

CITY OF SOUTH AMBOY
PLANNING BOARD
REGULAR MEETING/MINUTES
FEBRUARY 25, 2015

Members present: Michael Wilday, Councilwoman Noble, Thomas Kelly, Richard Moran, Francis Mulvey, Peggy Scarillo, Robert Paulukiewicz, Bette Leibowitz, Holly Hughes, Mary Szaro

Members absent: Mayor Henry, Frank Milatta, Darcy McCabe-Brew

Also present: Angelo Valetutto, P.P., Andrew Brewer, Esq.

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

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

Roll call was taken at this time.

Motion by Bette Leibowitz, seconded by Richard Moran to accept the Minutes of both the Reorganization Meeting and standard Meeting on January 28, 2015. Motion carried 8-0, 1 abstention.

Completeness Committee

Completeness Committee member Richard Moran stated there are two applications before the Committee this evening.

Application #355-15 for Andrew Anderson has been reviewed and deemed complete subject to the requirements listed in the AJV Engineering correspondence of February 6, 2015.

Application #356-15 for Frank DeLucca has been reviewed and deemed complete subject to the requirements listed in the AJV Engineering correspondence of February 20, 2015.

Motion by Francis Mulvey, seconded by Michael Wilday to deem both applications complete. Motion carried 4-0.

Norman Slingerland c/o Mark 1 Restoration – Application # 354-14

Mr. Norman Slingerland, Peter Burges, registered professional engineer in the state of New Jersey, Christopher Martini, Steve Maloney were sworn in.

Mr. Burges began by stating that Mr. Slingerland would like to rebuild his home following a fire. His original home and the proposed drawing requires the continuation of some preexisting conditions which would require a variance. He also seeks to increase the volume slightly of the dwelling without increasing the footprint. The rebuilt home would lose an off-street parking spot. The garage would be made a ground floor bedroom to accommodate Mr. Slingerland and his wife in their coming years.

Mr. Valetutto asked if the applicant had received the report that his office issued on January 19, 2015. Mr. Burges confirmed receipt of the report and accepted it as a form of communication without waving his right to go through it and issue any differences. Mr. Valetutto then asked the applicant to go through the items 1-6 on the report to help the board determine the proposed plan and associated variances.

Mr. Burges said that the property is in an RA zone. Its current area is 3,517 square feet vs. the required minimum of 5,000. Its lot width is 35.17 per survey, the minimum required is 50 feet as stated these are existing conditions.

Mr. Valetutto asked Mr. Burges to state for the record whether there is an opportunity to acquire additional property to make it a conforming lot. Mr. Burges stated that there is no vacant property on either side available to make up the additional 14.83 feet.

Mr. Burges stated that the variances that they would like to continue are the lot coverage of 40.42 percent versus a maximum permitted of 25. He also noted that a 25 percent coverage would limit a structure to be about 900 square feet footprint – a small house. The front yard setback is 11.6 feet now, 25 feet is required, the side yard is a tenth of a foot whereas five feet minimum is required. The total side yard is 5.14 feet whereas the minimum required is 10 feet. He reminded the board that these are the existing conditions and the existing footprint that they propose not to alter.

The single family redevelopment will eliminate the one car garage for off street parking. The proposed structure changes that garage to a first floor bedroom. Chairman Wilday asked if it had ever been used as an active garage to which Mr. Slingerland replied that it was not. So parking would stay the same despite the application calling for one less parking space.

Mr. Valetutto then referred to point number five and noted the benefit of having construction official, Mr. Kelly at the meeting and noted from the survey that the eaves of the existing dwelling are over the line. He noted that the board does not have the ability to grant anything beyond the limits of the applicant's property without an easement or some kind of written approval.

Mr. Burges said that at this time the plans do call for reconstruction to match the current condition. If that is objectionable to the board, Mr. Burges said that they have discussed reframing to eliminate that overhang and bring the roof line to the property line. Mr. Brewer clarified that it's not a matter of being objectionable. It's that you can't go beyond the property line. The board does not have authority for anything that is not on the property.

Mr. Valetutto asked Mr. Burges to clarify if the project could be completed and constructed so that the existing encroachment onto the adjoining property can be eliminated. Mr. Burges said yes it could.

