

Florence, New Jersey 08518-2323
August 18, 2008

The regular meeting of the Florence Township Planning Board was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairperson Hamilton-Wood called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Chairperson Hamilton-Wood then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the municipal complex."

Upon roll call the following members were found to be present:

Mayor Bill Berry	Sean P. Ryan (LATE)
Gene DeAngelis	David Woolston
Mildred Hamilton-Wood	James Molimock
John T. Smith	

ABSENT: Wayne Morris, Craig Wilkie

ALSO PRESENT: Solicitor David Frank
Engineer Dan Guzzi
Planner Joseph Petrongolo

RESOLUTIONS

Resolution PB-2008-21

Continuing the application of Whitesell Construction Company, Inc. for extension of the period of protection of Final Major Site Plan approval for construction of a Warehouse/Distribution building on Block 158, Lot 8, located in a GM General Manufacturing Zoning District.

Motion of DeAngelis, seconded by Smith to approve Resolution 2008-21.

Upon roll call the Board voted as follows:

YEAS: Berry, DeAngelis, Hamilton-Wood, Woolston
NOES: None
ABSENT: Morris, Wilkie

MINUTES

Motion of DeAngelis, seconded by Smith to approve the Minutes of the Regular meeting of July 21, 2008 as submitted. Motion unanimously approved by all members present.

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CORRESPONDENCE

- A. Review letter from Fire Official, Kevin Mullen, regarding the revised plans for Frank Scamporino, PB#2006-05.
- B. Letter from Burlington County Planning Board dated August 14, 2008 regarding Greenbriar Horizon.

Motion Berry, seconded by DeAngelis to receive and file. Motion unanimously approved by all members present.

OLD BUSINESS

Chairperson Hamilton-Wood called for Application PB-2008-21 for Whitesell Construction Co., Inc. Applicant is requesting an extension of the period of protection of Final Major Site Plan approval for construction of a warehouse/distribution building on Block 158, Lot 8, located in a GM General Manufacturing Zoning District.

Chairperson Hamilton-Wood said that this had been postponed from July to August and now a written request had been received to postpone the hearing until the September 15th meeting. Chairperson Hamilton-Wood asked if there would be a problem with the time limit for Board action if this were postponed again? Solicitor Frank said that he did not think that there would be a problem, but he would send a letter to the applicant's attorney stating that the postponement of the hearing is stopping the clock.

Motion of Berry, seconded by DeAngelis to grant the continuation of the application. Upon roll call the Board voted as follows:

YEAS: Berry, DeAngelis, Smith, Woolston, Molimock, Hamilton-Wood
NOES: None
ABSENT: Morris, Wilkie

Member Ryan arrived at 7:35 p.m.

NEW BUSINESS

Chairperson Hamilton-Wood called for Application PB#2008-07 for Florence 130 Plaza, LLC. Applicant is requesting amendment of a condition placed on approval granted under Resolution 1998-15 and 1999-19 for property located at 2071 Route 130 South, Block 162, Lot 5.

Howard Cohen was sworn in by Solicitor Frank. Mr. Cohen stated that he was the sole owner of 2071 Route 130 and the sole shareholder of Florence 130 Plaza, LLC.

Chairperson Hamilton-Wood asked the applicant to provide a description of the application.

Mr. Cohen stated that the property in question originated as a nightclub and bar. He said that it was his understanding that it was converted to a daycare center during the late 1970's – early 1980's. The building remained as a daycare center for many years. Subsequent to that in the early to mid 1990's it was used as a daycare and a church.

Mr. Cohen said that the previous owner, Mr. Stanley Newman, came before this body in 1998; sought and received approval to add 8,000 square feet to the existing structure which was already about 8,800 sq. ft. This approval was memorialized in Resolution 1998-15. Paragraph F10 in this resolution states that the church cannot continue on the site beyond expiration of the current lease “without formal approval of the Board”.

