

TOWNSHIP OF EVESHAM

Zoning Board

Minutes

7:00 pm

27 February 2017

Municipal Building

Call to Order

Chairman Parikh made the call to order at 7:05 pm.

Flag Salute

Statement of Conformance with Open Public Meetings Act

Chairman Parikh made the statement of conformance with the Open Public Meeting Act and the Municipal Land Use Legislation

Roll Call

Present: Parikh, Rodgers, Amato, Wessner, Lutner, Meyers, Hoyle, Osno

Also Present: Wieliczko, Rehmann, Furey, Arcari, Kinney, Bittner

Absent: Hoffman

Minutes: January 23rd, 2017

Motion: Rodgers

Second: Alperin

Ayes: Parikh, Rodgers, Alperin, Amato, Wessner

Resolutions were approved after meeting minute approval.

No recorded meeting minutes due to technical difficulties.

Unfinished/New Business:

1. Stephen Horvath. ZB 16-19.

515 N. Elmwood Rd., Block 11.51, Lot 4 (LD Zone District)

Applicant is requesting a variance to permit farm animals on residential lot.

Witnesses Sworn In:

Holly Horvath, Applicant

Stephen Horvath, Applicant

Exhibits:

A1: Letter from applicant to Zoning Board members discussing farm operations.

Testimony:

- Applicant is applying for a use variance.
- Applicant purchased the farm in 2011 as a Hobby Farm. Previous owners never proceeded with obtaining proper variances/requests to maintain the site as a farm.

- Ms. Furey notes that the home was purchased in 2011. There is a 1800 sq. ft. barn that is located on the property. Previous owners had animals, at least 1 horse on the property.
- Applicant states that horses, ducks, chickens, and a mule are what is currently on the property.

Leah Furey, Township Planner

- Property is located in the LD Zone District. Lot meets the minimum lot size requirements.
- Barn has existed for decades, the property was always set up for farming.
- Discusses the Right-To-Farm Protection Requirements:
 - Lot must be a minimum size of 6 acres. Property is 4.5 acres.
 - Farm would need to sell products commercially.
 - Use of this farm is a Hobby Farm, so it wouldn't fall under the Right-To-Farm protections, nor is it technically permitted.
- Ms. Furey asked applicant to provide information regarding the animals, hours of operation, barn maintenance, and animal maintenance. Letter that applicant provided explains this.
- Farm is located across from the old Testa Farm which is being redeveloped.
- Barn is located 26.45 ft. away from the property line, where 100 ft. is required.
- There are no other existing conditions. No concerns as long as livestock can be kept with no detriment to others.
- Discusses Exhibit A1, which is a letter by the applicant to the board members.
- Notes that this application was brought to attention by the neighbors of this property.

Mr. Wieliczko asks applicant to review the letter for members of the public. Applicant states the following:

- 7:30am: Day begins with feeding, watering and cleaning.
- 8:00pm: Animals are brought in, fed, and watered again. Put in for the night.
- 55 Gallon Waste Drum is emptied into garden and soil approximately once per month. Measurements of Compost Barrel to edge of property lines:
 - South property line- 100 ft.
 - North property line- 101 ft.
 - West property line- 720 ft.
 - East property line- 520 ft.
- Barn had major repairs completed in 2011 including changes to the roof and electric. Any other repairs will be made on an as needed basis.
- Animal Inventory Includes:
 - 1 Horse.
 - 3 Goats.
 - 12 Chickens.
 - 9 Ducks.
- No plans on adding more animals. No current animals can procreate.
- Horse was a rescue, and is very important to the family. The farm is to teach children about animals and compassion.

- Miniature mule is a new addition, it also cannot procreate.

Board Comment

- Mr. Rodgers asks Ms. Furey if the applicant had a 6 acre farm and sold eggs, would they be protected? Ms. Furey responds yes but income would have to be a certain limit.
- Mr. Rodgers asks if they would qualify under the Right-to-Farm Protections, who would monitor them? Ms. Furey clarifies that any complaints would go to the State Agricultural Department.
- Mr. Rodgers asks who would monitor the farm, if the application is approved. Mr. Wieliczko states that the Township will monitor the farm. There will be conditions of approvals for the applicants to approve. If they are not compliant, they could be fined.