Mr. Kelly stated that the applicant must fire rate the wall within three feet of the property. The other issue is the opening. The architectural plans are depicting some proposed openings that are not permitted within three feet of the property line. Mr. Maloney stated that they started the plans without the benefit of the survey and that the plans would be revised to reflect the rated wall to accommodate the proximity to the property line.

Bette Leibowitz asked if the garage was presently attached to the house and how big it is. The applicant replied that the garage is approximately 12 feet wide and 16-18 feet long. Ms. Leibowitz asked if any plumbing would be leading to the garage to which the applicant replied no. The applicant stated that there is an existing bathroom and heating.

Mr. Burges continued with item number six and said that they'd like to save what structure remains for cost savings and to meet all of the board's requirements. The house becomes 25 feet wide and 20 feet deep and a little less than 900 square feet in footprint.

Mr. Kelly referred to the survey dated November 21, 2014 that indicates wood tied walls – one at the rear of the property and one adjacent to the existing driveway – and asked if they were still in place. Mr. Valetutto said that the plan shows a ruinous wood wall in the back and shows a concrete wall along where the porch is along the property line.

Mr. Kelly said that the wall is out into the public right of way. Mr. Valetutto then suggested and recommended that any approval by the board be subject to Mr. Slingerland securing and easement from Mayor and Council to allow it because the planning board does not have the right to approve anything outside the limits of the property.

Mr. Valetutto stated that the easement is protection for both Mr. Slingerland and the City. Mr. Valetutto suggested that Mr. Slingerland would want to have this cleared up prior to any sale of the property.

Chairman Wilday opened the discussion to the public. There was no public wishing to speak.

Motion by Peggy Scarillo, seconded by Richard Moran to close the public portion of this application. Motion carried 9-0.

Motion by Francis Mulvey, seconded by Richard Moran to approve the application subject to the conditions set forth in the correspondence from AJV Engineering of January 19, 2015 and that an easement be obtained for the wall located in the public right of way. Motion carried 9-0.

Chairman Wilday called for a ten minute recess. Roll call was taken after calling the meeting back to order.

Andrew Anderson – Application # 355-15

Lauren Anderson of 349 Fifth Street was sworn in.

Mr. Valetutto asked Ms. Anderson to confirm that she received a copy of the report issued from his office dated February 9, 2015 and Ms. Anderson confirmed receipt.

Mr. Valetutto referred to the February 9 report saying that the applicants are seeking to construct a driveway along their frontage of Potter Street with two retaining walls and one with a four foot high fence. The property is at the intersection of Fifth and Potter and at the moment they have no off-street parking. The applicant is seeking a bulk variance for the construction of a retaining wall and a fence in the front yard with a total height in excess of four feet.

Mr. Valetutto stated that the reason is that the alley way in the back along with a portion of the Potter Street frontage is considered a front yard public right of way and the height of the wall and the fence is such that it would be a variance because it's in excess of four feet.

The proposal will eliminate an existing off-street parking variance and provide the applicants with a more useable backyard. The current backyard drops off significantly. If you look at the back of the wooden deck it's an elevation 87 and then when it comes down to the alleyway, it's down to elevation 80 so it drops off seven feet.

Mr. Valetutto said that he can work with the applicant's engineer on the majority of the various comments under letter D if the application is approved. First, zone requirements are easily correctible. Second, the proposed driveway off of Potter is listed as a paved carport. Mr. Valetutto said that his definition of a carport has columns and a roof over it which would require a variance. If it's just a driveway, there is no need for a variance. Ms. Anderson confirmed that it's just a driveway.

In number three, the second proposed retaining wall would require an easement if built according to the plans submitted because it would encroach a public right of way. Mr. Valetutto suggested it's possible to build the wall without leading into the public right of way. Ms. Anderson said that she is willing to have her engineer work with Mr. Valetutto to have the wall relocated so it's not an encroachment. Ms. Anderson agreed.

With regard to Number 4, Mr. Valetutto said that he would speak with the applicant's engineer to modify the plans so that anything that being modified should be gray scale and heavy line weight. Other plan details such as the fence, slope of the driveway, usable rear yard should have planted grass or something, etc.

