

MINUTES - ZONING BOARD

July 9, 2018

The workshop portion of the meeting was called to order at 8:05 P.M. by Mr. Marotta, Chairman.

ROLL CALL:

Members Present:

Mr. Marotta
Mr. Pistol
Mr. Bovasso
Ms. Daly
Ms. Drake
Mr. Salomon

Members Absent:

Mr. Illing

Alternates Present:

Ms. Hay

Alternates Absent:

Mr. Trelease

Also in attendance: Nicholas Giuditta, Esquire, Ron Johnson, Zoning Officer, Kathy Lenahan, Administrator/Scribe, Bill Masol, Engineer

COMMUNICATIONS:

None

RESOLUTIONS OF MEMORIALIZATION:

1. **Application #ZBA-18-014
40-42 Jackson Drive LLC
40 Jackson Drive
Block: 640 Lot 6.01, Zone C-1
677 & 679 Raritan Road
Block 640 Lots: 2 & 3, Zone NC**

Applicant is seeking preliminary and final subdivision, site plan, use and bulk variance approvals. The Applicant proposes to construct an additional warehouse facility on Lot 6.01, and to subdivide Lot 6.01 into two parcels, here referred to as Lots 6.01A and 6.01B. Lots 2 and 3 will be merged into Lot 6.01B. Lot 6.01A will continue to house the existing warehouse facility. The Applicant will construct the new warehouse facility on Lot 6.01B.

The Resolution of Memorialization (attached and made part of these minutes) as amended, was reviewed by the Board. After discussion, a motion to approve the resolution was made by Mr. Pistol, seconded by Ms. Drake and passed by unanimous voice vote.

MINUTES:

Motion to adopt minutes of the June 25, 2018 meeting was made by Mr. Bovasso, seconded by Mr. Pistol and passed by unanimous voice vote.

OLD/NEW BUSINESS

None

The workshop portion of the meeting concluded at 8:11P.M.

PUBLIC PORTION:

A public meeting of the Cranford Board of Adjustment was called to order by Mr. Marotta on July 9, 2018 at 8:15 P.M. in Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Mr. Marotta announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader or Star Ledger has been notified and the agenda posted in the municipal building as required.

Mr. Marotta explained the protocol, purpose and procedure that will be followed during the hearing.

1. **Application #ZBA -18-016
Fairview Manor LLC/Dreyer Farms
831 Springfield Avenue
Block 151, Lot 14, R-1 & R-3 Zones**

Applicant is seeking preliminary and final site plan approval. The applicant is also applying for a pergola in the front of the farm stand building, storm water improvements (including a water quality treatment device and installing a 24" CMP slotted drain in the front of the property), paving the previously approved gravel parking lot, ADA aisle striping and signage, the addition of a gravel area and path to the existing buildings and greenhouses. The applicant is not applying for any variance relief.

Peter Lanfrit, Esq. appeared on behalf of the applicant. He explained the application. Stated he was before this Board in 2013 representing the applicant seeking a site plan and use variance. Board granted the approval and variances requested, applicant made all improvements, and a CO was granted. Sometime after that, applicant decided to pave the gravel parking lot not knowing he needed Board approval. After parking lot was paved, Municipality advised applicant that he needed site plan approval and a storm water management plan.

Applicant is here before the Board to get site plan approval for the parking lot and is requesting the addition of a gravel path and pergola. Will also provide storm water management for parking lot.

John Dreyer appeared and was sworn in. He testified to the following through questions posed by Mr. Lanfrit:

He is one of the principals of Dreyer Farms. He received approval to demo of an existing structure and construct a new farm stand in 2013. Decided to pave the gravel parking lot and did not know he was required to get approval for paving. Reason for paving was for customer's convenience. Stated that they paved over the existing gravel area. Paving also improved conditions during winter time. Exhibit marked A-1 is a photo of the pergola they would like to construct. Pergola is for storing plants that like shade and also keeps area cooler.

There were no questions from the Board for this witness.

There were no questions from the Public for this witness.

Tiago Duarte appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of engineering.