Mr. Wieliczko asks the applicant what is the age of the disposal drum? Applicant states that it is not new, but in good conditions. The drum is covered and secured.

Mr. Wieliczko asks that would the applicant agree as a Condition of Approval that they will not increase the number of animals than is currently present? Applicant agrees.

Mr. Wieliczko asks that would the applicant agree as a condition of approval that the applicant will maintain the 55 gallon drum in workman condition so that no waste will be disposed of? Applicant agrees.

Applicant notes that none of this was done intentionally. They had no idea it was an issue until they received a letter in December.

Public Comment:

Della Berardy, 511 N. Elmwood Road

- No objection to the farm animals. Just requests that the fencing be maintained and appropriate to keep the animals in the property. Had a problem in the past with the dogs who went over the fence. Just want proper fencing and maintenance to keep dogs out.
- Mr. Wieliczko asks applicant if they will maintain and improve fencing in an appropriate way, so animals cannot go over the fence. Applicant states that they have four dogs, and have fixed fencing. Applicant has additionally put in a dog run after incident, so that dogs cannot escape while alone in the yard. Applicant states the ASPCA and the Evesham Police Department came out to check on the animals. The ASPCA gave the okay for the dog run. Dog Run is 30 x 10 ft. and approximately 6 ft. high. Fencing that was knocked down as also fixed.
- Mr. Wieliczko asks Ms. Berardy if this solution is okay. She says that it is fine, keeping the dogs in the dog run is much better.

Randy Berardy, 511 N. Elmwood Road

- Son of Ms. Della Berary. He shares similar opinions.
- Agrees with the idea of the farm, just concerns about fencing and no other issue. Dog made him uncomfortable, and happy they are in located in the dog run.

Board Comment: None

Board Attorney Summary:

- Applicant is seeking a Use/Bulk Variance.
- Bulk Variance is requesting the location of the Barn and Home on the property. Barn has been on property since 1963.
- Use Variance is allowing the property to operate as a Hobby Farm.
- Applicant agrees to the following Conditions of Approval:
 - No more animals will be located on the property than what is present.
 - Applicant will maintain property as they discussed in letters.
 - Maintain the 55 gallon drum in workman like and professional condition.
 - Fencing will be repaired and maintained in a reasonable, appropriate, and sturdy fashion.
 - When dogs are unsupervised, will be placed in the Dog Run.

Motion to Approve ZB 16-19

Introduce: Rodgers

Second: Amato

Ayes: Amato, Rodgers, Wessner, Lutner, Myers, Hoyle, Parikh

Meeting paused at 7:48pm, Resumes at 7:56pm.

2. RH Properties. ZB 16-14. Preliminary & Final Major Site Plan

63 & 65 Route 70 East, Block 4.09, Lots 21 & 22 (C-1, C-3 & EVCO Zone District).

Applicant proposes to construct a new 5,500 sq. ft. building for an AtlantiCare Urgent Care and Bacharach Rehabilitation facility on a separate lot but part of the 'Plaza 70' site. Applicant received a "D(4)" Floor Area Ratio variance at the January 23, 2017 Zoning Board meeting.

Joshua L. Broderson, Attorney for Applicant

Witnesses for Applicant:

- Brian Peterman, Engineer
- Josh Eckert, Architect
- Tiffany Cuiello, Planner
- Nathan Mosley, Traffic Engineer

Exhibits for Applicant:

A1: 2 Page document on the Façade Sign Elevations.

A2: Aerial Parking Exhibit, dated January 23, 2017

Joshua Broderson, Attorney Overview

- Discuss application. Approval was given for a "D" Variance last Zoning Board meeting.
- Site is located on Route 70 between Cooper and Locust Avenue.
 - Current location of Plaza 70 Shopping Center and Produce Junction.
- Site was developed in 1970s as a bank, has since been demolished.

