

UPPER TOWNSHIP PLANNING BOARD VIRTUAL MEETING MINUTES MARCH 18, 2021

The regular meeting of the Upper Township Planning Board was held as a virtual meeting and was called to order at 7:30 p.m.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Present: Curtis Corson, Georgette Costello, Ted Kingston, John Klebaur, Janet McCrosson, Christopher McGuire, Craig Reeves, Gary Riordan, Joseph Harney.

Absent: Mayor Richard Palombo, Robert Young Sr.

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

APPROVAL OF THE FEBRUARY 18, 2021 MEETING MINUTES

A motion to approve the minutes was made by Ms. McCrosson, seconded by Mr. Corson, and approved. Abstain: McGuire, Reeves.

APPLICATIONS

1. REVIEW AND POSSIBLE REVISIONS TO THE REVISED GENERAL ORDINANCE CHAPTER XX

Chairman Harney announced this matter will not be discussed tonight. The matter will be placed on the April 15, 2021 meeting agenda.

2. MCINTYRE ENTERPRISE – BLOCK 736 LOT 43 – PB 03-2021

Applicant is requesting a site plan waiver and variances for side yard setback and distance between structures to construct a temporary pavilion to expand their COVID 19 outdoor dining at Yesterday's Restaurant Tavern, 316 Roosevelt Boulevard, Marmora.

The applicant was represented by Liz Casey, Esquire, who stated the applicant is applying to expand its outside dining pursuant to the State's most recent statute that allows restaurants to expand their dining to recoup some of the losses as a result of COVID.

Jeffrey McIntyre, 326 Morris Avenue, Marmora, NJ, was sworn. He is the owner operator of McIntyre Enterprises, commonly known as Yesterday's Restaurant. The restaurant has been in business for 44 years. There is a retail liquor store that is attached to the restaurant. On March 15, 2020 Governor Murphy eliminated all indoor dining and this has drastically affected the restaurants. The township applied for a COVID relief plan that allowed him to utilize a tent for outdoor dining. He leased the tent for \$3,000 per month. The total cost to rent the tent last year was \$24,000 and it could only be used on nice days when it was not raining or windy. During inclement weather or if the wind exceeded 25 MPH the tent company required the tent was taken down. The company charges to take the tent down and put it back up again.

Mr. McIntyre testified that he contacted Pioneer Pole Barns about installing a pavilion since it would look nicer and be more professional. He has obtained engineer stamped plans for the open-air pavilion that were marked A-1. He described the proposed building. The blue metal roof will match the blue roof on the restaurant. The ceiling height is 12'. The pavilion will be removed from the site in November 2022 or at the time indoor dining is open back up again in New Jersey.

Paul Dietrich was sworn. Walter Surran Jr., Professional Engineer was also sworn in. The plan prepared by Gibson Associates was marked A-2.

Mr. Surran testified the proposed pavilion would be on the west side of the restaurant toward the back. The pavilion will be 10' from the building and 3' from the steps and 5' from the property line. The drive aisle and parking spaces will be closed off and a concrete barrier will be put up so that no vehicles can enter this area. The pavilion will not be in the wetland buffer. The pavilion will not affect the drainage. There will be adequate ingress and egress as well as traffic flow. There is no additional lighting proposed in the parking area. Six spaces along the back will be replaced with 4 handicap spaces and a total of 9 parking spaces will be lost, however there will still be adequate parking. This is a temporary structure that will be removed from the property sometime in 2022. He testified the application meets the technical requirements for a site plan waiver.

Mr. Dietrich agrees the application meets the requirements for a site plan waiver. There will be sufficient parking since indoor seating is limited to 50% and 6' distancing applies. He discussed Covid Site Plan Waivers and the State of Emergency that allowed restaurants to utilize outside areas adjacent to their building and not identified on their approved site plan as outside dining. He believes that temporary structures are permitted under the executive order for the as long as there is restricted indoor dining. The board should include a condition giving 30 or 45 days after the final restriction is lifted to remove the structure. This is a temporary structure and if the restaurant wants to make it permanent the board would have to look into the parking, septic and other site plan related issues. He reminded Mr. McIntyre to contact the Township Clerk in regard to expanding the liquor license to the outside.

Ms. Casey has contacted the Cape May County Planning Board and was told the applicant does not have to file an application even though it located on a county road.

Mr. Corson asked if a concrete barrier would be needed on the south side of the property. Mr. McIntyre testified the barriers are not shown on the map but confirmed there will be barriers on the south side of the building. There is sufficient space for emergency vehicles if needed. Ms. Casey and Mr. Surran reviewed the variances being requested and ingress and egress.

Mr. Reeves, Superintendent of Public Works, understands the issues with wind and agrees that a pavilion in this situation is best. He understands this is a temporary structure and when it is time to remove the structure from the property, he asks that Mr. McIntyre contact him since the township may be interested in the structure.

Mr. McIntyre agreed to contact the township prior to removing the pavilion. He testified he will adding lighting inside the pavilion.

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

MR. CORSON – Jeff McIntyre is the owner operator of McIntyre Enterprises. He is being represented by Liz Casey and Walter Surran. His restaurant and liquor store has been in operation for 44 years. He is requesting a site plan waiver and variances to construct an open-air pavilion. He will install concrete barriers on the north and south sides of the property to protect the patrons.

