

**UPPER TOWNSHIP PLANNING BOARD
MEETING MINUTES
OCTOBER 18, 2018**

The regular meeting of the Upper Township Planning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 6:00 p.m.

SUNSHINE ANNOUNCEMENT
SALUTE TO THE FLAG
ROLL CALL

Present: Georgette Costello, Jack Griffin, Joseph Harney, Ted Kingston, Gary Riordan, Hobart Young, Robert Young and Chairman James Kelly.

Absent: Michael Endicott, Scott Morgan, Mayor Palombo.

Also, in attendance were Jeffrey P. Barnes, Board Solicitor; Paul Dietrich, Board Engineer and Shelley Lea, Board Secretary and Zoning Officer.

APPROVAL OF THE SEPTEMBER 20, 2018 MEETING MINUTES

A motion to approve the minutes was made by Mr. Harney, seconded by Mr. Griffin, and approved. Abstain: Costello, Hobart Young, Chairman Kelly.

SWEAR IN PAUL DIETRICH

APPLICATIONS

1. HARRIET LANE LLC / 2058 SOUTH SHORE ROAD LLC – BLOCK 567
LOT 24 – PB 03-18

Applicant is requesting an amendment to the Affordable Housing Plan, site plan approval and variance pertaining to Section 20-14.3 of the zoning ordinance to construct eleven additional rental affordable housing units on Harriet Lane in Seaville.

Chairman Kelly announced this application has been tabled until the November 15, 2018 at 7:30 p.m. No further notice is required by the applicant.

2. ADVANTAGE EQUIPMENT SALES LLC – BLOCK 600 LOT 30 – PB 09-18

Application is for a site plan waiver needed to change the use of a portion of the property from retail to medical at 100 Route US 9 South in Marmora

Julius N. Korschak, Esquire, represented the applicant. He explained the property is currently occupied by Busted Knuckle Auto Repair and Towing and Advantage Equipment Sales. Atlantic Care is now proposing to occupy the front of the building. The only changes to the site are the addition of handicap parking spaces. The proposed

medical use is a permitted use in the TCC zone. There are 121 spaces on site and 73 are required. All of the changes would be inside the building.

Vincent Orlando, Professional Engineer with EDA and Thomas Tower, 1413 Stagecoach Road, Seaville, New Jersey were sworn.

Mr. Orlando testified the Plan of Survey by The Martinelli Group, dated 6-8-11 and revised 9-10-18 is accurate. The only change to the site is the addition of four handicap parking spaces needed to bring the site into compliance with the ADA standards. The spaces would be striped and marked accordingly. It is his opinion this site qualifies for a site plan waiver as shown in section 19-4.3. There is adequate lighting for nighttime use. He is willing to perform a nighttime study to be sure the lighting is sufficient. The plan shows 3 spaces on the north side and 6 spaces on the south side for equipment parking. He agreed to add entrance signs on Tuckahoe Road and Route 9 to make the entrances more visible.

Mr. Dietrich testified the lighting on site is more than sufficient. He agrees this project meets the requirements of a site plan waiver.

Mr. Korschak stated there is no additional signage proposed. The new tenant would utilize the existing signs. The equipment on site will be removed once the lease is commenced. He agreed to restore the shrubbery that was previously on site. The proposed tenant currently rents space at the Marmora Medical Commons and will relocate to this site. There is a plan in place for medical waste.

The meeting was open to the public. Hearing no response, the meeting returned to the board for findings of fact.

MR. RIORDAN – Advantage Equipment Sales LLC has submitted an application for site plan waiver to change the use of a portion of the property to a medical use. The property is located at 100 Route US 9 South also known as Lot 30 in Block 600. The applicant was represented by Jules Korschak who stated the only change is the addition of a few handicap parking spaces. There are 121 parking spaces where 73 total spaces are required. Expert testimony was given by Vincent Orlando who testified the proposed use would not affect traffic circulation, parking, ingress/egress or lighting. There are no proposed changes to the outside of the building. A Plan of Survey was prepared by The Martinelli Group, dated 6-8-2011 and revised 9-10-18. There was no public comment.
MRS. COSTELLO – No further comment.

