

**BOROUGH OF SOUTH PLAINFIELD
PLANNING BOARD MINUTES
December 13, 2016**

Roll Call:

Present:

Mayor Matthew Anesh
Councilman Derryck White
Stephanie Bartfalvi; Alt. 2
Paul Grzenda,
Rich Houghton
Michael Pellegrino
Peter Smith
Jack Pedersen, Vice Chairman
Bob Ackerman; Chairman

Absent:

Brian Bythell; Alt. 1
John Mocharski

Also Present: Bill Lane, Esq.; Bob Bucco, PE, CME, CPWM; Stan Slachetka, PP, AICP

Chairman Ackerman opened the meeting at 7:00 pm saying that this meeting is being held in accordance with the Open Public Meetings Act, by posting a notice to The Observer and The Courier News and providing the same to the Borough Clerk.

It is the policy of the Borough of South Plainfield's Planning Board not to hear any new cases after 10:00 pm and no new witnesses after 10:30 pm.

Minutes: November 29, 2016 meeting.

Vice Chairman Pederson made motion, seconded by Councilman White to accept the above stated Meeting Minutes. Those in Favor: Mayor Anesh; Councilman White; Miss Bartfalvi; Mr. Grzenda; Mr. Houghton; Mr. Pellegrino; Vice Chairman Pederson and Chairman Ackerman. Those Oppose: None.

Resolutions: (1)

- A. Case #16-01 - Hawkeye Development Co., Inc.**
Block 212; Lot 3 & 6; R-7.5 Zone
2720 Park Avenue & 120 West Fairview Avenue

Vice Chairman Pederson made motion, seconded by Councilman White to accept the above stated Resolution. Those in Favor: Mayor Anesh; Councilman White; Miss Bartfalvi; Mr. Grzenda; Mr. Houghton; Mr. Pellegrino; Vice Chairman Pederson and Chairman Ackerman. Those Oppose: None.

Current Files: None

Informal Hearings: None

Public Hearings: (1 Commercial)

- A. Case #775 - JSM at Tingley, LLC**
Block 517; Lot 1; SC-2 Zone
200 South Avenue

The applicant is requesting major amended preliminary and final site plan approval.

Thomas Monahan, Esq. – Gilmore & Monahan, 10 Allen Street, Toms River, New Jersey 08754 – attorney for the applicant addresses the Board. This application is for an amended site plan. Mr. Monahan asks Mr. Lane if the legal issues should be addressed prior to the hearing. Mr. Lane states yes.

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Mr. Lane addresses the Board. Mr. Monahan and Mr. Lane have had numerous conversation previous to this meeting over two (2) legal issues – similarities between applications and the pipeline. The first concern is the similarities between what was submitted and denied in 2014 to what is being presented today. Why is this different from 2014? Mr. Monahan states that some of the current Board Members were present at that time. The building is the same but the application is different. The discussion is for buildings #12, #14, #16, #17 and #18. At this moment, buildings #12, #14 and #18 are being addressed. When the applicant was before the Board in 2014, they sought to increase building size which included variances. The buildings were too close to the curb. Mr. Aulenbach will explain that those variances are no longer needed because they are going to amend the site. The curbing and pavement that is currently in place will be removed and relocated. Therefore, these buildings will meet code and no longer require a variance with the increased building size. Mr. Monahan is asking the Board if the applicant can be heard.

Mr. Smith asks Mr. Monahan if the applicant is planning to remove the existing buildings and move them back. Mr. Monahan states no.

Mr. Lane states that after reviewing the 2014 Resolution, it specifically indicated that the size of the buildings to remain the same. However, the condition has changed which is an exception. Mr. Lane has no issue with proceeding with the hearing. Mr. Lane suggests to Chairman Ackerman to take a vote on whether the hearing should proceed recognizing this is only a vote to hear the case.