He testified to the following through questions posed by Mr. Lanfrit:

He was involved in the original application in 2013. Described sheet 5 of the site plan that was submitted to the Board with their application. Described the changes that they are requesting. Stated that with paving of the parking lot, they increased the impervious coverage to just under 10,000 sq. ft. and are planning to comply with the Township's storm water management ordinance by installing an infiltration basin on the north side of farm stand and will treat any runoff with a slotted drain between sidewalk and pavement area.

Described two other improvements they are requesting: a gravel path between the greenhouse and farm stand and the pergola. The pergola will be 12 x 30 and located between driveway and existing building. Stated they received a report from Township Engineer and will comply with all his requests. Stated any outside approvals will be obtained as well as maintenance and management of basin.

Questions posed by the Board ascertained the following:

Filtration system consists of a number of filters which are cleaned out yearly. They will provide a maintenance manual per the Township engineer's request. Existing drainage pattern drains in a southerly direction.

There were no questions from the Public for this witness.

William Masol, Township Engineer appeared and was sworn in. He asked what type of pavement material was put over the gravel area. Stated without knowing, pavement could deteriorate and could cause drainage problems.

Mr. Lanfrit stated he did not know what type of material was used, but would provide that information to Mr. Masol. Stated applicant agrees to maintain and repair pavement as required.

Mr. Lanfrit summed up application. Stated they spent a lot of time in 2013 making sure that their application was an improvement to the old farm stand. Feels the end result is an improvement and the changes they are requesting will further enhance the operation of the farm stand. Requesting Board grant the amended site plan approval.

No one in the Public spoke for or against this application.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

**2. DELIBERATION OF Application #ZBA -18-016
Fairview Manor LLC/Dreyer Farms
831 Springfield Avenue
Block 151, Lot 14, R-1 & R-3 Zones**

Applicant is seeking preliminary and final site plan approval. The applicant is also applying for a pergola in the front of the farm stand building, storm water improvements (including a water quality treatment device and installing a 24" CMP slotted drain in the front of the property), paving the previously approved gravel parking lot, ADA aisle striping and signage, the addition of a gravel area and path to the existing buildings and greenhouses. The applicant is not applying for any variance relief.

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

Dreyer Farms is a wonderful addition to the community. It is unfortunate what happened with the driveway. The farm stand looks phenomenal with improvements from 2013. Nice to have farm stand in Cranford. Paved parking is safer and better for pedestrians. Board members recently completed a course on storm water management and feels applicant has provided a comprehensive storm water management plan. Pergola is an improvement. Looks attractive. Will enhance operation as well. One of oldest businesses in Town. Great to see improving the property.

Question by Board member about variance for the pergola. Mr. Johnson clarified that they do need a variance for the pergola.

Mr. Lanfrit stated Township engineer is considering the pergola an accessory structure and will be located in the front yard, therefore they would technically need a variance. Asked that the motion be amended to include the variance for an accessory structure in the front yard.

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Motion to approve Application # ZBA-18-016 as amended, was made by Ms. Drake, seconded by Mr. Pistol, with the following voting in favor of the motion: Mr. Marotta, Mr. Pistol, Mr. Bovasso, Ms. Daly, Ms. Drake, Mr. Salomon and Ms. Hay.

**3. Application #ZBA-18-015
Five Aces Resources LLC & Jola Resources LLC
643 Raritan Road & McKinley Street
Block: 642 Lot 8, NC Zone
Block: 642 Lot 9, C-1 Zone**

Applicant is seeking preliminary and final minor site plan approval, and C-1, C-2 and D-3 variances to construct a two-story office building; including possible partial professional or medical offices, in the NC Zone. The property is in a split zone - NC and C-1. Offices are a conditional use in the NC zone and this application meets all the conditions. The proposal will exceed the maximum impervious coverage of 75% in the NC zone, while 82.2% is proposed. The existing coverage is 80%. The C-variances are required for parking and a waiver is requested for parking setbacks. (§255-26G(3)(a)). The parking is proposed behind the building, however being that the property is on a corner lot, the parking is located inside the required setback area of 15' for two streets, McKinley Street and Commerce Drive (the property is bordered by three streets). Therefore, a design waiver is required. The applicant is requesting a variance for 4 parking spaces for the flexibility of possibly placing a medical office use at some point in the future. The last variance requested is for side yard setback where 10.3' is proposed and 12' is required. (§255 Attachment 1, Schedule 1).

