and

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crosswalk location was revised and added a speed table along the pedestrian route; the plan relocated the island to the west of Building 3 moving it north to provide 12 spaces, 3 spaces and then 7 spaces to provide a crosswalk closer to the entrances of the buildings; the plan disconnected the sidewalk on side of Building 3 nearest the adjacent American Tire lot and now proposed shrubs to discourage people from using that pathway and parking on the adjacent lot. Mr. Nusser discussed the stonewall addition with plantings along Broad Street regarding the comments from Lois Stewart with proposed trees located behind wall with shrubs in front.

Ms. Kaczynski clarified that the proposed changes eliminate the variance for fence height.

Lois Stewart, Flemington, asked for an explanation on entrance from Board Street and if it would match what was in front of the Herman Capp building asking if it could be changed to create continuity along Broad Street and asked if shade trees were proposed to be planted. Mr. Nusser identified a shad flow service berry ornamental tree was proposed with planting to provide visual interest. Ms. Stewart asked if more trees could be planted to avoid a heat island effect from the blacktop and if the site plan provided the number of trees required. Mr. Nusser discussed that 69 parking lot trees were required where the plan proposed 66 trees leaving 3 short and needed relief but was an improvement from the prior approval noted that the plan would comply with the exception of near the detention basin and retaining wall. Ms. Stewart asked if the access to the American Tire could be blocked off to avoid parking; if there was any way to eliminate the curbing to direct runoff directly to the trees rather than the detention basin. Mr. Nusser responded.

The applicant's architect, Mr. Zimble, appeared still under oath, was qualified as a licensed professional architect and was accepted as same. Mr. Zimble discussed an set of plans marked as Exhibit A-8 which included original plans submitted and revised architectural plans of the proposed construction of a 5 story 105 x 236 ft building with 113 apartments that included 1, 2 & 3 bedroom units with the ground level having 13 units, a main entrance foyer, mail package area, community room, bike storage and a separate entrance; there would be 2 elevator cores as shown on Sheet A-1.

Sheet A-2 showed the 2<sup>nd</sup> and 3<sup>rd</sup> floors with 16 apartments each of 1, 2 & 3 bedrooms. Sheet A-3 showed the 4<sup>th</sup> and 5<sup>th</sup> floor with 16 units each. The project was providing 14 affordable housing units of various types with 700-850 SF for the 1 bedroom, 900-1000 for the 2 bedroom and 1200 for the 3 bedroom units. The Building height was 50 feet to the roof structure, with a parapet height of 6 to 8 feet and a square footage area of approximately 82,000 SF. Sheet A-4 showed the façade which was colorized and the plan included a photo of the existing spice Factory building. Mr. Zimble discussed the façade materials, articulations to be provided, brick and fiber cement panels, brick vertical elements to break up the brick on the façade, added decorative cornice, and a panel in front; each unit would have a sliding glass door with a balcony; the main entry was recessed on 1<sup>st</sup> and extended panels on the 2<sup>nd</sup> floor to define the entrance; there would be a flat roof with the roof top utility units to be screened and not seen by public; Building 3 was designed to emulate the prior approved building shown on Sheet A-6 with a colored rendering. Sheet A-7 was a rendering of proposed Building 3 which was designed to meet

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ordinance standards. Sheet A-8 was a rendering of Building 3 from another angle. Sheet A-9 showed the green roof design and details the building would also include energy efficient appliances, lighting etc. Sheet SK-1 showed the sight lines of roof top utilities on Building 2 the existing Spice Factory where no changes were proposed from the prior approval with the exception of removing the fencing to screen the roof units as they were now moving utilities back so the fencing was no longer needed.

Mr. Harris clarified that there would be glass at the entrance and asked that the applicant submit an operations manual for the green roof. Mr. Zimble agreed.

Ms. Kaczynski asked if the rooftop units would not be seen as shown on Sheet SK-1. Mr. Zimble discussed that they were now using smaller units noting that the fencing was not required for the prior application and now were not needed with the significant distance necessary to view the units.

Mr. Schoeb asked if there had been any consideration in making the building look historic. Mr. Zimble noted that a large building was hard to design to appear historic adding that they worked to relate to the design to the Spice Factory. Mr. Schoeb confirmed the colors that were being proposed and asked if they looked at the senior apartments building.