Chairman Ackerman calls to vote, should the hearing proceed. Those in favor: Mayor Anesh; Councilman White; Miss Bartfalvi; Mr. Grzenda; Mr. Houghton; Mr. Pellegrino; Vice Chairman Pederson and Chairman Ackerman. Those Oppose: Mr. Smith.

Mr. Lane states that he has reviewed the Affidavit and Notice of Publication and they are in order.

Ronald Aulenbach – 1260 Stelton Road, Piscataway, New Jersey 08854 – is sworn in and accepted as a Professional Engineer. He is the Director of Engineering and Planning for Edgewood Properties since 1999. He introduces:

- Exhibit A1 – Proposed Site & Geometry page 5 of 30 dated July 27, 2016 (labeled 2016 proposed) shows the footprint of buildings #10, #11 and #15 that were approved in 2014 along with the larger proposed footprint for buildings #12, #14 and #18
- Exhibit A2 – Proposed Site and Geometry Plan page 4 of 29 dated June 8, 2005 (labeled 2014 approved).

Mr. Aulenbach continues:

- In 2014, the interior curb setback required was twenty feet (20'). Building #10 required a setback variance after construction began for a larger footprint. The Board had granted the variance at that time.
- Proposing to remove the existing curbs for buildings #12, #14 and #18 to the required distance to accommodate the larger footprint of the buildings which will eliminate the need for variances.
- Changing the site plan by removing the curbs, pavement, lighting and utilities in order to shift everything eighteen inches (18") to meet the requirement.
- Some parking lot area will be relocated to accommodate the change.
- Buildings #12 and #14 - the curbing on the back side will be removed and replaced to meet the twenty-foot (20') setback. The front will accommodate twenty-eight feet (28') which remains unchanged.
- With this move, the bus shelter and garbage compacter has to be moved.
- In 2014, building #12 did not meet the rear curb setback. Building #14 did not meet the rear curb or the west curb setback.

Mr. Lane reviews the document entitled 'Amended Preliminary and Final Site Plan – Project Description – Celebrations at South Plainfield'. This document was submitted with the plans. It shows the 'Approved Footprint' to the 'Proposed Footprint' and the last column showing the increased size of the building.

Mr. Lane questions Mr. Aulenbach:

- Is the width of the street will change? Yes.

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- Why the applicant cannot comply as it relates to the five (5) lots? Because of constancy.
- Why is consistency more important than compliance? That is why they decided to remove the existing curbing and pavement. The proposed buildings will be consistent with the existing building's and in compliance with the requirements. The consistency helps the construction as well as the transition when the homeowner's association takes over.
- Why the applicant cannot stay consistent with the original plans? There are many developments that have inconsistent floorplans and are successful

Mr. Smith questions Mr. Aulenbach:

- Where is the eighteen inches (18") coming from? Coming from area across the street.
- What is the distance between building #18 and the retaining wall? On the plans approved in 2014, it shows twenty-two feet (22') and the proposed plans show nineteen feet (19'). There is no distance requirement from the retaining wall.
- What about the consistency on the buildings along the pipeline? The consistency theory does not work for those buildings with either the old footprint or the new footprint. Therefore, they will be different.

It is decided to continue discussing buildings #12, #14 and #18 and address the pipeline later in the hearing.

Mr. Aulenbach continues:

- These increases are for the entire building, not the individual units. This size adjustment will make these buildings consistent with the buildings currently built.
- After the plans were approved in 2010; after the age restriction conversion, where they went from four hundred eighty-four (484) senior units to three hundred forty (340) senior units; the Traditions footprint was used. Once the buildings went into production, they realized what went wrong with some of the units at Traditions and tweaked the footprints. This is all to keep the buildings constant - all the end units the same or the interior units the same.

Councilman White requests a clarification. Were the first buildings built as they were approved by the Board? Built larger? Mr. Aulenbach states they were not built as approved by the Board. They were built with a larger footprint. It was not discovered until the foundation of building #10 was constructed that there was a setback issue. Councilman White continues... because of that mistake, the applicant is requesting the Board to be amenable to the buildings that have not been constructed yet? Mr. Aulenbach states that is why they are removing the curbing and pavement so the building footprints can be moved and meet all setback requirements.

