

FLEMINGTON BOROUGH
PLANNING/ZONING BOARD MEETING
38 PARK AVENUE, FLEMINGTON, NJ 08822
HELD IN PERSON AND OFFERED VIRTUALLY VIA 'ZOOM WEBINAR' PLATFORM
TUESDAY, AUGUST 22, 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-remote, Mr. Campion-remote, Ms. Weitzman-remote, Mr. Hill-remote @ 7:05 pm, Mr. Cimino, Mr. Eckel, Mr. Schoeb-remote, Attorney Kaczynski, Planner McManus, Engineer Clerico, Traffic Engineer Troutman

Excused: Ms. Giffen

1.Public Comments: None.

2.Mayor Comments: None.

3.Council Comments: None.

4.HPC Comments: Mr. Schoeb discussed that the HPC would provide a review of the 37 Mine Street application for Central Station, LLC prior to the public hearing and the HPC was drafting a memo on the expansion of the Historic District from recommendations in 2019 and also discussed that new issues had been raised by SHPO for the certified local government designation.

5. Approval of minutes for the August 8, 2023 regular meeting.

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

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

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

6. Escrow Return: Countryside Plaza – Block 35 Lot 32 – Stangl Road

The Board discussed the escrow request.

Motion to approve the return of the escrow balance was made by: Cimino, seconded by: Hill.

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

Nays: (None)

Abstain: Doshna, Hill

Motion passed: 7-0-2

7. Review of Council Ordinances #2023-23 to 2023-27: Amendments to the Ordinances

Ms. McManus noted that there were no changes from the last discussion and found that the ordinances were specifically consistent with the Master Plan. Ms. Kaczynski clarified that Ordinance 2023-25: Public Arts did not come before the Planning Board and therefore there would be no consistency review as it was under the Council jurisdiction and found that ordinance 2023-27 was a duplicate of ordinance 2023-23 and should be disregarded. Ms. Kaczynski had prepared a resolution and would add the findings of the Board.

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Motion to adopt Resolution #2023-14 to find the Ordinances as discussed not inconsistent with the Master Plan and provide no addition comments to Council was made by: Cook, seconded by: Levitt.

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

Nayes: (None)

Abstain: (None)

Motion passed: 9-0-0

8. Completeness: Flemington Realty Partners, LLC - Application #2023-04 - Block 39 Lot 6 – 78 Church Street

Attorney, Samantha O'Malley, appeared for the applicant and discussed the minor site plan application and completeness memo prepared by Mr. Clerico noting that the taxes and utilities were current and that Mr. Seckler had provided additional documentation and that all other items would be provided prior to public hearing and asked that the application be deemed tentatively complete pending submission of those items.

Mr. Clerico discussed the new items submitted today including the easements for the condo units, and the property boundary satisfying item 20. Mr. Clerico recommended that the Board could grant the requested waivers for Checklist items #59, 61 & 62; grant waivers for checklist items #20, 36 & 43. And grant temporary waivers for Checklist item # 58, 50, 15 & 19.

Mayor Karrow discussed the sewer & water which would be a more intense use for the proposed training center. The applicant had filed Form A with water and sewer department where a temporary waiver was requested and the Board would rely on the Water and Sewer Department recommendations. Mayor Karrow noted that with a change in use the Board would have an opportunity to request improvements to the outside lighting and landscaping, Ms. Kaczynski noted that this could be discussed during the hearing and can advise applicant where the Board could grant a temporary waiver until applicant comes to the public hearing.

Motion to grant the waivers as discussed and deem the application complete was made by Cook; seconded by Hill.

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

Nayes: Campion

Abstain: (None)

Motion passed: 8-0-1

The public hearing was scheduled for September 19, 2023.

Mr. Cook asked for an update on the Redevelopment Areas. Mayor Karrow noting that the discussion were ongoing for the Redevelopment Areas.

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7:35 pm Mayor Karrow, Councilwoman Engelhardt were recused from the next agenda items which included a 'd' variance and left the meeting and did not return.

9. Completeness: Central Station, LLC - Application #2023-05
Block 34 Lot 7 – 37 Mine Street

Attorney, Steven Gruenberg, appeared for the applicant and discussed the mixed use project at 37 Mine Street and the completeness report dated August 12, 2023 prepared by Mr. Clerico who discussed the items submitted this afternoon that he did not have time to review which more administrative and would need to be incorporated into revised plans

Mr. Gruenberg requested the Board to grant temporary waivers for administrative items and to deem the application complete. The Board discussed.

Mr. Clerico recommended permanent waivers could be granted for items 37, 41, 38, 39, 40, 61, 69 and 68 regarding traffic & signage where Mr. Troutman recommended a waiver and grant temporary waivers for items 4, 25, 30, 36, 44, 49, 53, 49, 65 and deny the waiver for #52 to provide an Environmental Impact Statement (EIS).