MR. HARNEY – He finds the application meets the requirements of a site plan waiver. He is satisfied with the information provided by Mr. Orlando and Mr. Korschak.

MR. GRIFFIN – He finds that landscaping would enhance the property and the look of the Marmora business district.

HOBART YOUNG – Concurs. The applicant has agreed to install signs at the entrance for the new urgent care. Atlantic Care will be transferring to this location from another

location in the township. The applicant has agreed to enhance the landscaping. The property is changing from equipment sales and service to a medical use. For this reason the street scape should be softened and improved. The equipment display areas are delineated on the plan provided. If additional display areas are needed the applicant must return to the board. The original approval was a car dealership and not a shopping mall or mixed-use entity years ago.

MR. KINGSTON – There are 73 parking spaces needed and 121 spaces provided.

ROBERT YOUNG – Concurs.

MR. KELLY – The property is in the TCC zone. He finds the directional signs and proposed landscaping are a benefit.

A motion was made by Mr. Harney and seconded by Hobart Young, to change the use of a portion of the existing building to a medical use with the condition that a landscape plan will be submitted and approved by the township engineer, a nighttime certification will be done by Mr. Orlando to determine if the lighting is sufficient, the ingress and egress to the property is appropriately lit and approved by Mr. Dietrich and the machinery located on the property will be removed from the property once the medical use occupies the building. In favor: Costello, Griffin Harney, Kingston, Riordan, H. Young, R. Young, Kelly.

3. CAPE COMMERCIAL BUILDERS LLC – BLOCK 600 LOT 32 – PB 06-18

Application is for preliminary and final site plan approval for the construction of a Mavis Discount Tire Store and variances for the number and area of building mounted signs and setback of freestanding sign and deviation from the architectural standards set forth in 20-40.7 (i) at 122 Route US 9 South in Marmora.

Julius N. Korschak, Esquire, represented the applicant. He explained this property has previously been used for the display and storage of equipment. The equipment has been removed from the site in anticipation of this new use. This would be new construction. The plans have been revised to conform more to the architectural requirements and pedestrian amenities required in the TCC zoning district. This property is adjacent to the TD Bank. There is a common entryway and easements between the bank and the applicant's property. The same driveway entrance would be used and they would only be modifying the portion of the entrance that is on their property. The irregular shape of the lot limits the use of space.

Vincent Orlando, previously sworn, testified regarding the changes made to the Mavis Tire Site plan prepared by EDA, dated 7-25-18 and revised 10-4-18. He discussed the new architectural design standards in 20-4.7 and how they apply to the proposed building. The plan includes landscaping, sidewalk along the entire frontage, benches and bike racks. He believes the plan meets the architectural intent of the standards. He feels this is not a walkable destination given the location of the property and the type of use that is proposed. The ordinance requires 12 parking spaces and they propose 26 spaces. He stated this is the only location for the building since the storm water basin must be in

the rear of the property and to provide parking spaces and access in the front of the building. There is not enough room on the property to relocate the building to have access in the rear.

Mr. Dietrich testified the applicant submitted the application prior to the adoption of the new MTCD zoning ordinance. There was discussion about the build to line referenced in the ordinance. Mr. Korschak indicated it would not be appropriate for this building since the existing buildings in this area are not that close to the road and there would not be room for parking in front of the building. Mr. Orlando stated that if the building must be relocated or the doors are not allowed in the front of the building Mavis will go elsewhere since they are a national organization with their own set of design standards. He feels the board could grant the variance using the C1 criteria since the lot is narrow and shallow. He finds the purposes of zoning are advanced particularly c and g. He sees no detriment to the public good and there is no substantial impairment to the zoning ordinance or zoning plan.

Although the application was submitted prior to the adoption of the new ordinance some of the board members had concerns about the first building being constructed in this new zoning district not complying with the standards. Mr. Orlando commented that one of the problems with the new ordinance is there is not public sewer or water. Mr. Orlando agreed to additional buffering along the fence line in the rear between Busted Knuckle and the applicant's property. He confirmed there would not be any access to the rear storage area from this right of way and that the grass area would be irrigated.