Stephen Hehl, Esq. appeared on behalf of the applicant. He explained the application. Site is a vacant bank building. Applicant is seeking to partially demolish the building and construct a new office building where the applicant will use the second story of the building. Stated it is in a split zone, part is in the C-1 zone and the other part is in the NC zone. Needs a D-3 variance. Offices are conditionally permitted in the zone. Offices are permitted on the first floor but applicant is seeking to have the offices on the second floor. Multiple frontages trigger several of the variances.

Victor Vinegra, appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of engineering.

Described Exhibit A-1 which is a Google Earth color rendering of the site and A-2 is a color rendering of the site plan. Stated that sheet number 2 is an existing conditions survey with existing bank building with drive up teller. There is a concrete sidewalk from curb to building. Site contains a little more than 83% impervious coverage and also contains permeable pavers. Applicant considered using the existing building but building did not layout properly for the client. They will expand the existing permeable paving parking lot and remove all of the asphalt area by the drive up teller lane and replace with permeable pavers. Parking lot will be mostly office cars, the largest truck would be a UPS truck. Stated it is a good situation for permeable pavers (seen on sheet 4).

Stated a number of the variances are pre-existing conditions. Currently there are 3 driveways. There is a two way, a one way entrance for drive up teller and a one way entrance for employees along Commerce Drive. The existing curb line is close to property line. New design will limit the openings to 26 feet which is better than the 35 feet that exists on McKinley Street today. Stated that access from McKinley Street is the best road to come off of and would have good site distance. Will be one way out to Commerce Drive and have improved traffic circulation. Applicant will be creating 8000 sq. ft. of new office space. Feels it is an improvement over bank or other uses for site.

Mr. Vinegra went over the Township engineer's comments from his June 13th letter. Described the variances and waivers they are requesting. Stated they will consolidate the lots and have planting beds and green areas. Discussed the design waiver they are requesting for 9 x 18 parking spaces.

Stated they are looking for a 3 foot set back from property line on McKinley Street where 2.7 exists. Stated they have 39 parking spaces, and if future use exceeds the parking demand, they would have to come back before the Board.

Described the landscaping as low growth in front of the building. Proposing a heavy row of shrubs such as hues alongside each other to minimize headlight glare. Stated there is one single family home with no shrub line.

Discussed the lighting plan. Applicant will give to professional lighting company for their recommendations. They do not want to have any gaps with lighting. Described where lights would be placed. Stated lights by residential area would fall to 1.0 and will use the latest LED's. Stated there will not be much light spillage at site. Recommending timers on the lights so after 10pm will have security level lighting.

Does not feel they need off street loading. The refuse will be located in employee parking lot. Stated they shall comply with items 1, 2, 3 4, 5, 6, 7 in the grading and drainage section of report.

Discussed the 2% apron and stated they will keep below 5% and is a design waiver. Stated they will comply with the rest of engineer's letter.

Mr. Hehl stated the Environmental Committee had some comments regarding the arborvitaes and exploring alternatives.

Mr. Vinegra stated they will use flowering species for more diversity along the building frontage.

Questions posed by the Board ascertained the following:

If application is approved, they will supply a bulk schedule with what the zone requires and what the Board approves. The entire building will be demolished and footprint will be widened. Not sure if the reduced security level lighting will be on all the fixtures. 3000k would be desirable. Net floor space is a little more than 8000 sq. ft., approximately 4000 sq. ft. on each floor. If they do not received waiver for front yard setback they would have to eliminate 9 parking spaces and then need a variance. There is no sidewalk on McKinley Street for residents to walk on. Applicant would consider putting a sidewalk on McKinley Street.

There were no further questions by the Board.

Mr. Marotta opened the application to the public for questions of the witness the following appeared:

April Modlinger – 20 McKinley Street appeared. Asked if they were removing the sidewalk from Commerce Drive.

Mr. Vinegra stated they were not removing the sidewalk.

Debra Higgins – 2 McKinley Street – Asked about safety of walking to and from their complex. Also feels it is a pretty busy area. Asked about the lighting affecting their area.

