

CITY OF SOUTH AMBOY
PLANNING BOARD
REGULAR MEETING/MINUTES
APRIL 27, 2016

Members present: Robert Paulukiewicz, Thomas Kelly, Mayor Henry, Councilman Thomas Reilly, Richard Moran, Francis Mulvey, Holly Hughes, Darcy McCabe-Brew, Mary Szaro

Members absent: Frank Milatta

Also present: Jason Valetutto, P.P., Brent Carney, Attorney at Law

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

Chairman Paulukiewicz 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 Holly Hughes, seconded by Darcy McCabe-Brew to accept the Minutes of the March 23, 2016 meeting. Motion carried 5-0, 4 abstentions.

Chairman Paulukiewicz then recognized Professional Administrators Day and the work that Stacey Kennedy has done for the Planning Board. He then reviewed the evening's agenda and rules of conduct for the night's proceedings.

He noted that the application for Joseph Nitti, James Joe One, LLC was being adjourned and carried per correspondence from the Applicant's Attorney dated April 13, 2016. The Board awaits a request from the Applicant for a new hearing date.

Completeness Committee

Completeness Committee member Holly Hughes stated that the Committee was in receipt of two letters from AJV Engineering. The first dated April 5, 2016 on Application # 366-16 for New York SMSA Limited Partnership d/b/a Verizon Wireless and the second dated April 18, 2016 on Application # 367-16 for Henryk Jablonski. Both letters include a recommendation for completeness based on the conditions set forth in each correspondence.

Motion by Holly Hughes, seconded by Darcy McCabe-Brew to accept the recommendations of completeness for both applications. Motion carried 3-0, 0 abstentions.

Resolution – Peron Development/South Amboy II, LLC (Woodmont) – Application # 347-14

Motion by Holly Hughes, seconded by Richard Moran to accept the resolution as written.
Motion carried 8-0, 1 abstention.

Kenn Amboy LLC (Firpo) – Application # 304-07

Chairman Paulukiewicz called for a representative to speak on behalf of this application.

Peter Klouser, attorney with the firm Heilbrunn Pape representing the Applicant was sworn in.

Mr. Klouser noted that the Board previously granted preliminary and final site plan approval by Resolution dated February 21, 2008 with a mixed use of residential and retail.

The original application was approved, is located in a redevelopment zone and was a fully conforming application.

Those approvals were extended by the Permit Extension Act through June 30, 2016. The Permit Extension Act was enacted by the legislature and extended several times to extend active approvals and permits during a depressed economic time.

During the period of time that the approvals and permits granted by the Board were extended, the Applicant claims that the property was actively marketed for sale to no avail.

Mr. Klouser was pleased to report that there now is a contract that is under attorney review for sale to a developer for what they hope is the development of the property.

Therefore, the Applicant requested an extension of the protections from changes in zoning for a period of one (1) year from June 30, 2016 pursuant to N.J.S.A. 40:55D-52 to allow for the further marketing of the property pursuant to the approvals granted by the Board. It is the Applicant's understanding that the zoning of the property has not changed since the approvals were granted.

Thomas Kelly asked if the sale of the property was as per the approval. Mr. Klouser confirmed that it was being sold with the approvals. He further said that he doesn't represent the property owner with regard to the sale, he represents the applicant but his understanding is that the only contingency in the contract right now is the environmental to make sure that they did their due diligence.

Motion by Richard Moran, seconded by Thomas Kelly, to grant the extension for a period of one year from June 30, 2016. Motion carried 9-0, 0 abstentions.

Henryk Jablonski – Application # 367-16

Chairman Paulukiewicz called for representatives for Henryk Jablonski.

Michael Carr of Carr Engineering Associates and Jason Valetutto were sworn in.

Mr. Carr stated that this is a unique application. He admitted “right up front” that on a survey that he performed back in 2005 there was an error and his company made the error. It surfaced two months ago. Therefore the applicant seeks a lot line readjustment. Mr. Carr said that he would like to correct his mistake and make it work properly.

He asked the Board to consider a lot line readjustment, technically a minor subdivision, but not a minor subdivision. He proposes to move the lot line 1.24 feet to the west, reducing the applicant’s property by 124 square feet and adding the 124 square feet onto adjoining Lot 13, the land owned by Mr. Connors.

This creates a variance for lot area (4,876 sf vs. 5,000 sf required), lot width (48.76 ft vs. 50 ft required), side yard setback (3.7 ft vs. 5 ft required), and lot coverage (26.37% vs. maximum permitted 25%.)

Mr. Carr said that as he sees it, under the Land Use Law, because of this survey mistake everything moving in the right direction will make things work between the Connor’s property and Mr. Jablonski’s property.

Pragmatically speaking, Mr. Carr said that if you walked down Cedar Street you wouldn’t not see that 15 inches.