Mr. Korschak stated the applicant is proposing a monument sign. The area of the sign is 48.5 sq. ft. where 75 sq. ft. is permitted. A variance is needed to allow the sign to be setback 15 ft. where 20 ft. is required. Mr. Orlando testified that relief is requested to have building mounted signs on the north and south sides of the building to help identify the building. There would be a sign on the front of the building as well. There was discussion regarding the lighting.

Mr. Dietrich reviewed his engineer letter dated, October 18, 2018. He stated that if dormers were added and possibly faux windows on the side of the building it could be considered a two-story structure. Mr. Korschak stated they would accept this as a condition of approval. He is satisfied with the testimony given as to why variance relief should be granted. Mr. Orlando testified they will be able to meet the technical requirements on the bottom of the review letter. He does not know if the band around the building will be lit. Mr. Dietrich believes it will not be internally lit since the band is aluminum. Mr. Korschak stated that if Mavis wants the band to be lit they will have to come back to the board for approval. Mr. Orlando testified there would not be any display or storage of tires outside.

The meeting was open to the public. Hearing no comment, the meeting returned to the board for finding of fact.

MRS. COSTELLO – Cape Commercial Builders has submitted a development plan to construct an auto service center. The applicant is represented by Julius Konschak, Esquire and there was expert testimony by Vincent Orlando. Mr. Orlando described the plan by EDA, dated 7-25-18. The plans were revised 10-4-18 after the completeness hearing. There was discussion regarding a walkable community which in this case is limited by the storm water regulations. The applicant has accepted conditions to add an architectural design element to soften the blank exterior wall and to comply with the technical issues on Mr. Dietrich's review letter. Variances are needed for the number and area of building mounted signs and setback for the monument sign. This does not appear to be a detriment to the community and is in substantial compliance with the ordinance.

MR. GRIFFIN – The application was made prior to the adoption of the new regulations. Soft lighting at night will be implemented. The band around the building will not be illuminated.

MR. HARNEY – The plans will be amended to add windows on the north side of the building. The peak roof and the 8x12 gables will give the appearance of a two-story structure. He finds the variances meet the C1 criteria and that the benefits of granting the variances outweigh any detriments. There will not be any ingress/egress from the TD Bank property. There was not any public comment.

MR. KINGSTON – Nothing to add.

MR. RIORDAN – Mr. Orlando stated the location of the building cannot be changed without sacrificing some of the parking spaces and that the board can deviate from the build to line without compromising the intent of the ordinance. Moving the building closer to the street would have a negative impact on ingress and egress. Adding signage on the north and south side of the building would improve safety. Mr. Dietrich has reviewed the site plan and has provided correspondence dated October 18, 2018 which notes his comments and variances required.

HOBART YOUNG – He finds the applicant has met the burden of proof under the C1 and C2 criteria as far as setback and small differences in the zoning standards. The applicant has agreed to plant an additional buffer along the fence line where the storage area is located. He would like to see soft lighting on all sides of the building for security. He feels this will be a nice addition to the township. It is nice to see the applicant slowly cleaning up that entire area.

ROBERT YOUNG – He finds this is a good plan.

MR. KELLY – He finds the plan meets the intent of the new ordinance. Locating the building closer to the road as required in the ordinance would not fit in this situation.

A motion was made by Hobart Young and seconded by Robert Young to grant the preliminary and final site plan approval for the construction of a Mavis Discount Tire Store along with the requested variances for signage, the architectural standards set forth in 20-40.7 (i) 1.2 and 1.3 and the MTCDD requirements for the minimum front yard setback to the build line and the minimum stories required, with the conditions that landscaping on the rear and the west of the property will be enhanced to create a buffer, there will be false windows on the rear of the building, no band on the north side of the building and no lighting on the band around the rest of the building without planning board approval, no outside display or storage of tires is allowed, soft lighting to be

approved by the board engineer, the applicant will comply with all the conditions set forth in the October 18, 2018 correspondence generated by Paul Dietrich. In favor: Costello, Griffin, Harney, Kingston, Riordan, H. Young, R. Young, Kelly.

There was a short recess.