Mr. Cohen continued that approximately one year later Resolution 1999-19 amended the previous resolution to state, “a CO will not be issued to the addition as long as the church is an occupant on the property.” The minutes of that meeting dated August 16, 1989 also reflect that the Board may consider amending the resolution, which shows that a CO will not be issued as long as there is a month to month lease in effect.

Mr. Cohen said that Resolution 1999-19 spells out the reasons for this action as parking concerns along with “the Board felt that the office use of the applicant's property to be preferable to the church's use.” After commencing construction, Mr. Newman contracted a terminal illness, completed the site work and the exterior of the building; but ceased completing the interior of the addition. All site work and the exterior construction was completed per the site plan, approved by the Township and all bonds were released.

Mr. Cohen stated that due to the impending death of Mr. Newman the interior of the addition was never completed and remains that way today. Mr. Cohen said that upon his purchase of the property he contacted Township Administrator Richard Brook regarding the split zoning of the property. Mr. Brook advised that Mr. Cohen sent a letter to Council requesting a zone change to Highway Commercial for the entire site. Upon Mr. Brook's investigation the condition regarding the CO on the property was discovered.

Mr. Cohen stated that he was seeking approval to eliminate the condition that the church vacate before a CO be issued for the addition.

Mr. Cohen stated that the church's major parking requirements occur on Sundays and major holidays such as Christmas and Easter. He stated that these are times when most office users are not conducting business so there should not be an overlap with parking.

Mr. Cohen stated that he has not heard of any parking issues relating to the church's use. The church has been a tenant for over 15 years and Mr. Cohen said that he feels morally obligated to allow them to remain as long as they want. He stated that he respectfully requests that 1999-19 be amended and allow the continuation of church's use of the site as long as they are occupying the premises while simultaneously giving permission to finish and obtain a CO for the portion of the building that is not completed.

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Mr. Cohen said that a variance was issued to the church in or about 1995 allowing the church to use the site. When this resolution was adopted they were operating the church and a daycare center.

Mr. Cohen stated that the name of the church is Nothing But The Word Deliverance Church. The pastor is Patricia Phillips, who incidentally is the individual who appeared before the Board 15 years ago requesting the variance. The current membership of the church is 175 members. The major use is Sunday mornings at 11:00 a.m. There is a Wednesday evening Bible Study and a Friday evening service 2 weeks a month.

Mr. Cohen stated that there are no permanent seats in the building. All the chairs are collapsible. On an average Sunday approximately 150 seats are used. Attendance at Wednesday services average between 25 and 40 people. Friday evening's attendance averages between 25 and 60 members.

On an average Sunday approximately 35 to 55 parking spots are used. On an average Wednesday 10 to 20 spaces are used and approximately 15 to 30 spaces are used on Friday evening. Occasionally there is the need to use the building during the weekdays for office business or individual counseling. There are never more than 3 to 6 cars for the church use during the day.

Responding to a question from Engineer Guzzi Mr. Cohen stated that the daycare center was no longer operating on the site.

Member Smith stated that he was on the Planning Board when the church initially came in for approval. It was stated at that time that there were between 25 and 50 members. The Board granted approval for the church use. The church then brought a seating plan back to the Board showing 200 seats. This is why the Board put the condition on the previous approval.

Mr. Cohen stated that the Chief of Police of Florence Township reviewed this application and did not raise any concerns for the parking on Sundays during worship services. He said that for the most part normal office use is during normal business hours. Church services are not normally held during normal business hours.

Responding to the Board Mr. Cohen stated that there are 74 parking spaces on the site. Engineer Guzzi stated that the ordinance requirement is one car per 3 seats. He said that looking at 1998 resolution at that time the requirement was 86 parking spaces and a waiver was granted to permit 74 parking spaces. This was with the condition of the vacation of the church.

Member Ryan stated that there are several signs out front and one sign indicates that there are additional services available that could conflict with office hours. Mr. Cohen stated that Mr. Ryan was correct, however the sign was very old and there are currently no services during the day.