The last variance is between builders. Municipal code requires 10 feet between buildings. It’s 8.65 between the two buildings. That issue was covered. He has no explanation for why that wasn’t picked up at the time of the approval. He did not submit or have any part in those permit applications.

Jason Valetutto asked Mr. Carr to acknowledge receipt of a letter from AJV Engineering dated April 18, 2016. Mr. Carr acknowledged receipt.

Regarding point number 3, Mr. Valetutto asked Mr. Carr to put on the record the discrepancy between the survey showing a property depth of 100 feet and the City’s tax maps showing depths are 100.55 feet. Mr. Carr said he can’t explain that but he did a deed search on everyone on that block and there was only one deed that shows 100.55. All of the others all show 100 feet.

In paragraph 4, A through F, Mr. Carr said A and B were okay. He did not do the building permits with regard to C. So he will let those professionals handle and deal with Mr. Rasimowicz. He had no problem with D. Regarding point E, he said the only deed that has to be revised is 11.02. 13 doesn’t require a revision because Mr. Connors got his property back to what his correct distance is. He had no problem with F.

Jason Valetutto said that in summary, the Applicant has no problems complying with all comments in his report dated April 18, 2016.

Mary Szaro then asked if it would right itself at some point. Mr. Carr said that is why where here today. Everything will go back to where it should be.

Thomas Kelly commented that Mr. Jablonski would have to return to an architect who will have to provide a one-hour fire rating on the wall where the property line is being shifted because it is going to be closer than five feet from the property line. He said that they were also going to have to change the foundation location survey that had been submitted.

Mr. Kelly then asked Mr. Jablonski about the elevation difference between the neighboring home and his proposed home. He Mr. Jablonski to elaborate regarding how that was going to finish out on the final grade. Mr. Jablonski said he would hire a surveyor and would conduct a topographical survey.

Mr. Kelly asked if they had discussed installing some type of retaining wall and Mr. Jablonski said not yet. He agreed that it is possible that a retaining wall might be needed. Mr. Kelly noted that the retaining wall would have to be inside Mr. Jablonski's property line. He also noted that Mr. Connors has a permit from the Zoning Officer to install a fence within his property line. Mr. Kelly said that Mr. Jablonski needs to make sure the retaining wall and the fence be coordinated so that they both work.

Mr. Kelly said that the first step is that Mr. Jablonski's engineer of record is going to have to alter his foundation location surveys. He then has to provide topos that are required and then if there is a retaining wall going to be installed, it will have to be depicted in the drawings.

Following testimony, Chairman Paulukiewicz opened the discussion for this application to the public. Gregory Kusic, attorney at 301 Main Street representing Mr. & Mrs. Connors was sworn in.

He noted that their concern already was addressed by Mr. Kelly. Mr. Kusic said that Mr. Kelly indicated that there is a drop off between these two lots – anywhere from 2 feet to 24 inches. Their concern is the question of "if" a retaining wall is needed. They are requesting that the Board impose the requirement that a retaining wall be installed because of the distance. If there was going to be back fill that may be another issue. Mr. Kusic said that the retaining wall needs to be a requirement in the resolution or on the plans as requested by Mr. Kelly. He stated that they don't want to have to come to the City in the future because of the erosion that could very well happen.

Based upon the plan that Mr. Kusic reviewed and the testimony from the applicant and his engineer, if the lot line is approved then they have no objection to that. Then everything that his client knows that he owns will now be formalized in this product that is going to be in the City's files. We already have our deed, they have a prior survey from 1998 plus a survey from February of 2016 but the fact that the Board is acting on this if there is an approval, these maps that are

ultimately changed to reflect the review letter by Mr. Valetutto is going to document that there is a formal map that shows what his client owns.

Jason Valetutto commented that if Mr. Jablonski should receive an approval from this Board, he must adhere to the conditions that are in his report and one of the conditions was that any modification to the grading plan has to receive the City Engineer approval. So if they get approved tonight they have to satisfy the City Engineer with the grading plan which if they are required to put up a wall due to extreme grading it would be covered under that. Right now what the Board is looking for is purely at a lot line relocation. The Board was not submitted anything as far as grading so we are not commenting on that. It's going to be put in the hands of the City Engineer per 4C of the Review letter.

Motion by Richard Moran, seconded by Thomas Kelly to close the public portion of this application. Motion carried 9-0, 0 abstentions.

Motion by Richard Moran, seconded by Darcy McCabe-Brew, to approve the application subject to all of the conditions set forth in the letter of AJV Engineering dated April 18, 2016 as well as all comments and the testimony presented this evening. Motion carried 9-0, 0 abstentions.

Chairman Paulukiewicz opened the meeting to the public. With no public wishing to speak, Chairman Paulukiewicz asked for a motion to close.

Motion by Richard Moran, seconded by Darcy McCabe-Brew to close the public portion of the meeting. Motion carried 9-0, 0 abstentions.

Motion by Richard Moran, seconded by Mary Szaro to adjourn. All in favor.

Stacey Kennedy