Mr. Cook asked how many more 2 & 3 bedroom units there were from the prior application noting that this will attract families with school age children and asked how this was less monolithic and could the upper floors be stepped back to not give the appearance of 5 story building noting that the added 2 floors on the Spice Factory was stepped back and with some technique could this also be done on Building 3. Mr. Zimble noted that he was not involved in previous application and discussed that the proposed building had a lighter color on 5<sup>th</sup> floor to provide some relief and was not sure if stepping back would resolve issue adding that would result in having smaller units. Mr. Cook asked if a door could be placed on the north side of building. Mr. Zimble noted that it could be done if required but would have smaller units and would lose a unit. Mr. Gruenberg noted that there was an entrance in a centralized location.

Ms. Giffen asked how this design was less monolithic than the prior approved Building 3. Mr. Zimble discussed the new design as more decorative. Ms. Giffen asked what kind of plants would in the green roof and would there be resident access to the roof. Mr. Zimble discussed the planting detail and confirmed that there was no resident access. Ms. Giffen had concerns for maintenance workers on roof top units of the Spice Factory with no fencing. Mr. Zimble noted that the roof top regulations and distances were provided by the construction code. Mr. Zimble did not know if the units would be brought in by crane.

Mr. Doshna referenced Sheet A-5 and asked why the coah units labled different and why they were a different size noting that they were required to be the same and indistinguishable as market units. Mr. Zimble agreed to make sure they are the same size and have the same amenities. Mr. Doshna asked if

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the coah units were clustered or if they were evenly distributed. Mr. Zimbler noted that it would be an administrative function to distribute evenly.

Lois Stewart asked when she could see the rooftop units and what could be done to shield them. Mr. Gruenberg discussed that they were being moved and were smaller, adding that shielding was not required in prior application and did not think that it was a Borough requirement. Ms. Stewart asked if there was any way so that these impurities could not be seen. Mr. Zimbler offered to move them back and opined that the screening was unsightly. Ms. Stewart asked if they could make the top floor less intrusive and if the external appearance was appropriate for the second largest historic community in the State and could this be designed to fit into the historic community. Mr. Gruenberg noted that was more of an opinion than a question and the site was not located in the historic district and was next to commercial properties. Ms. Stewart asked if there was a green roof proposed on both buildings. Mr. Zimber confirmed that not on the Spice building which was not part of this application but was prior approved under phase 1 under construction. Mr. Gruenberg noted that this was this designed to be attractive. Mr. Zimbler thought the new proposal was more appropriate.

Mr. Harris confirmed that under ordinance 2627.C exterior equipment such as roof units shall be screened by architectural elements. Item for Board discussion.

Chris Nusser appeared as a professional planner and discussed relief requested where the applicant was seeking use variance for 113 units on the site where the existing approval was for 100 units, where the project now included Lot 4 to permit residential uses. The plan would require: a d variance for Floor Area Ratio (FAR) of 0.657 where 0.73 was previously approved this was lessened by the added lot area by acquiring Lot 4; a d6 variance for building height which was not changing where Building 2 was proposed 64'-4" high and proposed Building 3 was 58 foot high which was previously approved; bulk variances were need for parking; non-conforming bulk variances for 2 setbacks, a front yard setback of 17.95 ft which had prior approval; and sideyard for Building 3 proposed 12.35 ft where 25 ft was required; Mr. Nusser noted that impervious coverage was now not required; and relief was needed for the number of stories (5 proposed) where the prior approval for 5 stories. Required design waivers: 25 ft filtered buffer for parking; number of parking lot trees; downward lighting proposed to keep existing; sidewalks which was now being provided but will leave as a variance requested; and lighting that was exceeding illumination at the property line.