Member Ryan said that his concern is what, if any, conflict could there be between the church use and the office use based on the total number of parking space. He said that the Board is required to do the due diligence to protect the Township, the tenants and Mr. Cohen himself.

Mr. Cohen said that if this was a business that had heavy parking requirements such as a movie theater he would understand, but a church meets when most businesses are not in operation.

Member Ryan said that his impression reading the signage was that they welcome members at varying times that might conflict with an office use. He stated that there were several cars in the lot today.

Mr. Cohen stated that the church van is always there. The cars that are parked in the lot are employees of Garelick Farms. None of those cars belong to the church.

Chairperson Hamilton-Wood asked if it was acceptable for Mr. Cohen to offer testimony as to what is going on in the church? Solicitor Frank stated that Mr. Cohen should not be testifying for the church. He also stated that he was concerned that Engineer Guzzi and Planner Petrongolo were scrambling to try and evaluate what the parking requirement should be based on testimony just given by Mr. Cohen. They should be given sufficient time to calculate this information

Engineer Guzzi said that what they were able to put together in the past few minutes was that the controlling factor to the church would be the 150 seats on an average Sunday. If there were 150 seats then 50 parking stalls would be required for the church use. The remaining 8,400 sq. ft. that is not currently finished will be used as office space. The rear of the lot is in the SM zone and the SM parking requirement is more restrictive than the HC parking requirement, which means that 42 parking stalls would be required for the office portion in the back. The total requirement for the site would be 92 parking stalls. There are 74 existing parking stalls.

Mr. Cohen said that of the vacant 8,400 sq. ft. half of the space is in the Highway Commercial and half is in the Special Manufacturing zone. Planner Petrongolo stated that as part of his review he had asked that the zone line be shown on the plan. He said that when there is a split zone it was the rule to always use the more restrictive zone.

Planner Petrongolo stated that the relief granted to permit the 74 parking spaces had been granted with the condition.

Chairperson Hamilton-Wood stated that the plan submitted with the application was dated 2002. She asked if there had been any changes to the site since then. Engineer Guzzi said that it was basically the same; there may have been the addition of one parking space.

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Planner Petrongolo stated that the church use was not permitted in the SM zone, but it is permitted in the HC zone. The church itself is 100% within the HC zone.

Mayor Berry asked if Mr. Cohen hadn't testified that the church set up 150 seats each week-end would the Board base the calculations on the square footage of the building? Planner Petrongolo stated that the calculation would be based on testimony from a church official. Solicitor Frank stated that in a church with fixed seating we could actually count the chairs, but that is not the case here. He stated that the Board would need testimony from a church official on this. The Board needs to look at the growth that has occurred to the congregation since the original approval and if there is anticipated future growth.

Responding to Mayor Berry regarding the process of calculating the parking requirement for the church use Engineer Guzzi stated that it is complicated. He said that he had requested the floor plan of the building because he was under the impression that some of the building was used for church offices. Chairperson Hamilton-Wood stated that she would like to know how many people occupy those offices on a daily basis.

Chairperson Hamilton-Wood stated that Mr. Cohen was not qualified to give testimony on the day to day operations of the church. This testimony needs to come from a church official.

Chairperson Hamilton-Wood stated that she would like the Fire Official to inspect the site. Engineer Guzzi stated that the building does have an occupancy and that should be posted in the church. Mr. Cohen stated that he had received the review letters from the Board's engineer and planner.

Solicitor Frank stated that the Board is asking the applicant to bring the additional information in testimony that was discussed, to make changes to the drawings, to provide a floor plan of the church building and to address the letters of the professionals.

Mr. Cohen agreed to continue the hearing until September 15, 2008 and extend the time period for Board action.

Motion of Berry, seconded by Woolston to continue the application until September 15, 2008.