- Cross access easements for all three sites.
- Lot is ½ acre. Minimum lot size is 1 ½ acres.
- Reviewed letters from Board Professionals. No issue with comments. Some areas they will work with the board professionals.
- Façade signage will be added to the application.

Brian Peterman, Engineer

- Accepted by Board as an expert witness.
- Discusses site, and plans for a 5500 sq. ft medical use urgent care and rehab facility. Location is at an existing site.
- Total site encompasses Lots 20, 21, and 22. Lot 22 is the current vacant pad site.
- States that existing non-conforming lots will have no adverse impacts on the public good.
 - 4.9 ft. setback on parking where 29 ft. is required. This is so the building is closer to Rt. 70 to accommodate more parking on the site.
- Application is proposing 71% impervious coverage where 60% is permitted. This exceeds due to the small lot size.
- Applicant proposes a lot depth of 150 ft where 200 ft is required. No adverse impact on the public.
- Applicant proposes no front buffer. There is no adverse impact as it is on non-residential property that is owned by the Township. 15 ft. is required. Applicant cannot fulfill this in order to appease parking requirements.
- Application is proposing 2 Freestanding Signs.
 - 1 sign on Cooper Avenue.
 - 1 sign on Rt. 70 Frontage, but technically is on the Township owned property.
- Applicant requests waiver for no loading area for site. Previous testimony stated that the uses do not require loading area.
- Applicant is requesting parking bumpers in lieu of bollards.
- Applicant is requesting to put handicapped signage behind sidewalk.
- Discusses parking stalls:
 - 271 parking stalls are proposed, 241 parking stalls are required.
- Applicant will provide a medication to the Locust Avenue alignment plan. This will align the current shopping center to the new Renaissance Square shopping center. Applicant will work with the Township in the design.
 - If proposal for driveway alignment is approved, parking will drop to 245 stalls. This is still 4 over than hat is required.
- Board professional review letter comments will be handled as conditions of approval.
- Mr. Broderson asks Mr. Peterman about the parking setback. 50 ft. is required, but 24.8 ft. is proposed due to existing non-conforming conditions.
- Setback of the façade sign on Rt. 70 is 1 ft. proposed, 10 ft. is required.

Josh Eckert, Architect:

- Gives qualifications, accepted by the Board as an expert witness.

- Firm has designed multiple projects in Evesham Township. Materials proposed are those required by the Evesham Crossroads Overlay District.
 - Buildings will incorporate brick and have prominent store front windows.
- All visible signs will be like the front façade. All architectural embellishments will be on all 4 sides of the building.
- Signs will be 40 sq. ft per sign per side according to the ordinance.

Tiffany Cuiello, Planner:

- Gives qualifications, accepted by the Board as an expert.
- Discusses the variances requested, and the criteria that needs to be met (both positive and negative).
- Variances are justifiable under the C-2 variance. Benefits outweigh any detriments.
- Benefits of the Application:
 - Rehabilitation and investment of money into other areas of the site. Circulation will be improved.
 - Meet architectural standards of the Evesham Overlay District.
 - Pad site will add new patrons to the shopping center.
- Site will add 18 additional parking spaces. Even with the changes in moving the driveway, there will be 18 new spaces in vicinity of the site.
 - Parking will be lost by the Produce Junction lot.
- Site will improve the overall health, safety, and welfare of the public.
- Site will provide adequate light, air and open space.
- The 1500 sq. ft. owned by the Township will negate impervious coverage concerns.
- Site will improve storm-water management.
- Benefits of the site outweigh the negatives. Site advances the purposes of the overlay district.
- No impairment to the public good. Site will benefit the shopping center, and community.
 - 18 additional spaces with the reconfiguration of parking closer to Rt. 70.
 - No substantial issue to shopping center. Landscaping will have islands.
- Grant variances as requested, site is a better zoning alternative.
- Mr. Broderson asks if there will be parking synergy between the proposed use of the site and restaurant use? Ms. Cuiello responds yes.
- Mr. Wieliczko asks about the parking spaces and how Ms. Cuiello is stating the 18 additional spaces. Asks specifically how many spaces on each lot. Ms. Cuiello goes over space increase, shows where the spots will go.
- Mr. Meyers asks about the Township Property on Rt. 70. Ms. Furey Bruder states that she is not sure when the Township acquired the property. No plans for the property.