Mr. Nusser discussed that the d1 and d6 variances standards would be the same by proving the particular suitability of the site, for this project noting the relief was previously granted for 100 units where Phase 1 was under construction and applicant was seeking amended approval which would be an improvement and make this a better project. Mr. Nusser noted that the Herman Capp had a greater FAR ratio than what was proposed on this site with a mix of commercial uses that help support the site and was next to the Hermann Capp building which was higher in height than the existing Spice Building which was approved to be 64'-4" high where Building 3 was proposed at 58 feet; this was on an

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oversized lot with adaptive reuse of the existing building; noting that there have been issues in renting out the Spice Factory where this project provided adaptive reuse with mixed uses. Mr. Nusser found that the project met positive criteria E for population densities and I for providing a visual environment and found that they met the standard for the 'd'4 variance as the site could support additional floor area; noting that the stormwater, parking, and utilities had been addressed. Mr. Nusser discussed the C variances which were subsumed by the d variances including the existing non-conforming conditions on Building 2 where you could move the building or the lot line and was previously granted; the parking variance had been addressed through testimony and summarized that where the ordinance was based on RSIS standards the applicant was providing ample parking based on Union Hotel model and shared parking calculation for mixed use citing a Rutgers study on housing types and parking to determine the number of people of driving age and also included an estimate of school age residents as 10.52 on site and was very confident with the amount of parking proposed; , the side yard setback was a 'c'2 flexible variance which met the positive criteria and was subsumed by d variances. Mr. Nusser discussed the negative detriments where he saw none and read from Ms. McManus's report regarding the goals of Master Plan that the application furthered. Mr. Nusser discussed that they were not asking for anything more than previously approved where the FAR was less; the height was the same; there were more units with substantially more land; they modified the plans based on concerns and comments; the benefits outweighed any negatives if any; the site was underutilized; the applicant was serious about completing the project; the site was walkable; the additional 13 units and changes increased the benefits from the prior approval.

Mr. Gruenberg found that this use was particularly suited for this site based on Master Plan goals referred to in Ms. McManus's report where the Board previously approved the plan and now was made better by better access, better units that were more attractive and marketable to make the project successful and were providing affordable housing and found no substantial negative detriment to the zone plan or public good where the situation was improving site.

Mr. Harris asked if the plan met the enhanced quality of proof beyond and asked would the application meet the standards. Mr. Nusser thought it met the standards and enhanced quality of proof.

Mr. Schoeb asked how the Herman Capp building was higher since it was 3 stories. Mr. Nusser clarified that it was not the overall height but the elevation where the building sits higher on grade.

Ms. Giffen asked the access connection to Church Street and if this junction increased traffic at the uncontrolled access including the old Rite Aid site would that be detrimental. Mr. Nusser noted that the prior application had a traffic study that showed that there were sufficient gaps onto Church Street where they added 13 units but also added access to Broad Street which would result in less traffic onto Church Street and improved the situation adding that 7 additional trips would be generated with the 13 added units and no negative impact on traffic in the area would be resulting from the project. Ms. Giffen asked that if same amount of relief was required as the prior application with the parking below what

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benefit was there to add Lot 4 noting that the distance for residents to parking was far - Mr. Nusser noted better circulation and traffic, better units, parking was more than adequate with better accessibility for pedestrians and discussed parking distances in the area as well as enforcement of cross parking. Ms. Giffen asked about adaptive reuse where the prior approval for Building 3 looked more like the Spice Factory. Mr. Nusser discussed that adaptive reuse was not applicable to Building but was more suitable to spice factory.

Doshna asked to list the Rutgers study authors and discussed the updated methodology of student and trip generation for a 50 plus rental unit calculation of driving age residents total of 176 which was based on more updated tables with a bedroom mix noting that if all of them had a car they would all have a parking space with 30 approximately spaces left for visitors. The cover page of Rutgers study with the authors was marked as Exhibit A-9.

9:18 pm the Board recessed

9:25 pm meeting resumed.

All Board members returned by 9:29 pm

Mr. Gruenberg gave a summation noting that the site was in an area of the Borough which had been underutilized where revisions to the plan improved the site circulation and traffic which had been confirmed by Board professionals, standards for parking with the addition of EV stations were now more conforming, the plan had lessened the FAR requirement, the site was improved by providing a new white vinyl fence along property line, adding affordable units from 15 to 17 was a benefit to community, architectural standards were subjective where the client thought that this was an attractive building and was a good transition from the Spice building to the senior housing building and it will get built where Phase 1 was currently under construction concluding that this was a good thing for community.