Upon roll call the Board voted as follows:

YEAS: Berry, DeAngelis, Ryan, Smith, Woolston, Molimock, Hamilton-Wood
NOES: None
ABSENT: Morris, Wilkie

Chairperson Hamilton-Wood called for Application PB#2008-08 for James and Lori Heupel. Applicant is requesting Minor Subdivision approval with bulk variances for property located at 1011 Potts Mill Road. Block 166, Lots 17.02 and 18.02.

James Heupel, 1011 Potts Mill Road was sworn in by Solicitor Frank.

Mr. Heupel stated that he has an approximately 4 acre parcel that he would like to subdivide off the rear section essentially creating a flag lot. The parcel actually shows as 2 lots on the township tax map (17.02 and 18.02). One of the lots is more conforming than the other. He said that he was told that by state law the 2 lots were combined.

Mr. Heupel said that when he bought the property several years ago it was with the intention of eventually subdividing and building a home for his family on the back portion of the lot. Mr. Heupel said that the ordinance states that for septic he needs a 1 acre minimum lot size. He said that the K. Hov. Developments across the street from him have 1/3 acre and 1/2 acre lots and he based the smaller of the 2 lots of his subdivision on these dimensions. He is proposing a .70 acre lot. Mr. Heupel stated that the subdivision was laid out to have the least negative impact on the adjoining properties as possible.

Engineer Guzzi stated that there were a number of completeness issues that should be addressed prior to hearing the application. These items are listed in his review letter dated August 14, 2008 and include an environmental impact statement, preliminary delineations of wetlands, preliminary delineation of stream encroachment, locator map, table of zoning requirements, test pits and permeability results required for the proposed lot, and a constraint free circle.

Chairperson Hamilton-Wood asked if notice had been given for this application. Solicitor Frank stated that notice had been given and he had reviewed it and found it to be proper.

Engineer Guzzi stated that since this property is impacted by environmental constraints – wetlands and stream encroachments – those would be important things for the Board to review to be sure that they are not approving a subdivision that would create a lot that would not be buildable. Similarly the test pits and permeability results insure that the site is suitable for a septic system. Engineer Guzzi said that the bulk items were outlined in his report.

Chairperson Hamilton-Wood said that the process for environmental approvals comes through the State. Engineer Guzzi said that the ordinance does not require that the applicant have State approval prior to the hearing – just that they have the preliminary delineation as to where the wetlands and stream delineation are located.

Mr. Heupel stated that he would argue that he does have an idea where the wetlands are based on the lay of the land. He stated that he has a slide show of the site. Mr. Heupel said that his neighbor, surveyor Rick Tkacs had located the stream on the survey. He also has scaled off the flood hazard zone. Mr. Heupel said that he was assuming that the encroachment will be very close to the flood hazard line based on the grade and the drop off of the property in the back. The location of the proposed house will be 23' above the bottom of the streambed.

Mr. Heupel said that he knew that he would have to provide the delineation from the State, but said that he thought this was more contingent upon a building permit. Chairperson Hamilton-Wood stated that she did not agree with this. The Board does not want to create a lot that cannot be utilized.

Solicitor Frank said that these environmental issues are the filters through which the site should be scrutinized to determine whether this is a buildable property especially since this property requires a septic system. Mr. Heupel stated that when he bought the house that he is in currently he had a new septic installed and the grade is not much different. He stated that he felt confident that he would get septic approval.

Solicitor Frank stated that unfortunately this is not competent evidence for this Board. Mr. Heupel stated that he would get a test pit done to establish suitability.

Chairperson Hamilton-Wood commented that this Board has typically stayed away from creating flag lots. She stated that she understood that this wasn't a typical flag lot. The Board has denied other requests for flag lots. She asked for the frontage requirement. Engineer Guzzi stated that 150' is required. The frontage of proposed Lot 18.02 is 70.52'. This is measured at the setback line. By definition the lot frontage is the same as the lot width.