Mr. Valetutto said that he believes this to be a functional application and if it were not for the fact that it's frontage on Fifth Street, frontage on Potter Street and rear of frontage on the alleyway with all these three front yards the amount of variances would be minimal.

Chairman Wilday asked if there was any visual obstruction based on the location of the driveway. Mr. Valetutto said that his understanding is that Potter is a lightly used street. Ms. Anderson said that on her side of Potter north of Fourth Street there are no houses and said that you can see the whole street when backing out of the driveway. Mr. Valetutto said that typical driveways are about 25 feet and this applicant is above that at about 35 feet. Chairman Wilday said that if the applicant wanted to put anything on the corner, shrubbery and trees, etc., she would have to minimize that to maintain visual contact. Ms. Anderson said that there is nothing there and they have no plans to put anything there.

Bette Leibowitz requested an explanation for the fence on top of the retaining wall. Mr. Valetutto said that any time you have a retaining wall in excess of about 30 – 36 inches, you want to put a barrier so someone doesn't fall over and chain link fence is the preferable although some people try it with landscaping.

Mr. Kelly addressed a proposed paved driveway in the survey and asked the type of material to be used. Ms. Anderson said it was asphalt. Mr. Kelly said that it should be asphalt up the property line then transition to concrete when it gets into the public right of way as per the engineering standards. Ms. Anderson said that she was not aware that there needed to be a difference.

Mr. Valetutto said that since there is not curbing along the driveway, it's a lot easier to maintain the driveway if it was concrete over 10 feet. He said that was an item he would discuss with the applicant's engineer if they receive the benefit of approval. Mr. Valetutto said there was no detail on the driveway so they weren't sure although it did say paved.

Chairman Wilday opened the discussion to the public. There was no public wishing to speak.

Motion by Peggy Scarillo, seconded by Richard Moran to close the public portion of this application. Motion carried 9-0.

Motion by Thomas Kelly, seconded by Bette Leibowitz to approve the application subject to the conditions set forth in the correspondence from AJV Engineering of February 9, 2015 and that the applicant works with Mr. Valetutto, the board engineer and planner, as far as housekeeping details. Motion carried 9-0.

Resolution – Metuchen Community Services Corporation – Application #353-14

Motion by Bette Leibowitz, seconded by Richard Moran to accept the resolution as written. Motion carried 7-0, 1 abstention.

Professional Services Resolutions – Planning Board Planner and Planning Board Legal Services

Motion by Francis Mulvey, seconded by Robert Paulukiewicz to accept both resolutions as written. Motion carried 8-0, 1 abstentions.

Chairman Wilday opened the meeting to the public.

Jeff Moskal of 224 Raritan Street was sworn in. He said that he has been having issues with Cambridge Pavers. He understood that business is located in an M1, light industry zoning. Mr. Valetutto confirmed that is correct.

Mr. Moskal said that we have a full-fledged industrial manufacturer that is working 24 hours a day and dumping raw materials about 50 yards from his front door. The summer nights, he can't keep his windows open to watch TV and 4:30 am there are trucks that are banging that shake his house. His children and his family get woken up every single night throughout the summer and he wants to know what he should be able to do to resolve this issue.

Mr. Brewer said that was an enforcement issue that this board give permission to do things/or not but this board does not enforcement what has been approved. It is a passive body that acts when an applicant comes before it. The City is the enforcement body.

Mr. Valetutto said that Capital Concrete was here previously and had gotten a number of approvals before this board which means that the determination by the City was that the use itself is a permitted use for this particular zone. They sold the business and now Cambridge is in there and he understands that they are working a 24-hour around the clock type of thing.

That's where we get outside the realm of the planning board when you get into hours of operation, noise, dust, things of that nature those are the enforcement issues that the City departments would take under their jurisdiction. We don't have authority to say they are

making too much noise because that's not a zoning issue. If it was a use such as stockpiling, that may be on the fringe of what the board could take a look at.

Chairman Wilday asked if it was possible to look at the original resolution on that application to see if there were any contingencies that put restrictions. Mr. Valetutto said that we could but he recalls about three applications and he doesn't remember any of them had any comment as to limiting the hours of operation.

Mr. Valetutto believed Mr. Kelly was worked with residents, Mr. Moskal being one, to get Cambridge to make modifications to equipment that would back up and make noise and things of that nature.