Mr. Vinegra stated they would be adding a sidewalk along McKinley Street and that the trip generation would be similar to what a bank would have. Stated they could do a small screening to cut down headlight glare with a four foot fence that would absorb the light.

Mr. Johnson stated the applicant would need to clarify what type of fence they are proposing since Cranford has regulations as to what types of fences are allowed in certain areas.

Eric Bender – Owner of 1 McKinley Street complex had questions about where the fence would go.

Mr. Vinegra stated that Mr. Bender's curbing is 3 feet from property line, they will put their curbing 2 feet from property line giving a 5 foot buffer. Stated they can add shrubs but the roots may grow onto Mr. Bender's property. Asked if he would agree to landscape right on the property line. They can add arborvitaes right on the property line, which would be in lieu of the fencing.

Board member asked who would maintain the plantings. Mr. Vinegra stated it would be maintained by the applicant.

Mr. Johnson asked about the proposed sidewalk for McKinley Street and the striping of the customer parking.

Mr. Vinegra stated they would extend sidewalk to the property and there is a proposed painted crosswalk, but feels it is not a heavily traveled crosswalk. Stated they could do limited hatching, would use permeable pavers and would be ADA compliant.

Mr. Masol Township Engineer, asked about the planting row along Commerce Drive. Wants to make sure it is a condition that the property owner maintain the row since it is in the public right of way and stated that he does not have any issue with the majority of the waivers. However, he is requesting that the cross slopes of the sidewalks in the public right of way be maintained at 2%.

Mr. Vinegra stated it is the owner's responsibility to maintain the sidewalks and areas around the sidewalks. If they do a row of planting the owner is obligated to maintain it.

Board member requested that the site lines be looked at when pulling out onto Commerce Drive.

James Ruban appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of architecture. Described the floor plan as a two story building with partial basement that will house the utilities. The 2nd floor will be for M & M Construction (owners of building) and 1st floor will be a proposed office use. There will be a central lobby and 2 exits out on the first floor. There will be bathrooms on each floor. Described the color rendering for side of Raritan Road as masonry and a lot of glass. Main entrance will be on Commerce Drive, with the same glass and masonry. Parking lot on west side will be same as Raritan Road. The side facing residential use will be less glass and a lot more masonry. Showed a photo of building depicting the landscaping. Stated that the building is irregularly shaped and not an efficient layout. Stated new building will have an office look.

Questions by the Board ascertained the following:

Will use Low-E glass for energy efficiency. The intention is not to make it reflective. Lighting will be decorative. There will be low light highlighting the shrubs and accent type lighting to highlight the building. Lighting will be a soft wash. Occupancy sensors will be used. Footprint is 30% bigger than what is there now. Slightly bigger than the bank. Bank was one story. Basement will be for utilities, sprinkler room, mechanical room, and maybe storage. Building will have a flat roof with pitch to roof drains. AC will be on roof, screened and buffered. Building is being designed for M & M Construction and 1st floor would be for one tenant. If M & M expands they can access both floors in the future. There will be an elevator and there is no height variance requested.

Michael Bilavsky – 30 Commerce Drive. Asked how tall the proposed building will be and how tall the existing building is. Asked how tall the people in diagram are.

Mr. Ruban stated the proposed building will be 30 feet and the existing building is 15 feet. Stated people in diagram are approximately 5'5" to 6 feet tall.

Mr. Johnson asked about the signage for the building.

Mr. Ruban stated they are only proposing to put the address number on the building.

Kristin Russell – Maser Consulting, Planner to the Board appeared. Asked about the façade materials and if they are in compliance.

Mr. Ruban stated they will be in compliance and also have over the 40% required glass.

Albert Mauti owner of M & M Construction appeared and was sworn in. Stated the company was started by two brothers in 1957 and that they would love to come to Cranford. The building would be utilized by 7 to 8 employees. They are a general construction firm and work all over the state. Will not have heavy construction vehicles at site. There would only be regular vehicles at the site. Work hours are generally 7 am to 5 pm Monday thru Friday and sometimes they will be there on Saturdays. Stated their vision is to find a 1st floor tenant but maybe in years to come they will utilize the 1st floor space.

Victor Vinegra appeared and was sworn in. His credentials were presented to the Board and he was accepted as an expert witness in the field of planning.