Applicant Ends Formal Testimony.

Board Professional Testimony:

Leah Furey Bruder, Township Planner

- Review letter dated February 16, 2017
- Discussed application/Zoning in letter. Explains the Township owned property.
- All variances have been listed.
- Discusses lots on site and various owners. Lot 22 is owned by the applicant. Lot 21 is owned by a condo association that has multiple owners. Lot 20 is owned by Produce Junction.
- Design of the current building is poor. Traffic safety issues on Locust Avenue. If the driveways were realigned, then there would be better traffic flow. There will be attempts to bring together all owners of the site to implement this project
- Overall plan for access to Locust Avenue is the best site option. It preserves as much parking as possible at Produce Junction site.
- Asks if application is approved, if the applicant will submit a fully engineered plan for the Locust Avenue realignment. Applicant agrees as a Condition of Approval.
- Applicant agrees as a Condition of Approval to front the engineering costs and make changes as long as Produce Junction agrees. Applicant will create negotiations for agreement with other property owners for the redesigned plan at N. Locust Avenue.
- Parking/Loading concerns have been already addressed by the applicant.
- Architecture questions have been answered.
- Applicant has addressed concerns regarding the cross-walk at Cooper Avenue.
- Sign variances are reasonable to what is proposed.
 - Façade signs comply and use channel letters.
- Mr. Parikh asks what happens if Produce Junction does not agree? Is there enough parking at the site? Ms. Furey Bruder states that the modification will bring parking slightly down. There will be discussion with other owners. There will be a developers agreement with other parties.

Stacey Arcari, Traffic Engineer

- Review letter dated February 22, 2017
- Requesting Design Waiver for loading area, applicant has testified to this. No concerns with this waiver. Applicant discusses hours of operation as described in the January 23 meeting, applicant notes no change in testimony.
- Applicant has provided testimony regarding the break-down of parking locations, and synergy regarding the uses of the site.
- N. Locust Avenue driveway realignment has no issues with this.
- Satisfied with application. Nothing that her and Mr. Peterman cannot work out.
- Traffic testimony was given at the FAR/D4 variance hearing. Uses will work out with proposed plan.
- Environmental Comments:
 - ERI letter: some discussion/testimony on this. Applicant agrees as condition of approval to work this out with applicant's consultant.
 - No objection to granting waiver for the Cultural Resource Survey.
 - Environmental Site Assessment has some concerns. Phase 2 Site recommendation. Applicant agrees to this as a condition of approval.

Chris Rehmann, Board Engineer

- February 17th Review Letter. Includes all latest revisions of the site plan.
- Applicant agrees to questions regarding drainage, elevations, etc.
- Soils are bad on the site. Control additional storm-water run-off.
- Comments on the Locust Drive improvement plan.
 - Concerned with how they move forward with bonds. How does this interplay with the Locust Drive realignment? Is this overall improvement or just separate. Mr. Wieliczko states they will work with the developers agreement. Discussion ensues regarding how the project will be bonded with the N. Locust Avenue Driveway. Issues concerning the time of building the site and the N. Locust Avenue driveway project are discussed.

Meeting stops at 9:00pm for applicant to discuss issues with bonds and project. Meeting resumes at 9:10pm.

Condition of Approval with Developers Agreement:

- Applicant agreed to provide plans/engineering to align driveways on N. Locust Avenue. Agreed to enter negotiations for the Developers Agreement.
- Mr. Rehmann raised issue of site plans if no developers agreement is in place.
- The Developers agreement will be signed off before the site plan. If developers agreement does not work out, the applicant can come back to the board to show good faith efforts.
 - Applicant agrees. Requests to be placed on agenda at the March meeting to discuss developers agreement. No issue by the Board.
 - Applicant will be placed on March agenda, could be possibly postponed until April.
 - Formal announcement made at this meeting that this will be placed on the March 28th Agenda in regards to the Developers Agreement.