4. MCDONALDS CORPORATION – BLOCK 560 LOT 1.01 – PB 08-18

Applicant is requesting a site plan waiver and a variance to allow two new freestanding menu boards at 2087 Route 9 in Seaville.

Michael R. Peacock, Esquire, represented the applicant. He explained that McDonalds is now using two smaller boards rather than one big menu board. This gives people an idea of what they want to order to help move the drive thru line along faster. McDonalds is seeking to beautify and improve the area they lease in Cedar Square Shopping Center. They plan to make ADA compliant upgrades to the parking area and reface the exterior façade of the building. McDonalds is currently updating and remodeling all their restaurants in New Jersey and throughout the country.

Matthew Dewitt, Professional Engineer with Core States Group, was sworn. He testified this is an existing one-story building with a drive thru. There is existing lighting and landscaping on site. The parking area will be regraded and paved, and new sidewalks will be added. The applicant proposes to replace the existing 42 sq. ft. menu board with two menu boards. One menu board will be 20 sq. ft. and the other will be 10 sq. ft. The boards will be LED lit to make them easier to see. The proposed improvements to the façade of the building, parking area upgrades, handicap spaces and building mounted signage do not require approvals from the board. Only the menu boards require approval since they are proposing two where only one is allowed. The menu boards would be in the drive thru. He believes the existing playground will be removed from the site. The M on the building is new but does not require a variance.

There was discussion regarding the landscaping. Mr. Dewitt testified he believes the landscaping is part of the lease area and fall in the common area of the shopping center. He agreed to work with Mr. Dietrich on the landscaping plan for around the building. The board suggested adding landscaping and tables to the area where the playground currently exists.

Lance B. Landgraf Jr., Professional Planner, with Landgraf & Associates, was sworn. He testified the variances fall under the C2 criteria where the benefits outweigh any detriments. They are asking to replace one large sign with two small signs. He believes that three purposes of the land use law are advanced since the application, public health, safety and welfare, promote free flow of traffic and desirable visual environment. The proposed signs are more attractive and modern than what is there now. Having the menu board first will help free up traffic in the drive thru. It would not be possible to have a second lane in the drive thru. He believes there is no negative impact to any of the

adjacent property owners since the signs are internal to the property. The signs would not interfere or obstruct site triangles. He does not think the signs would impair the intent or purpose of the zoning ordinance or zoning plan. The area of the two signs combined is less than the 100 sq. ft. that is permitted.

The meeting was open to the public. Hearing no response, the meeting returned to the board for finding of fact.

HOBART YOUNG – The applicant has satisfied the criteria for a flexible C variance. This is an information board as well as a menu board. He agrees the boards will help free up the traffic. This is a small site and the applicant is limited to what can be done with the landscaping. He is in favor of removing the play area and hopes the applicant puts in a few round tables with umbrellas. He finds the improvements will improve the aesthetics of the shopping center.

MR. KINGSTON – The applicants are replacing a single menu board with two menu boards and grading the property.

ROBERT YOUNG – Concurs.

MRS. COSTELLO – The applicant is McDonalds Corporation at 2087 Route 9 in Seaville. The applicant is represented by Michael Peacock, Esquire. There was expert testimony by Matthew Dewitt, Professional Engineer and Lance Landgraf, Professional Planner. The applicant is proposing improvements to the building façade, parking area and pathway to the building. They also propose to replace the existing drive thru signage and menu board. The variance requested is to allow two new freestanding signs where one sign is permitted. A 20 sq. ft. and a 10 sq. ft. menu board are proposed to replace the existing 42 sq. ft. board. There is no impact on adjacent businesses and no detriment to the community. There was no public comment.

MR. HARNEY – The applicant also plans to regrade the sidewalk and parking area for ADA compliance. The drive aisle will not be changed. The plans are dated 6-5-2018. Landscaping improvements will be worked out between the applicant and Mr. Dietrich.

MR. GRIFFIN – Concurs.

MR. KELLY – He finds the applicant has met the C2 requirements because of the free flow of traffic. He concurs.

A motion was made by Mr. Kingston and seconded by Robert Young, to grant the site plan waiver and variance to allow two menu boards with the condition that any landscaping McDonalds has control over will approved by Mr. Dietrich, any open area created by the removal of the play area will be approved by Mr. Dietrich. In favor: Costello, Griffin, Harney, Kingston, Riordan, H. Young, R. Young, Kelly.