Mayor Anesh questions... if you change the curbing on buildings #12 and #14, is there a measurable impact as you are driving pass? Mr. Aulenbach states visually you will not be able to see the difference.

Chairman Ackerman reiterates - With the relocating of curbing, pavement, catch basins etc. Increasing the size of the buildings so all the existing townhouse units will be the same. The road is straight through with little juggling. There will be no need for variances.

Mr. Bucco demonstrates what eighteen inches (18") looks like and states that in the field it is unnoticeable.

Mr. Slachetka states that not requesting the variance is a preferable alternative.

Mr. Smith questions what the difference in setbacks for building #9 from the 2014 plans to the 2016 plans. Mr. Aulenbach states that with the shifting of the three (3) buildings creates the difference. Foundations for buildings #8 and #9 are not constructed. Foundation for building #7 is constructed.

Mr. Monahan discusses the ordinance for the pipeline. There are two (2) pipelines... Natural Gas and potentially fuel but not confirmed. The pipeline ordinance was passed in 2006. When the initial application was presented in 2007, there was no issue regarding the buildings by the pipeline.

Mr. Aulenbach introduces:

- Exhibit A3 – 2007 Proposed Site & Geometry approved plans with revised date of April 20, 2007 sheet 4 of 29.

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- Mr. Aulenbach states the plans were approved in 2007 with the buildings #8, #16 and #17 on the pipeline easements – in violation of the ordinance.
- Exhibit A4 – Proposed Site & Geometry 2010 approved plans with a revision date of March 26, 2010 sheet 4 of 29.
 - When they returned in 2010 for the age restriction revision from four hundred eighty (480) units to three hundred forty (340) units buildings #8, #16 and #17 were approved with the buildings on the pipeline easements – in violation of the ordinance.

Mr. Aulenbach continues... In 2014 when the applicant returned for a bigger footprint, building #17 was under the fifty-foot (50') setback which prompted Mr. Slachetka to review the ordinance. That is when the discussion began if the ordinance applies or does not apply to this particular pipeline. The applicant took the position that it did not apply to this pipeline since they had received three (3) approvals to this point.

Mr. Slachetka asks Mr. Aulenbach if there are any changes in the setbacks in the 2010 approval versus 2014 plans. Minor differences.

Mr. Monahan states along with an application submitted earlier in 2016, which was withdrawn and has today – labeled as Exhibit A5 - the statements from the members of the Governing Body from 2005 who indicated that their recollection for passing ordinance #1685 was the result of the Texas Eastern High Pressure Gas Line easement that traverses the north-east corner of the site which is the same pipeline involved in the Durham Woods explosion. There was never the intension for this ordinance for the Buckeye Pipeline easement. It is not a high-pressure gas line like the Texas Eastern pipeline.

Chairman Ackerman responds to Mr. Monahan's statement. The Council asked the Borough Attorney to draft an ordinance which he did. The Council reviewed it. Twice read to the public and voted on. He does not believe that the Governing Body did not intend the ordinance for one pipeline and not the other.

Councilman White states if that was not what they intended in the ordinance, they had the right as the Governing Body to amend the ordinance. They chose not to do so. There is no letter stating why they chose not to amend the ordinance.

Mr. Monahan states that this ordinance did not become an issue until 2014. The ordinance was in place during their application in 2007 and 2010.

Mr. Smith states that it was a concern during that time. It is on the record that he would not want to have anyone that close to a pipeline when you had such a tragedy not to long ago.

Mr. Monahan continues to argue that the plans were approved twice and the ordinance was not an issue.

Mr. Smith continues... the buildings keep changing. Since the original approval, we have learned that the pipeline transfers oil, airplane fuel etc. which can cause danger to the buildings and those who live in it. Once the builder is done and moves on, the Borough is left with - God forbid - something happens.

Mr. Lane asks what is transmitted in this pipeline? We know it is a petroleum product... but what type? Mr. Aulenbach states that back in 2014 when he spoke with Buckeye, he was told it was crude oil. During the 2014 meeting, John Mocharski, Board Member and fire fighter, mentioned airplane fuel. The Mayor and Council passed this ordinance for public safety.

Mr. Slachetka states that it is noted in his review letter that the newest amended plans that were submitted shows that two (2) of the buildings are encroaching the pipeline buffer easement more so then in 2007 and 2010 plans. Building #8 is approximately eleven feet (11') closer. Building #9 was moved out of the easement. Building #16 is less than a foot closer to the easement. Building #17 is a bit further but still in the easement.

Chairman Ackerman reads the ordinance "not to be located within fifty feet (50') of the outside perimeter of the pipeline easement." Chairman Ackerman requests that this area be marked on the plans. Mr. Bucco and Mr. Aulenbach mark up the plan and is labeled at Exhibit A6 (modified Exhibit A1).

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Using Exhibit A6, Mr. Aulenbach states that the 'pink line' represents the fifty-foot (50') buffer from the twenty-foot (20') pipeline easement. The highlighted area is the encroachment area of buildings #8 and #17 into the pipeline buffer. Building #9 is outside of the buffer and building #16 encroaches by six inches (6").

Mr. Pederson asks how far does building #17 go into the pipeline buffer area. Mr. Aulenbach states approximately twenty feet (20').

Chairman Ackerman requests a recess.

Chairman Ackerman calls the meeting back to order.

Mr. Lane requests a clarification. There are no longer issues with the setbacks. The size of the buildings has been discussed. A modification to the revised site plan allows for the larger buildings. The current issue is the buildings in the pipeline easement. The ordinance clearly indicates a fifty-foot (50') buffer. The ordinance states 'transmission pipeline'. We all know why the ordinance was put into place. However, they chose to use the words 'transmission pipeline' and did not insert the word gas.

Mr. Monahan states they would like to bifurcate the application and withdraw buildings #8, #16 and #17. However, would like to continue with buildings #12, #14 and #18.

Mr. Lane reiterates... you would like the Board to consider buildings #12, #14 and #18 with the modifications and withdrawing all the requests with regard to buildings #8, #16 and #17.

Miss Bartfalvi states that the applicant needs to find out what is transmitted through the Buckeye Pipeline. She works with pipes and there is a big difference between high pressure, low pressure and crude oil. She does not feel comfortable about voting on something when no one knows what goes through the pipeline.

Mr. Houghton asks if the redesign of buildings #8, #16 and #17 will impact buildings #14, #15 and #18. Mr. Aulenbach states no.

Mr. Bucco states that there is some indication that there is a need to do some grading on the Buckeye Pipeline easement. Did you get permission from them to do so? Mr. Aulenbach states yes. We sent plans to Buckeye. We received some comments from them but never received an official approval letter. Spoke to them over the phone, paid the application fee, they review it and send you comments. If they have no comments, they send nothing back. Will send the correspondence to Mr. Bucco, Mr. Slachetka and the Board.

Mr. Bucco is willing to work with the applicants engineer with the grading.

Mr. Lane asks where Buckeye Pipeline travels through the Borough. Mr. Aulenbach does not know besides where it goes on the site.

Mr. Slachetka requests a clarification on items on the T&M Associates planners review letter dated November 22, 2016 on page 7 Section D.

- Item 1 -- addressed.
- Item 2 -- addressed.
- Item 3 -- Mr. Aulenbach shows the areas of additional parking. Mr. Slachetka states if the Board approves Buildings #12, #14 and #18 there is no need to revise the parking since you exceed the parking requirements. Mr. Aulenbach states correct.
- Item 4 -- will comply.
- Item 5 -- will comply.

Mr. Aulenbach addresses Mr. Bucco's concerns on Najarian Associates review letter dated December 8, 2016.

- The bus schedule is dictated by the school board.
- There is no public bus... only school bus. The shelter is strictly for the school bus.
- There is a garbage service that comes and empties the townhouses at curbside. Currently have series of small eight (8) ton dumpsters for the condos until the compactor is built.

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- Grand Sanitation picks up the dumpster trash and curb side trash two (2) times a week.

Mr. Smith states that when the applicant was before the Board in 2014, there was a change in the pumping station building. Was that change ever applied for? It is on the 2014 and today's plans. The reason for the change is that the building was an ongoing maintenance issue for the homeowners. Eliminated the building and everything is underground with an exterior fully enclosed weather proof generator. Mr. Smith recalls that the building size and generator was changed without approval. Mr. Bucco states that he has not received any correspondence regarding the changes. Mr. Aulenbach states he will forward that information to Mr. Bucco.

Mr. Aulenbach will work with Mr. Bucco with the landscaping and lighting. However, Item I2 states the applicant is requesting a waiver and a waiver was previously granted. There is no documentation indicating so. Mr. Aulenbach will forward Mr. Bucco a letter from Mr. Miller from T&M Associates granting the waiver.

Mr. Aulenbach states other than the buffer issue, he either has addressed all comments or will comply with all items on Najarian Associates review letter dated December 8, 2016.

Mr. Pederson reiterate... The Board will be voting on buildings #12, #14 and #18 that will meet the setbacks and the buildings that do not have been withdrawn.

Chairman Ackerman confirms... Building #12, #14 and #18 is being requested. They meet all requirements. Buildings #8, #16 and #17 have been withdrawn.

Mr. Aulenbach states building #9 should be included. The footprint is the same but the building is being relocated from the approved 2014 plan. It meets all requirements. When the road gets shifted, the building gets shifted.

Mr. Smith asks if the movement of the eighteen inches (18") going to impact any other items that have been approved to this point. Mr. Aulenbach states no.

Mr. Slachetka wants a clarification... With the redesign of buildings #16 and #17, you are not suggesting that you are going back to the 2014 approval? That you will return to the Board with a modified plan with regards to those buildings. Mr. Aulenbach states that he cannot go back to those approvals. They will submit a new application for those buildings.

Mr. Smith request a clarification on building #18. The difference from the previous approval is that it is bigger and does not need any variance. Mr. Aulenbach states correct. However, the site plan has changed.

With no questions or comments from the audience and no further questions or comments from the Board, Mr. Lane states the approval is for the increase in size and relocation of buildings #9, #12, #14, #18 which require no variances. Buildings #8, #16 and #17 have been withdrawn. Miss Bartfalvi made motion, seconded by Vice Chairman Pederson. Those in favor: Mayor Anesh; Councilman White; Miss Bartfalvi; Mr. Grzenda; Mr. Pellegrino; Vice Chairman Pederson and Chairman Ackerman. Those Oppose: Mr. Houghton and Mr. Smith.

Old Business: None

Committee Reports:

- A. **Street Naming Committee** - Chairman Ackerman states that there are no names left on the names list. The residents in the area of Hawkeye Development suggested naming the new street as Van Groff Court. They were advised to request that in writing. Nothing has been received. If nothing is received, he will advise Mr. Clarkin the builder may go forward with their name.
- B. **Environmental Committee** - Mr. Houghton report progress.
- C. **Council Reports** – Councilman White states he has been in contact with Gibraltar and the old Macy's and MJM Shoes sites have been leased to Raymour Flanagan Outlet and Ocean State Job Lot. Something maybe going into the old Radio Shack. Walgreens is still paying their lease so that cannot be filled. A vegetarian restaurant is going where the old Corner Bakery was.
- D. **Mayoral Updates** – Mayor Anesh report progress.

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Minor Site Plan: None

New Business: None

Correspondence: None

Audience Comments: None

Executive Session: None

Adjournment: 8:50 pm.

Respectfully Submitted
Joanne Broderick
Planning Board Secretary