Mr. Valetutto said that Mr. Kelly had just indicated during the last break that his understanding is that they are going to be coming before the board with a complete revamping of their operations.

Mr. Kelly addressed Mr. Moskal saying that Cambridge has come to see City of South Amboy Administration several times with a proposal to take the facility that's closest to his residence and anyone in the area of Raritan Street that's being affected. What they're looking to do is basically demolish the building and the entire infrastructure for the fabrication portion of the paving stones and rebuild it with modern technology where the decibel level doesn't have any adverse effect on the neighborhood. The hoppers, the distribution of the aggregate... All of the inner workings are going to be revamped. It's a multi-million dollar project.

While he's doing this it also should really eliminate any issues. Mr. Kelly stated that the City is being told that deliveries, because of the new materials and machinery that they're going to put in, will only occur during the day.

Mr. Valetutto said the key to it is that they have to come before this board. They have to notify everyone within 200 feet so that these are issues that we now, knowing what their history is, can put into any resolution of approval such as timing of deliveries and things of that nature. We have no control over timing as to when they come before us.

Chairman Wilday said that he believes they will come with an informal hearing first and Mr. Kelly concurred that's what the City has been told.

Bette Leibowitz asked the board what Mr. Moskal can do. Chairman Wilday replied that Mr. Moskal should contact the local authorities to file a complaint. Mr. Moskal said that he's called the police department who has issued tickets but that they refuse to send anyone down to enforce any type of code violation. He said the police officers know that it goes on from

patrolling and they hear the loud noises and they can't understand how they put up with the banging and noise at 2, 3 and 4am.

Mr. Moskal said that he has both the senior and junior owners of the company's cell phone numbers. He said the numbers were provided at a meeting with the owners where they stipulated on certain things that they were going to do and they didn't do half of them and they are storing product randomly throughout saying that it's a sound barrier and that it's not a permanent structure. At one point in time they actually took it down and then it took about two weeks then it took about two weeks for them to ship in about 30,000 pavers to rebuild the wall but the point is that it's not a permanent structure that they can take down at any time.

Mr. Moskal said that his personal relationship with the owner has diminished over time because he says that they don't make deliveries at 4am but Mr. Moskal has footage that it's every single day. There was nothing ever being done about it.

Chairman Wilday asked if Mr. Moskal had addressed this at a Council meeting. Mr. Moskal said that his first step was to come to the planning board to make sure he had the correct zoning and that he now would be taking this to City Council. He said he spoke with Mrs. Tooker and she believed that it was more than an M1.

Mr. Wilday said that the board would check on that but in this case it's out of the board's jurisdiction but that it sounded like Mr. Moskal had all of his bases covered anyway.

Mr. Valetutto confirmed via the zoning maps that the property in question is clearly M1 from Raritan Street all the way down Main Street on that side. Mr. Valetutto said that there's no zoning that lists hours of operation. It's not part of zoning. It's part of what the local City ordinances are. City officials take care of enforcement of City ordinances. The definitions of all zones are in the ordinance book in the Clerk's office.

Mr. Brewer advised Mr. Moskal to also look at the approval that's been granted to operate which becomes the zoning for that property. While it's M1, if a certain level of operations is prescribed, that gives them permission to do it. He advised to look at the zoning as well as past approvals.

Mr. Moskal concluded by saying that he's not looking to shut them down. It is what it is but it's out of control. It's the way that business is being conducted and how it interferes with his life and impacting sleeping patterns, waking up at 4am, etc.

Mr. Wilday said that right now, unfortunately, the board has no jurisdiction to help but that it will take Mr. Moskal's comments into consideration for future approvals.

Mr. Kelly advised Mr. Moskal to contact Ms. Tooker again for advisement regarding when Cambridge Pavers would be making this change. He said he's fairly certain it would take place over the next month or two. He said they're willing to do something that will benefit their industry and efficiencies and apparently produce a better product. The changes also should benefit the neighboring properties.

Motion by Bette Leibowitz, seconded by Mary Szaro to close the public portion of the meeting.
Motion carried 10-0.

Motion by Peggy Scarillo, seconded by Richard Moran to adjourn. All in favor.

Stacey Kennedy