Mr. Gruenberg discussed that the applicant had prepared and submitted the Phase 1 EIS assessment of property as an electronic file to the Board. Mr. Doshna noted that the subject property had no flood plain or wetlands but was an appliance store for many years and if an issue arises the item could be addressed and the Board would make sure Environmental Commission had the file to review.

Motion to grant the waivers as discussed including a temporary waiver for the EIS was made by Cook; seconded by: Levitt.

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

Nays: Campion

Abstain: (None)

Motion passed: 6-0-1

The public hearing was scheduled for October 3, 2023.

10. Public Hearing: BSD Flemington Apartments, LLC - Block 39 Lots 3 & 4 – 70 Church Street
Continued from April 25, May 9 and June 27, 2023.

Attorney, Steven Gruenberg, appeared for the applicant and discussed the continuation of the public hearing with revised architectural plans for the new building. New notice of the hearing had been provided where Ms. Kaczynski found that the Board had jurisdiction to proceed. Mr. Gruenberg had all the reports and had 3 witnesses including: Eli Yenay, the owner/developer to address the Regis situation

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which was no longer leasing the space; Harold Zimbler, architect and Chris Nusser, engineering and planning to discuss changes. The 3 witnesses and Board professionals were sworn in for testimony.

Eli Yenay, CEO for the developer had purchased the property with the prior approvals, explained that the building design was not known to him at time of purchase. The commercial space for Regis was vacating the space by September 30th. Mr. Yenay had taken into account the comments from the Board and how to rework the use of the space noting that a limo permit was applied for through Regis that he had no knowledge of and had no intention to allow a limo service to have storage at property. Mr. Yenay was keeping up with property maintenance and garbage removal which had been ongoing near the path from the ballfield adding that the sooner the property was developed the better maintenance they can have.

Mr. Yenay discussed three (3) photos taken by the applicant August 21, 2023, first photo section of fence replaced near ball field was marked Exhibit A-10; the next photo was of a 2nd section of fence repaired marked Exhibit A-11; and the third photo of another repair to the fence marked Exhibit A-12.

Mr. Zimbler appeared and discussed the revised architectural plans based on comments from the Board which was part of resubmission dated 8/3/23 and discussed the proposed fifth floor now created an outdoor courtyard area facing Church Street by pulling the 5th floor back and removing a substantial part of the 5th floor; the applicant tried to emulate the original spice factory building, which was designed in utilitarian industrial style of the late 20th century which lacked interest or style as a brick box warehouse that Mr. Zimbler didn't think would be appropriate for the size and use of this building scale and would be unappealing to the town and residents so they chose a Federalist style with some elements such as ornate cornice on top of fourth floor that would look like an old warehouse building repurposed with vertical highlights near the window areas and a concentration of brick on the exterior; added vertical piers and a stone element on top of the first floor as well as the rooftop courtyard being added facing Church Street. The building would use railing design using Juliet balconies; the entrance on Church Street was made more interesting and they addressed the concern for second floor apartment having glass where they kept the curved part as brick façade and not all clear glass to the second floor apartment. A rendering of the new design was marked Exhibit A-13 dated 8/22/2023 which highlighted the entrance, using more brick and window elements and showed the cornice and the rooftop courtyard with a fifth floor penthouse.

Ms. McManus confirmed that the market rate and affordable bedrooms had windows and that there was no difference in the size or location.

Mr. Clerico asked if the main access for Building 2 was from the side entrance of existing spice factory, next to dumpster. Mr. Nusser confirmed.

Ms. McManus asked if the new building materials would be as similar as possible to existing Spice Factory including awnings and brick color. Mr. Zimbler agreed to match the materials to the extent possible and agreed to submit materials in advance as a condition of any approval.

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Mr. Cook pointed out that there were no outside doors to community room with access only through the lobby, the side door or the Church Street entrance Mr. Zimbler could add an access door to the community room and confirmed that there was no courtyard intended on back of building but would have a railing. Mr. Cook discussed the material of white elements on light colored block and asked if they could they be darker to make a more vertical element. Mr. Zimbler agreed and would add a decorative stone element.

Ms. Schoeb noted that the rendering did not show windows for the bedrooms. Mr. Zimbler would add windows when plans are completed.

Ms. Weitzman asked if there was any wheelchair access to the front entrance. Mr. Zimbler noted that yes that there was a gray door on the side that would be ADA compliant and would lead directly to lobby. Ms. McManus asked if they would add 'window dressing' to accessible door to make more decorative. Mr. Zimbler agreed and would will add an awning to match.

Mr. Clerico asked the location of the mechanical rooftop elements which would be located in middle of top floor with no need to require fencing.