5. BUJAR AND GAWIDAKU – BLOCK 846 LOT 4 – PB 07-18

Applicants are requesting preliminary and final site plan approval and variances for impervious coverage and number of parking spaces at LaFontana Restaurant, 1 S. Commonwealth Avenue in Strathmere.

Daniel J. McCann, Esquire, represented the applicants. Mr. Riordan and Mr. Kingston stepped down during this application.

Bujar Daku, Philadelphia, Pennsylvania, was sworn. He testified he is the owner and operator of the existing family business known as LaFontana Restaurant. His restaurant pays for trolley service to pick up and drop off customers. Because the trolley service has been so successful he has seen a decrease in the demand for parking spaces. He uses a van to transfer his employees back and forth from the restaurant. Customers also use uber to get to and from the restaurant. He has also seen an increase in the number of customers that walk and bike to the restaurant.

Mr. Daku testified they serve about 100 to 120 dinners per evening

Vincent Orlando, Professional Engineer with EDA, testified his firm got involved with this project a number of years ago when their septic started to fail. At that time the standards at the health department were not as detailed as they are now. He referred to the plans by EDA, dated 7-24-18 and revised 9-25-18. He stated they have done a lot of things to the existing septic to reduce flow. It is evident to him that in order for the restaurant to fully function they have to construct a new septic system. The site is small, 85' x 113'. There are 8 parking spaces on Willard Avenue and 7 on Commonwealth. The parking is pre-existing non-conforming. In 2014 the board granted an application to construct an outside deck but maintaining the 54 seats. Because the restaurant generates more than 2,000 gallons of flow a day the septic has to be approved by the State of New Jersey. They found the best place to locate the septic is along the front and eliminating the 7 spaces.

Mr. Orlando testified the septic has to be raised in order to meet the depth to seasonal high-water standards. He stated that 4 off site spaces could be created along Commonwealth. A handicap space is proposed off of Willard Avenue to replace the one on Commonwealth. They are having discussions now with the State to expand the number of seats since the septic is expanding, however at this time they are only asking board for permission to place the septic system in the area where the parking is. He finds the benefits of granting the application outweigh any detriments. He also finds that purpose (a) of zoning is advanced. In his opinion the neighborhood is advanced by having a functioning septic system. He agrees this generation uses uber everywhere. Eliminating the stone and concrete would reduce the existing 86.26% impervious coverage to 72.5% which is a reduction of 13.8% . A variance is also needed for the number of parking spaces.

Mr. Orlando testified the existing septic will remain on site to help keep up with the flow demands. In August when the system is inodiated they do get some break out, so Mr. Bujar is constantly pumping the tanks on a weekly basis. The State recognizes this and they are encouraging them to install another system. This is the best location for the septic since it has to be 10' off the property line. They are not looking for the board to

UPPERTOWNSHIP PLANNING BOARD

OCTOBER 18, 2018

PAGE 9 OF 11

allow an increase in the number of seats at this time. If the State allows them to increase the number of seats they will come back before the board.

Mr. Dietrich testified the applicant has an approved site plan for 54 seats. He has approval from the State and the County Health Department to operate a 54-seat restaurant using an 800 sq. ft. disposal bed. The current system is not using advanced treatment. A 27-seat restaurant utilizing advanced treatment requires an 825 sq. ft. bed area. Since this is an existing site the health department gave the applicant approval for 54 seats on an 800 sq. ft. disposal bed where probably 1,600 sq. ft. was needed. Adding 845 sq. ft. of bed area just brings them close to being conforming with the 54 seats.

Mr. Orlando testified the Administrative Consent Order from the State does not require the applicant to install a new septic. They have rebuilt the septic twice but did not use the advance treatment. He feels a new septic would be beneficial to the public. The top of the septic would have grass.

Hobie Young stated that it is unfortunate this was not addressed when the applicant was granted approval for the front deck. He would rather the septic were underground and not elevated next to the sidewalk.