MRS. COSTELLO – The Block is 736 and Lot 43 also known as Yesterdays Restaurant and Bar. The business was affected by COVID 19 when indoor dining was eliminated in March of 2020. A plan was developed to relocate indoor seating outdoors. The applicant paid \$24,000 to lease a tent last year and was charged additional fees to take down the tent and put it back up in inclement weather. The applicant testified the temporary timber pavilion is more secure, looks more professional and will be safer and cleaner. Mr. Surran testified regarding the location of the pavilion on the west side of the existing restaurant, 10' from the building, 3' from the steps and 5' from the property line. The structure is not in the wetland buffer area. There is no effect on drainage. There is no additional lighting proposed in the parking area. They will lose 9 parking spaces since 6 spaces in the rear of the property are being replaced with the 4 handicap spaces. There is adequate parking for the number of seats. Mr. Surran and Mr. Dietrich feel this meets the requirements for a site plan waiver. The County is not requiring an application. Mr. Dietrich reminded the applicant to expand the liquor license to outdoors. There was no public comment.

MR. KINGSTON – The pavilion allows room for rescue vehicles to get in and out of the property. He understands this is a temporary structure.

MR. MCGUIRE – Nothing to add.

MR. REEVES – The proposed structure is easier to maintain.

MR RIORDAN – The plan by Gibson Associates is dated September 10, 1998 and revised March 1, 2021. The applicant has clearly demonstrated that because of the negative consequences of COVID 19 the application can be approved.

MR. HARNEY – He finds the variances can be approved since the handicap ramp and spaces are necessary and meet the C1 criteria.

A motion was made by Mr. Corson and seconded by Mr. McGuire, to approve the site plan waiver and variances with the condition the pavilion can remain on the premises until such time the State revokes the limited occupancy restrictions, at which time the owner shall have a period of 30 calendar days to remove the temporary pavilion. In favor: Corson, Costello, Kingston, Klebaur, McGuire, Reeves, Riordan, Harney.

3. SHAUN ANDREWS – BLOCK 453 LOT 240.23 – SUB 01-2021

Applicant is requesting a minor subdivision to realign the lot lines at 7 Spruce Court in Seaville.

Shaun Andrews, 7 Spruce Court, Seaville, New Jersey, was sworn. Mr. Andrews testified that he proposes to add a portion of lot 240.24 to his property which is lot 240.23 to prevent the construction of any new homes near his house. His lot is on a cul-de-sac.

Mr. Dietrich testified the property to the left of him is in the Conservation zone. This property requires 10 acres to build and would require a CAFRA permit. There are also wetlands on the lot. He discussed the drainage easement and egress. The subdivision map prepared by The Martinelli Group meets the townships map filing requirements. Both the lots conform to the zoning standards. Changes to the tax map will be made if approved.

Mr. Corson is familiar with this property. When Mr. Germanio received subdivision approval, he testified that he would donate lot 39.10 to the Federal Government which never happened. He asked if the applicant would be willing to deed restrict the property so that no future subdivision would occur. Mr. Andrews testified that Mr. Germanio gave Fish and Wildlife property and Mr. Dietrich concurred. Mr. Andrews also agreed to a deed restriction that would prevent any future subdivision of his property.

Mr. Reeves asked about access to the 15' drainage easement on lot 240.23. Mr. Dietrich testified the township drainage easement would remain and there will not be any improvements built in the easement.

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

MR. RIORDAN – Shaun Andrews is requesting a minor subdivision to realign the lot lines at 7 Spruce Court in Seaville, also known as Block 453 Lot 240.23. The applicant represented himself and agreed to a deed restriction to restrict the lot from any future

subdivision. Mr. Dietrich confirmed the plan meets the township requirements. The plan prepared by The Martinelli Group is dated 1-26-2021.

MRS. COSTELLO – Nothing to add.

MR. KINGSTON – Nothing to add.

MR. CORSON – He concurs.

MR. KLEBAUR – Nothing to add.

MR. MCGUIRE – Nothing to add.

MR. REEVES – Nothing to add.

MR. HARNEY – Nothing to add.

A motion was made by Mr. Corson and seconded by Mr. Reeves, to grant the minor subdivision to realign the existing lot lines with the conditions that the existing easement shall remain and that the deed restriction is submitted and approved by the township restricting any further development as shown on the subdivision plan that will be attached to the resolution. In favor: Corson, Costello, Kingston, Klebaur, McGuire, Reeves, Riordan, Harney.

PUBLIC PORTION

No public comment.

RESOLUTION

1. MATTHEW GURCZYNSKI – BLOCK 382 LOTS 3 & 4 – PB 01-2021

A motion to adopt the resolution was made by Mr. Harney, seconded by Mr. Corson, and approved. Abstain: McGuire, Reeves.

BILLS

A motion to approve the bills was made by Mr. Reeves, seconded by Mrs. Costello, and approved.

ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Kingston, seconded by Mr. Harney, and approved. The meeting was adjourned at 8:41 p.m.

Submitted by,

Shelley Lea