Mr. Nusser appeared and discussed the changes to the plans, with a new Exhibit marked A-14 dated 08-22-23 which was a colored rendering with landscaping superimposed on aerial with the plan changes including: added new sidewalks; updated to agree with new architectural changes including the entrances; 3 new street trees added per comments from Shade Tree Commission; the stormwater basin was revised and would maintain the storage to hold same volume and would operate identical to prior approval; the green roof was removed due to the fifth floor shrinking and with the mechanical elements on roof top but will be adding the courtyard.

Ms. McManus asked if the project meets the stormwater Borough ordinance. Mr. Nusser explained, that with the addition of porous pavement it would meet the ordinance standards noting that the green roof did not count for stormwater management.

Mr. Clerico asked if the fourth floor roof in the rear could be a green roof? Mr. Nusser did not consider in that space but did not need it to meet stormwater requirement. Mr. Gruenberg discussed that with all the revisions being made and the limit the space as well as time, money and effort spent to address concerns of the Board there was an economic reasoning to not provide a green roof. Mr. Nusser discussed that the plans were revised to add the speed bump on property near American Tire and one at the access to Broad Street; the project would be exceeding the bike storage required with interior storage provided and the landscaping increased the number of trees in parking lot.

Mr. Clerico asked for clarification on the replacement of fencing on the northwest side of property, and that the fence at the ballfield was to be replaced with vinyl fence and asked what was the actual height of the building in regards to the grade differential around the building. Mr. Nusser would make some grading changes so that the mean grade would match the first floor elevation noting that the prior

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approval was for 58 feet with the parapet with 50 feet from the first floor to top of roof with the 8 foot parapet.

9:00 pm the Board recessed.

9:10 all members that were not previously excused returned.

Mr. Nusser confirmed the roof height at the highest point with the parapet was at 58 feet, with relief being sought for 58 feet; all equipment and fenestrations were below that height and agreed to revise the grading so that the mean height will be the first floor elevation.

Mr. Troutman asked if traffic control could be added along Broad street. Mr. Nusser agreed.

Mr. Clerico discussed parking compliance. Mr. Nusser noted that the size of existing building one – which was the existing power house included a mezzanine area of 1042 square feet within that space though it was not occupiable but it does provide storage space for the salon and therefore was retail space which generated an additional 4 spaces required and adds 1042 square feet to the FAR which adds .006 to .687, now .693 FAR which does not require relief. The additional space does now trigger parking space relief to be required for the site of 209 spaces where 206 was provided. The prior approval relief was 25 spaces which was granted noting that the site has more than sufficient parking.

The following was marked: Exhibit PB-8: Planning report dated August 16, 2023; Exhibit PB-8, Exhibit PB-9: Engineering report dated August 21, 2023; Exhibit PB-10 Traffic report dated August 21, 2023

Mr. Doshna asked if the improvements to the stormwater detention basin and addition of porous pavement would satisfy stormwater ordinance. Mr. Nusser answered yes.

Mr. Nusser provided his planning testimony for the changes from commercial on the first floor of existing Building 2 to a residential space which would be a benefit to the Borough and the reconfiguration of the site in a way that would be more of what the Borough is looking for by keeping store front spaces and continues the look of mixed use. Mr. Nusser had provided parking space variance testimony where the plan was coming into more compliance with the ordinance than what was previous approved.

Ms. McManus asked for details for the EV charging station and discussed the landscaping plan including the trees around the parking area and asked the applicant to ensure that there was no double counting. Mr. Nusser agreed to make a payment in lieu of the planting if there was not enough trees being planted and further agreed to work on landscaping to the satisfaction of the Board planner.

Ms. McManus discussed the existing lighting which was metal halide and the request to continue to use old lights and not replace with LED lights. Mr. Gruenberg noted that the ask was use the historic fixtures and agreed to work on the lighting to the satisfaction of the Board planner as well as the hours of operation for lighting to be reduced to security levels only during evening hours.

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Mr. Levitt asked where the new wall packs would be going and if any other type of lighting could be used that could be shielded. Mr. Nusser could look at other types of wall mounted lighting.

Mr. Cook asked if the proposed new vinyl fence could be requested to be a dark color fence. Mr. Gruenberg noted that the objector specified white vinyl fence in between the property and offered that Mr. Yenay could ask the neighbor if another color was acceptable but not as a condition.

Mr. Doshna asked if the number of make ready eV units would change with parking requirement change. Mr. Troutman noted that they have the right number based on his calculation. Mr. Clerico asked if there would be any parking assignment. No that be under property management. Mr. Gruenberg agreed to provide the details and documents listed in Mr. Clerico's report.

Mr. Gruenberg's closing statement: appreciated the time the Board members put into the application, the developer was currently building the site and would make the site happen; was a benefit to the Borough and the applicant tried to meet the concerns of the Board. Planning testimony provided that there would be no substantial detriment to the zoning plan but would in fact be more consistent than what was previously approved where the rendering was a vast improvement and would be attractive for the Borough and asked the Board to grant the 'c' and 'd' variances and preliminary and final site plan with the conditions as discussed.