Mr. Dietrich stated that since they are doing advance treatment and alternating pumping each bed would be in tune. He thought the entire system would go through advance treatment. Mr. Orlando stated that it goes through advance treatment first and then disperses to both facilities so advance treatment will take place prior to going into both beds. They have chosen to locate the septic on Commonwealth rather than extending the old septic since there is more room between the front of the building and the property line. The septic cannot be under the deck or under the parking spaces.

The meeting was open to the public inside of 200 ft.

David Balldinger, 6 Willard Road, was sworn. He has owned the property immediately adjacent to the applicants for 30 years. When the deck was proposed there was discussion regarding if the septic could accommodate the deck seating and they were assured the number of seats would not be increased. He stated that parking is a problem in Strathmere particularly in the summer. The number of spaces required is 58 and there are 15 existing. They now want to reduce the number of spaces to only 9. This problem will be exasperated if the number of seats increases. He feels the board needs to consider the small size of the lot. He has concerns about access to the trash and recycling.

Pete Steenland, 25 Willard Avenue, was sworn. He agrees with Mr. Balldinger's comments. He has concerns about access being blocked for trash collection. He stated the septic system plan shows 54 seats plus an additional 27 seats. Knowing the septic was inadequate the applicant could have put the septic where the front porch is now. Every Friday and Saturday night there are at least 20 cars going down Willard Avenue looking for a parking space. He has seen the employees park on Commonwealth Avenue and there is also a van that picks up employees in Marmora and drives employees to the

UPPERTOWNSHIP PLANNING BOARD

OCTOBER 18, 2018

PAGE 10 OF 11

restaurant. This is good; however it does not solve the parking problem. He suggested using Uncle Bill's parking lot to supplement the parking. He feels this is the applicant's

first step in increasing the number of seats in the restaurant.

Mr. Orlando stated the septic permit has not yet been submitted to the State, however it is the applicant's intention to ask them to increase the current number of seats.

Mr. Steenland commented the existing septic works. He stated that he spoke to Linda Wilde at the health department who informed him the system is grandfathered but since the State expressed concerns about having more than 54 seats they wanted them to put in a new system. He stated that reducing the number of spaces is a negative impact on the residents in Strathmere.

Scott Ackman, 22 Willard Avenue, was sworn. He stated that any night during the summer you can watch the cars go back and forth on Willard Avenue. He estimates 20 per hour not 20 per day. He is concerned about safety. He bought his house 8 years ago. Anything that creates any more traffic on his road he is opposed to since the situation is a mess.

Mr. Kingston, 5 Willard Road, was sworn. He lives directly across the street. He stated this is a big operation and he estimates there are about 200 seats inside. He stated the parking spaces are used before any of the customers show up. The reality is the deck is not used as part of the 54 seats. The inside of the building is full and the deck is full. The parking area is full as well as the roads. He stated that he is fine with the restaurant operating the way it is today using the existing septic. He submitted a photo he took today of a tractor trailer on Commonwealth Avenue in front of the restaurant that was marked 0-1. If parking is on the street the tractor trailers will no longer be able to park there for deliveries. The applicant was issued a violation a few years ago for parking a trailer in a parking space that he kept the extra seats in. There is not even enough parking spaces for the employees and the owners to use and they want to take spots away. They are running a restaurant with no parking for their patrons. There are one hundred cars that turn around in his driveway each night during the summer looking for parking. He does not feel the testimony gives credence to the volume of business that goes on here. He would be in favor of the application only if the applicant were to use the parking lot across the street.

Mr. Dietrich suggested a restriction that the spaces on Commonwealth could not be used between 8 a.m. and 3 p.m.

Mr. Orlando testified the trash will remain where it is. He agreed to keep the depressed curb and move the spaces so there would only be 3 spaces instead of 4.

Due to the time the matter was tabled until November 15, 2018 at 7:30 p.m. No further notice by the applicant is required.

BILLS

A motion to pay the bills was made by Mr. Griffin, seconded by Mr. Riordan, and approved.

ADJOURNMENT

A motion to adjourn was made by Mr. Harney and seconded by Hobart Young. The meeting was adjourned at 11:28 p.m.

Submitted by,

Shelley Lea
Board Secretary