Public comment up to 3 minutes:

Lois Stewart, Flemington Borough, had concerns for the project as presented, not sure it will be better for the town, needs more greenery and more space would be better, building demolition concerns, would be better to keep the house, has real concerns that this was not attractive for Flemington, the Board can make them build something that would fit. Could be made to look repurposed Board should ask for reconsideration on appearance, concern for lot 4, with several mature trees that would need to be removed.

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

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

Nays: (None)

Abstain: (None)

Motion passed: 7-0-0

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Mr. Harris was sworn in.

Mr. Troutman provided his opinion on the parking variance based on the latest data and looked at the mixed use site where the uses do not happen at the same time, a shared parking was good way to plan a development where they do not overlap. Studying have been trending downward for parking demand for residential parking and would now equate to 148 parking need where the RSIS was excessive would require 212 where they were proposing 206 overnight concluding that the parking supply would work on site in his opinion.

Mr. Clerico discussed some technical open issues including his suggestion of a sidewalk in northern parking on easterly side as path of least resistance. The applicant provided updated sketches but no details, there will need to be modification in stormwater design with new soil logs done, impervious coverage will require reclassification of soils by conservation district, there were still some moving parts but they have provided how this can be done.

Board questions for professionals:

Mr. Schoeb discussed that if he lived on Broad Street he would go through the site. Mr Troutman noted that the plan does have speed hump and speed table and suggested one more at the property line with American Tire as a traffic calming measure to make that not attractive.

Mr. Hill noted that stormwater management does seem approvable tonight. Mr. Clerico thought it was not necessary significant and should be addressable. Mr. Doshna discussed that either they would need a reclassification or they will need to make a change to the satisfaction of the Board engineer.

Ms. Weitzman asked why are we were not using the new equations for traffic. Mr. Troutman confirmed that they were required to use RSIS standards by the State noting that new studies that he has done shows trip generation going down as well as parking.

Ms. Giffen was the new research done in areas where mixed uses have good public transportation, Mr. Troutman noted that they do break it out by proximity to transportation adding that he relies on transportation sources not the study provided and conclusions made by comparing to communities similar to Flemington. Ms. Giffen asked if the traffic study checked Church and Broad Street to look at gaps. Mr. Troutman's field observation was that it was still correct with more directed onto Broad Street access will lessen traffic on Church Street.

Ms. Kaczynski discussed the application was for preliminary and final site plan with variances waivers and conditions, amended phase 1 for Building 2, and preliminary and final site plan for Phase 2, for Building 3, including d variances: 'd'1 for the use and addition of 13 units; 'd'4 for FAR and 'd'6 for building height; there were pre-existing front and side yard setbacks; parking required at 231 with 206 proposed spaces; waivers required from landscaping buffers; number of trees in parking areas where 69

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required and 66 proposed; maximum illumination at boundary lines; downward focused lighting to maintain existing lighting; and sidewalks. Conditions to include: maintain removal of debris; bound by fencing, affordable housing to be complied with; access easement for future cross access to remain; basin wall to be removed; compliance with all ADA requirements; lighting lanterns to match existing; comply with letters as discussed; reclassification of soils for stormwater management design; sidewalk location as discussed; recording copy of deed; granted prior waiver; EV spaces would be provided as required by State regulations; plans to be amended for sidewalk along Broad Street to mirror property to the south; cross access easement to remain; all rooftop units will be shielded in accordance with the ordinance must be screened by architectural elements where aw parapet was being proposed for discussion; maintenance manual for green roof; discussion on additional entrance on Building 3; pocket park to be constructed in Phase 2; additional speed bump at American Tire property as discussed; any amendments to satisfaction of Board professionals unless have to come back to the Board; affordable units to be the same size and amenities should be substantially similar to market units.

Motion to approve was made by: Levitt, seconded by: Campion

Board discussion:

Mr. Cook discussed that the site was adjacent to the historic district where the prior application worked to make the building look like the Spice Factory and more historic; with compromises on the distance to parking; regarding adding Lot 4 the HPC asked to add this lot where the Board had not so. Noting that all the changes made undid all the compromises made in the prior application; we wanted smaller units to limit the number of children; there was discussion on dog leg parking areas where this creates another one; the prior approved building did not look 5 stories; any thought to renovate the house on Lot 4, thought the building is a monolith Mr. Cook could not support the project with issues.