Motion to close the public hearing was made by: Cook; seconded by: Cimino.

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

Nayes: (None)

Abstain: (None)

Motion passed: 7-0-0

Mr. Clerico discussed the items in his report for Board consideration including the stormwater, details, and remaining items.

Ms. McManus had no open items noting that it was important for the Board to remember that this was not a new application where the prior approval remains in place where the applicant was proposing to amend the site plan.

Ms. Kaczynski summarized the conditions including: compliance with all conditions in the Board professional reports except as discussed; stormwater per Mr. Clerico; continued maintenance of debris removal on site; all affordable housing requirements to be complied with; continue the potential future access to Lot 3.01; all prior conditions of approval to remain in place; provide signage between adjacent properties for no cross parking such as "parking for tenants only" and agreed to work with Board professionals on signage; parking issues to be included in leases; all ADA requirements to be met; lighting fixtures to match lantern style to continue – to be discussed by the Board; the sidewalk configuration on Broad Street to mirror the property on the south as reflected on the plan and subject to Board professionals approval; Building 3 height to be no more that 58 feet with the parapet; the pocket park to be constructed in Phase 2; architectural design materials to match the spice factory as possible

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with samples to be submitted prior to construction; the Building 2 ADA door to be dressed up with an awning and material; plans to be revised to show parapet; plans to be revised to show mean building height; parking calculation to be revised to include variance required for 3 spaces; FAR calculation to be revised as discussed; any tree deficiency will either be provided or a payment in lieu of planting; agree to work with professionals on landscaping; lighting to be reduced to safety illumination only per hours discussed; proposed vinyl fence the applicant to ask neighbor about color; work with board pros. Relief required: asking for 58 feet building height where 35 permitted; no impervious coverage variance required where 0.633% will satisfy the ordinance; 0.693 FAR correction; agree to work out the details of the stone wall along Broad Street with Board professionals; agree to the removal of the fencing on Building 2 on the roof; relief for the non-conforming 'c' variances and grant the new 'c' variances as discussed.

10:15 pm Zoom disconnected and almost immediately resumed.

Motion to grant the 'c' and 'd' variances and grant preliminary and final site plan approval subject to the conditions as discussed was made by: Cook seconded by: Levitt

Board discussion:

Mr. Levitt would like to see the wall mounted lights on Building 3 to be reviewed for dark sky shielded lighting units.

Mr. Doshna discussed that policy question on lighting where the Board had insisted on LED's in the past where the applicant was asking to keep the old lighting fixtures due to expense and aesthetics noting that replacement to LED fixtures would be adding the old lights to the landfill and became a disposal issue. The Board discussed and after a lengthy discussion the Board decided to not make the conversion to LED light fixtures a condition.

The Board discussed the color of the proposed vinyl fence and found that it would not be enforceable with no place in the ordinance that says white fence is prohibited.

Variance discussion: 116 residential units were proposed in the HC Zone where residential use was not permitted. This was not a new application where now there was more parking with the building height the same as the prior approval. Mr. Doshna noted that the Borough ordinance required overparking on sites; Mr. Cook found it meets the Master Plan by providing more feet on the street. Mr. Schoeb the building looks great with the changes and hoped they would provide all the trees instead of a payment.

Vote on the motion: Cook, Levitt

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

Nays: Campion

Abstained: None

Vote: 6-1-0

11. Chair Items:

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- Next meeting: September 12, 2023: Resolution: BSD Flemington Apartments, LLC if ready; Public Hearing: Wertsville Road Properties, LLC; Public Hearing: Douglas Stryker – 13 Brown Street. September 19, 2023: Public Hearing: Flemington Realty Partners, LLC – 78 Church Street. October 3, 2023: Public Hearing: Central Station, LLC – 37 Mine Street.
- Mr. Cook asked why there were not regular meetings being held for the Redevelopment Area with approved Site Plans. The construction official would have the enforcement, Ms. McManus to follow up on the issue.

12. Bills:

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

Ayes: Doshna, Levitt, Cook, Campion, Weitzman, Hill, Cimino, Eckel, Schoeb

Nays: (None)

Abstain: (None)

Motion passed: 9-0-0

13. Professional Reports: Ms. Kaczynski noted that the point of contact for the Living Wall project was Jack Larken whom she contacted on August 9, 2023, the planting issue was delayed due to the water salinity which needed to be treated where they had installed a pump and will be getting the plants installed soon; the display screen should be in a few weeks and installed.

14. Executive Session: None.

15. Adjournment:

At 10:50 pm. Motion to adjourn was made by: Cook, seconded by: Eckel. All were in favor.

Respectfully submitted:

Eileen Parks, Planning Board Secretary