Public Comment

John Duva, 59 Heron Pointe Ct.

- Speaking on behalf of Franco's restaurant. Representing the family who owns Franco's which has been there for 23 years.
- Not against development, but is concerned with the existing parking at the building.
- States that building will disturb traffic and block site lines. Also states that the applicant stating that they will have only 9 employees is a lie.
- States that development will create a strain for businesses, and parking will prevent people from walking in.
- Concerned about the precedent this sets given the size of the lot and the building size.
- States that the changes to N. Locust Avenue Driveway places a burden on the present owners.
 - Mr. Wieliczko states that the cost share option is proposed. There will be more financial obligation on the business owners. Lots 22,21, and 20 will be financially responsible for the lot. Mr. Parikh notes that this is not for the Zoning Board to determine, but the business owners will work out an agreement.

- Discusses the site of the dumpster. Says nobody will park next to the dumpster, and traffic will go next to the dumpster. Ms. Furey Bruder states that dumpster is not in the middle of the lot, and that they worked with the applicant to find the best spot for the dumpster. It will be a masonry enclosure with doors so it will not open. States there are other sites that have this arrangement.
- Mr. Rehmann asks Mr. Duva if the 9 spots were assigned parking to the site, would this be okay. Mr. Duva says yes. Mr Rehmann asks Mr. Wieliczko and applicant if this is okay. Applicant says this is okay, will designate the 10 parking spaces for the employees.
 - Mr. Duva asks if the applicant can ensure that no users of the site will utilize the main parking area. Mr. Wieliczko states that the site plan is not meant for negotiating. Applicant can agree if so requested.
- Mr. Duva says he is okay with the dumpsters and their placement.

Francesco Marino, 3 Country Walk, Cherry Hill

- Discusses personal experiences with Urgent Care and Rehab facility. States that there will be more people and employees than what was originally testified.
- Gives background of his relationship to the site, as a long standing owner.
- States that the parking spaces are a major problem, and is not fair to put this new place in.
- Applicant wants to put them out of business.
- If application is approved, it is a crime to do so due to the strains on current tenants.

Board Comment: None

Mr. Wieliczko (Board Attorney) Summary:

- Applicant is seeking a Major Final Site Plan Approval.
- FAR Variance was granted at the January 23rd meeting. Memorialized earlier this evening.
- Applicant is seeking to build a 5500 sq. ft medical building to hold a rehab facility and an Urgent Care.
- Applicant is requesting variances for pre-existing conditions. This is regarding the cross-parking and cross access easements between all sites.
- Conditions of Approval:
 - All Comments in the review letters
 - Submission and preparation of engineering for parking design of the N. Locust Avenue realignment.
 - Applicant will negotiate with the Township and other owners of lots 21 and 20 for agreement on N. Locust Entrance. This will be placed on the agenda for the March meeting, to be updated on status.
 - All lighting requirements and façade sign standards will be adhered too.
 - Limited Scope Environmental impact report will be submitted for phase 2.
 - Employees to park in 10 designated spaces at the Rt. 70 location.

Motion to Approve ZB 16-14

Introduce: Rodgers

Second: Wessner

Ayes: Amato, Rodgers, Wessner, Lutner, Myers, Hoyle, Parikh

Public Comment: None

Board Comment: None

Communications/Organization:

Next Meeting: March 20th, 2017

Resolutions:

ZB 11-03A2

Motion: Rodgers

Second: Amato

Ayes: Amato, Rodgers, Wessner, Lutner, Parikh

ZB 16-14

Motion: Rodgers

Second: Wessner

Ayes: Amato, Rodgers, Wessner, Lutner, Parikh

ZB 16-18

Motion: Lutner

Second: Amato

Ayes: Amato, Rodgers, Wessner, Lutner, Parikh

Meeting adjourned at 9:40pm.