Mr. Heupel asked for a waiver for the environmental impact statement since he would have to do the wetlands delineation. The concerns are based on the wetlands portion of the site. He stated that he was under the impression from reading the ordinance that the environmental impact statement was only required for a major subdivision. Engineer Guzzi stated that this is a submission item on the minor subdivision checklist.

Chairperson Hamilton-Wood said that she understands the point that Mr. Heupel is making, but she said that she is not sure that she would be comfortable is granting this waiver.

Chairperson Hamilton-Wood stated that the one lot would be over on the impervious coverage. Mr. Heupel said that this was very minor. Engineer Guzzi stated that part of this is because the proposal is to create an undersized lot. The requirement is for minimum 1 acre lots. Chairperson Hamilton-Wood stated that there are a few other non-wetlands issues that will impact the environmental issues. Engineer Guzzi stated that the Board could request a modified or reduced scope environmental impact statement if a full-blown study is not warranted. Obviously the wetlands and the stream encroachment are a priority. There may be threatened endangered species. He stated that the ordinance calls out what is required in the environmental impact statement. Chairperson Hamilton-Wood stated that the Board has accepted very modified versions in the past to more adequately meet the concerns of a particular parcel.

Member Woolston asked if water and sewer extended down Potts Mill Road? Mr. Heupel stated that when he bought the property he did a major renovation and at that time he wanted to tie in. He stated that he contacted the MUA and had extensive conversations with Russell Trice of Alaimo. Mr. Heupel said the township put in a force main that went to the Mallard Creek property. Then in the Ryland Homes property they were able to do a gravity main. Basically they abandoned the force main. The force main is located in the street and he wanted to tie into it. Mr. Heupel said that he contacted the township and asked about tying into it and was told that since he was the only property that wanted to tie in the MUA did not want him to tie in for maintenance reasons.

Mr. Heupel said he had to put in the septic. He argued with the county to be permitted to install the septic in the front so that if sanitary sewer does come down Potts Mill Road he could then tie in. He said that he also did this with the water line so that if the water is extended down Potts Mill Road he could tie in to that also.

Mr. Heupel stated that he would add the locator map, the table of zoning requirements and the constraint free circle.

Mr. Heupel said that the delineation of the stream encroachment would contain the delineation of the wetlands. Engineer Guzzi said that Mr. Heupel would have to ask his professional about this. Mr. Heupel said that he would provide the stream encroachment and then ask the Board to waive the wetlands delineation. Chairperson Hamilton-Wood stated that she could not guarantee that the Board would grant the waiver.

Mr. Heupel stated that it took 6 months to get the application through the state. Engineer Guzzi stated that the preliminary delineation was required for the application to be deemed complete and the hearing held. Any approval of the application would be conditioned upon getting those state approvals.

Motion of Berry, seconded by DeAngelis to deem the application incomplete.

Upon roll call the Board voted as follows:

YEAS: Berry, DeAngelis, Smith, Ryan, Woolston, Molimock, Hamilton-Wood
NOES: None
ABSENT: Morris, Wilkie

Mr. Heupel asked if he would have to offer additional notice. Solicitor Frank stated that new notice would be required.

OTHER BUSINESS

There was no other business to be discussed at this time.

MASTER PLAN REVIEW/DISCUSSION

69.

Planner Petrongolo stated that he would like to set up a meeting of the committee. Mayor Berry stated that the committee would be made up of Mr. Smith, Councilman Ryan and Mr. DeAngelis. Councilman Ryan asked Planner Petrongolo to provide some acceptable dates for the meeting.

Motion of Ryan, seconded by DeAngelis to open the meeting to public comment. Since no one signified a desire to be heard motion was made by DeAngelis, seconded by Ryan to close the public portion. Motion unanimously approved by all members present.

There being no further business motion was made by Berry, seconded by DeAngelis to adjourn the meeting at 8:31 p.m.

John T. Smith, Secretary

JTS/ne