Ms. Giffen supported Mr. Cook's point; thought it was disrespectful; the applicant pre-empted by getting a demolition permit that did not allow any discussion on what could happen with that house; would be okay with losing 14 spaces to keep the house; no consideration of historic district where Lot 4 should have been included in the historic district; do not believe it is substantially improved for the town, want development but want it to be appropriate.

Mr. Schoeb disappointed to not preserve the house on Lot 4; found the proposed building not attractive; awnings looks more attractive; the prior approved Building 3 did not look 5 stories; the proposed building looks modern.

Mr. Hill, was not involved in first approval; concerned with the mass of proposed structure; inability to change building; so many conditions makes it difficult to think positive.

Ms. Weitzman, disappointed from prior design to new design, disregarded, has no character, does not fit in with town. Need more work done. Prior building was approved for a reason.



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Mr. Weintraub went with the thoughts of other members; new building looks like high density in other towns.

Mr. Doshna thought everyone was wrong; only way Flemington works is having people living downtown in high density in a location that makes sense, meets the goals, design choices fits in with approved multi housing projects that were approve such as the Courthouse Square and Captiva, highway adjacent use; this was not Bonnell Street, adjacent uses in this the part of town makes sense to put this; creative solution to gain access to Broad Street; micro units were a stupid idea that never would be sold; do not have enough housing in Flemington; need density; the relief being sought is appropriate for the site.

Mr. Cook noted that this was not an area in need of redevelopment with no plan from Council, need to have some give and take with applicant.

Mr. Dosha, there was no jurisdiction on how long people have to walk to a parking spaces; the extreme parking spots will be lightly used. Application came up with a solution.

Mr. Cook site is not suited but not willing to give up on design and how it looks together; looks like a box, not willing to give up to make it better.

Ms. Giffen does not have to be a cookie cutter box; does not want creeping or precedent to demolish buildings; have approved several projects with higher density.

Mr. Eckel site offers more affordable housing units, sustainability elements.

Mr. Giffen does not want to lose a house for no good reason.

Mr. Cook– would like to see the house remain and have structured parking; want better harmony and design, does not think that the site is suited.

Mr. Gruenberg hearing what you are saying; would like to have a conversation to address some concerns. Can we re-open the public hearing and reconvene to address.

Mr. Levitt rescinded his motion.

Ms. Kaczynski noted that the Board would need to re-open the public hearing.

Mr. Gruenberg granted extension of time for the Board to act to the end of July 2023.

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Mr. Doshna announced that the public hearing on this matter would be continued for the June 27, 2023 agenda at Borough Hall at 7:00 pm and that no further notice would be provided

10:40 pm Mr. Campion left the meeting.

**7. Ordinance Review: Ordinance 2023-16: Repealing Ordinance 2020-2 Concerning Section 2610, 2611, and 2641 of the Municipal Code of The Borough of Flemington Related to the Mixed-Use Multi-Family Overlay District**

Mr. Doshna discussed the ordinance introduced by Council and on the agenda for adoption at their May 22, 2023 meeting that would repeal the overlay district which was a goal in the Master Plan. Mr. Harris discussed the three goals in the Master Plan that were inconsistent with the proposed ordinance. The Board discussed.

Motion to tell council that revocation of the ordinance was inconsistent with the Master Plan referencing the 3 items as discussed and that Council had to respond on the record why they were ignoring the Planning Board recommendation if they decide to adopt the ordinance.

Motion made by: Hill, seconded by: Cook

Ayes: Cook, Doshna, Giffen, Levitt, Weitzman, Hill, Eckel, Schoeb

Nays: Weintraub

Abstain: (None)

Motion passed: 8-1-0

**8. Chair Items:**

- Next meeting May 23, 2023: Completeness for Stryker application; updates from subcommittee on Citizen Input and Ordinances.
- Doshna noted that Ms. McManus and her firm would need to be recused from the Stryker application and the process to appoint an alternate planning firm to be done at the next meeting, possibly in executive session.

**9. Bills:**

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

Ayes: Doshna, Levitt, Cook, Weitzman, Giffen, Hill, Eckel, Weintraub, Schoeb.

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

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**10. Professional Reports: None.**

**11. Executive Session:** None.

**12. Adjournment:**

At 10:51 pm. Motion to adjourn was made by: Cook, seconded by: Hill. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary