

CITY OF SOUTH AMBOY
PLANNING BOARD
MINUTES/REGULAR MEETING
NOVEMBER 28, 2012

Members present: Michael Wilday, James Riehl, Thomas Kelly, Richard Moran, Francis Mulvey, Bette Leibowitz, Darcy McCabe-Brew, John O'Connell

Members absent: Frank Milatta, Peggy Scarillo, Mayor Henry, Councilman Gross

Also present: Jason Valetutto, Planner; Andrew Brewer, Esq.

Meeting was called to order by Chairman Wilday followed by the salute to the Flag.

Chairman Wilday stated adequate notice of this meeting has been provided under "The Open Public Meeting of New Jersey" by advertisement.

Roll call was taken at this time.

Motion by James Riehl, seconded by Richard Moran to accept the Minutes of the previous meeting. Motion carried 4-0, 1 abstention.

Completeness Committee

There is no new business presently before the Completeness Committee.

OLD BUSINESS

J. Inc. d/b/a Munckee Bar – Application #329-12

Mr. Brewer stated at one point Board Member Bette Leibowitz considered having Mr. Womack represent her in a legal matter, Ms. Leibowitz has confirmed that Mr. Womack did not represent her.

Mr. Thomas Kelly has been excused.

Motion by James Riehl, seconded by Richard Moran to have the three Board Alternates participate as active Board members in this hearing. Motion carried 4-0.

Board Planner Jason Valetutto was sworn in.

Mr. Womack stated they are here this evening to seek an expansion of a pre-existing non-conforming use. The Munckee Bar would like to expand their use at 113 South Feltus Street by adding tables around the side and rear of the existing buildings.

The ordinance is well established in South Amboy by example, The Landmark Tavern and The Blue Moon Tavern.

Mr. Womack stated the application affects two separate properties both owned by the same owners consequently it will be possible to consolidate, if necessary.

The present owners have operated the bar for 20 years. It has been a bar since 1952. A neighborhood tavern with food service.

It has a large corner fireplace, a square shaped bar with seating on three sides, one side food prep and tables around the walls.

The Fire Official has set the establishments occupancy at 90 persons. The applicant does not wish to extend now or in the future the occupancy. The application has been brought because the applicant would like to improve the existing space and make outside dining available to the current patrons. Currently there is dining outside on one side, the proposal is to enhance that patio by finishing the back area and the other side of the building with concrete flooring, fencing to protect and secure the area and surrounding properties and utilize lighting that would meet all codes.

The effects of this improvement would enhance the Munckee Bar and surrounding areas.

The patio improvements will reflect a more neighborly image. The applicant will make an application to the City Council and appropriate Boards for the expansion of its liquor license use. The primary focus of the patio is for food service.

It is a fact of life that some patrons are smokers who are relegated to the front of the building. They believe the image of the neighborhood and bar would be improved if these persons would take their smoke breaks on the patio and out of the public eye.

The improvements would be a positive for the neighborhood and South Amboy generally.

Mr. Womack stated Mr. Valetutto has raised the issue of parking and it is true that the Munckee Bar does not have now or in the past, off street parking.

They asked for the Board to note that the bar has existed since the 1950's and never had parking. A large number of homes have driveways and that has not traditionally been a problem.

They do not want to increase the occupancy of the building now or in the future.

Mr. Womack submitted the drawing that was marked into exhibit.

Mr. Robert Munck was sworn in. Mr. Munck is part owner and manager. Mr. Munck began working there in 1994 and was there for 10 years. He left in 2001 and returned again in 2009. He is currently there every day.

The exhibits were marked as follows:

A1- It is a concept of the left (north) side of the building and what it would look like after improvements. The fence will be 6' high on a 2' wall totaling 8'.

A-2 – Concept of the building. There is 5 to 6" between the fence and the building.

A-3 – Depicts the fire pit and house that the applicant owns. This is the partially finished side. The walkway goes out to Henry Street.

A-4 – Shows proposed lighting. There could be additional lighting.

A-5 – Depicts the tables for outside dining.

Exits from the building are from the south side (by fire pit) and front of the building.

Occupancy is set at 90 to 100. Mr. Munck stated occupancy will remain the same because there will be no outside bathroom facilities.

The floor would be a poured concrete-stamped floor. There is no parking, only on-street. There is no additional space or property available for purchase.

The front entrance will not be changed by the application.

The house that the applicant owns overlaps this application and they would be willing to transfer the property, if necessary.

The tiki bar was intended as a serving area.

Mr. Munck stated the patio would be an option for customers to go outside for dinner and cocktails.

A-6, a drawing was marked into exhibit.

A-7, a Legend Key and improvements was marked into exhibit.

Mr. Munck stated the exit to the patio is on the south side of the building.

The tiki bar is for use as a service area (glasses, etc.) If they did not use the tiki bar service would come from inside the building.

The waste disposal area is in back of the building and is proposed for Henry Street side behind the grill, currently a non-finished area. The garbage area would be out of view.

For security issues, the gate on the west side would be for emergency exit only.

The reason for the patio is to enhance the bar for his guests. Other bars offer their customers outside dining.

Chairman Wilday stated on Exhibit A-7, the applicant states 25 to 40 additional seating for overflow and referred to it as an expansion. Mr. Munck stated it is not his intention to expand. They will remain at the current capacity.

Mr. Moran questioned the Feltus Street gate. It will be used as an exit only. Mr. Munck stated staff will need to monitor it. He would bring in additional staff if necessary. The gate next to the yard will be the same situation. Mr. Munck would be willing to put an alarm on the gate.

Ms. Leibowitz questioned if there would be a problem for diners if people go out to smoke. Mr. Munck stated they would have a non-smoking area.

Mr. Riehl questioned the walkway. The older fence will be closed in so people cannot get in. The third gate leading to the garbage area will be the only gate.

Chairman Wilday questioned the overlap of properties between the bar and residence. Mr. Munck stated he was not aware of the overlap at the time of purchase. The owners would be willing to join the two properties.

Mr. Munck stated no music or entertainment will be outdoors.

Mr. Moran questioned glasses and bottles outside. Chairman Wilday stated it would be subject to the licensing of the bar. Mr. Munck stated he realizes this is the first step if approved, they would need to appear before the City Council.

Mr. Munck stated they have a grill/fire pit outside. It will be used for cooking. It is not currently used.

Chairman Wilday opened the application to the public:

Thomas Ryan, 432 Henry Street was sworn in. Mr. Ryan lives 65 feet from the proposed dining area. Presently he can hear the noise with his windows closed. He feels they can't extend the building so they are bringing the patrons outside. He feels his quality of life is compromised. Mr. Ryan stated his wife cannot sleep with the noise in the evening. From 12 midnight to 2 a.m., the noise is unbelievable.

Mr. Ryan stated he is proposing to take the noise of the tavern and bring it outside. Mr. Ryan presented photos of the building and area. Mr. Ryan presented seven photos that have been marked TR1 thru TR7.

Mr. Ryan questioned where do you put additional parking, if approved. Mr. Ryan stated he will need to deal with the smoke from the fire pit.

Chairman Wilday described what the photos depicted.

Mr. Ryan stated he deals with motorcycles, smoking and loud cursing at all hours.

Mr. Matthew Ryan, 428 Henry Street was sworn in. Mr. Ryan stated there's minimal amount of parking in the area. They want to expand the bar without a roof and they are circumventing the no roof to expand.

Patrons park all over. When the school children walk by, they could get hit by a car. The patrons park on the sidewalk. Mr. Ryan stated there are consequences. Patrons will be outside from March to the wintertime. The constant cursing, smoking, this will make it worst. If they want to expand, they should buy a larger building. This will get out of control. Before something bad happens, let it be the way it is.

Mr. Ryan explained how a patron was drunk and banging on his front door, not knowing if he was trying to break in or just too drunk to know where he was.

Mr. Ryan asked the Board members to witness the area for themselves.

Marie Chambers, 425 Henry Street was sworn in. Mrs. Chambers stated on Henry Street there is no parking at all. The patrons always park on Henry Street and takes up the neighborhood parking spaces. They also park and block driveways. The patrons are drunk and race down the street.

Mrs. Chambers questioned the safety precautions they propose for the fire pit. Mr. Munck stated he does not cook outside, the grill outside is for special occasions. Mrs. Chambers stated they will need more than one person outside watching what is happening.

Mr. Munck stated if the grill is being used, someone will be there. Mrs. Chambers stated the noise and bar fights from their patrons is awful.

Ms. Laura Karran, 443 David Street was sworn in. Ms. Karran stated she hears noise as people walk to their cars and from Thursday on is the worse because of karaoke. Fighting is ridiculous, she had to call the police on two fights directly in front of her house. They are always blocking her driveway. She had a verbal agreement for them to put up a fence, she came home from work and the old fence was down and the new fence was never finished. Ms. Karran submitted photos which were marked LK 1 thru LK2 depicting the fence area. She had to return a full glass of beer that was lefty on her steps.

The fence was removed so they could put up a retaining wall. They just left the fence on her property. Mr. Munck stated they planned to replace the wall. They removed it in the Spring and he will speak to his brothers and work something out.

Ms. Karran stated noise, parking, fights and bottles on her property are her complaints.

Ms. Angela Deron, 441 David Street was sworn in. Ms. Deron stated her bedroom is in the back of her house and she cannot leave her windows opened because of the cursing, smoking and noise, it's getting worse. They have fights there all the time. When she purchased her home, the bar was not opened. She has called the police on the noise at 2 or 3 a.m.

Daphne Russell, 431 Henry Street was sworn in. Ms. Russell stated she is a resident of Henry Street and works at the bar. She agrees she does hear the noise. She stated they are trying to enhance the bar for

its customers. They are willing to conform to any City Ordinance, etc. Ms. Russell stated there are fights, noise but these residents live by a bar. Ms. Russell stated they are not increasing capacity. It's not going to increase the noise, it will eliminate an eyesore of patrons in front of the bar. There will be nicer fencing and be nicer looking for the neighborhood. Ms. Russell stated the Board could put a curfew on the time they could use the outside patio.

Ms. Russell stated she has learned to live with it. She is moving to 442 Henry Street, closer to the bar and she has a four year old child.

Motion by Bette Leibowitz, seconded by James Riehl to close the public. Motion carried 7-0.

Mr. Womack stated there are concerns that do deal with the operations of a bar in a neighborhood, the delivery trucks are an on-going problem and should be reported.

Mr. Womack stated the applicant is trying to make it a better bar, a bar for friends, family and where cursing is not the custom, make it a community bar where you can go to get something to eat and drink.

Chairman Wilday asked for a motion to approve. There was no motion made. Chairman Wilday asked for a motion to deny. Motion by James Riehl to deny, the expansion is beyond what is necessary to accomplish what they need to encompass in their whole property. If they came in with a smaller usage possibly just one side that may have been alright. At this point it is just too expansive in a residential neighborhood, it will increase parking, more people even during the day just for diners. For those reasons, Mr. Riehl's motion is for denial. Motion was seconded by Richard Moran. Chairman Wilday stated he concurs with Mr. Riehl's motion it is too large of an expansion, asking for too much variance and there's obvious a real concern with the health, safety and welfare of the area. Motion carried 5-0, 2 abstentions.

Request by the South Amboy Redevelopment Agency to amend the Broadway/Main Street Redevelopment Plan

Motion by James Riehl, seconded by Richard Moran to have the Board's Planner prepared a written report for the next regularly scheduled meeting regarding the proposed amendment. Motion carried 7-0.

CLOSED SESSION

Mr. Brewer Stated the Board should go into Closed Session to discuss potential litigation. Motion by James Riehl, seconded by Richard Moran to go into Closed Session. Motion carried 7-0.

Chairman Wilday reopened the meeting at 8:50 p.m. followed by a roll call.

Motion by Bette Leibowitz, seconded by Richard Moran to appoint the Board's Attorneys, Maraziti, Falcon & Healey to represent the Board on potential litigation. Motion carried 7-0.

Chairman Wilday opened the meeting to the public. There was no public wishing to speak. Motion by James Riehl, seconded by Bette Leibowitz to close the public portion of the meeting. Motion carried 7-0.

Motion by James Riehl, seconded by Richard Moran to adjourn. All in favor.

Linda Garnett