Discussed the variance's that are being requested due to a split zone and that they will consolidate the parcels. Stated that the NC zone does permit office on the 2nd floor or on first floor less than 1000 sq. ft. The C-1 zone permits tall office buildings in its entirety. Stated the applicant needs a D-3 variance because they don't meet all the conditions. Described the positive criteria and why he feels they meet the criteria. Site case law. Also described the negative criteria and feels it does not negatively affect the Master plan or the Zoning plan. Stated that the 5 foot buffer should address the neighbors' concerns and that most of the parking lot should be empty when residents are coming home from work.

Stated that they will plant more street trees per the Planner's letter and will have the landscaping plan revised to incorporate the holly's and flowering shrubs. Stated they will get rid of some of the evergreens around the building, but will place evergreens around the parking area and they will submit a new landscaping plan to the Town for review.

Questions from the Board ascertain the following:

McKinley Street was a paper street but was always a right of way. Corner lot on Jackson and Commerce has a zero lot line frontage.

Kristen Russell - Maser Consulting went thru the list of design waivers and variances.

Mr. Vinegra went through the special reasons he feels the D-3 variance should be granted. Stated some of the conditions are pre-existing.

Mr. Giuditta stated that the D-3 variance has a lower standard than a D-1. A D-3 variance is basically can site accommodate the problems associated with the deviation from the conditional use (i.e. can the site handle a larger office space). Asked about page 7 of Planning Report #15 & 16 and asked if applicant will comply.

Mr. Vinegra stated they will comply.

Mr. Marotta asked if anyone from the Public would like to speak against this application:

Michael Bilavsky – 30 Commerce Drive - Appeared and was sworn in. Stated that his parents built their house in 1959. The windows to their bedroom and living face directly to the applicants parking lot. Described the definition of granting of a continual use variance. Feels the character of area is residential. Stated there are 10 households living there. Described a high-water problem on Commerce Drive and McKinley Street by showing a video from July 3, 2018. Showed pictures of area between parking lot and sidewalk. Stated that applicant said there is 2 feet 7 inches between parking lot and pavement, but it is really 6 feet 8 inches. Feels the applicant did not calculate correctly. Stated that the green space by the ATM in demo plan is described as concrete but the area is grass. Stated that he feels Lot 9 should not be included in the application. Described it as a self-imposed variance due to the additional request for parking spaces. Feels this is not a hardship variance. Stated that the shielding should be of 2700 Kelvins not 3000 and in the warm color range.

Stated that the sidewalk which is being proposed will be put up against a tall white fence and it will be very harsh with the sun glare. Feels parking could be realigned and thinks application should be denied.

Debra Higgins – 2 McKinley Street appeared and was sworn in. Moved from Riverfront due to construction. Stated several people have children and dogs in the complex. Feels area is going to be busy with cars. Stated she has a home office and feels this is going to affect her way of living. Stated they are shaded from the commercial property. Asked why project has to be so big. Feels they need to negotiate. Stated the community is call *The Hamlet*. State she is probably going to move again. Does not feel this will enhance their community. Asked why there are no photos of before and after.

Mr. Vinegra still being under oath clarified the following:

The property line is approximately 10 feet from the curb. There is a 6 foot space there now and they are not paving to curb, going to the property line so there will still be a 3-4 foot gap between the permeable pavers and the sidewalk. Not paving with blacktop. Gap is owned by the municipality and also owns the sidewalks. Stated that the Board can give permission to plant the strip as long as client maintains it. Hollys will be around the building and will expand the arborvitaes. They do not have enough room for a berm. Lights will be pointed down and are 12 feet high. Can ask for more back shielding on lights. Stated that one item that is correct is the island between the ATM and sidewalk is grass not concrete. There is no detention on the site, it pre-dates detention.

Board member asked about the comment that Lot 9 was previously used in another application.

Mr. Vinegra stated that the same owner owns Lots 8 & 9. Not sure if there was an agreement when complex was constructed, but Lot 9 is not part of the townhouse development.

Board member asked if they are increasing the impervious coverage of the two lots.

Mr. Vinegar said they will be even.

Board member asked what types of “as of right uses” the property could have.

Mr. Vinegar stated it could be retail such as convenience store, office, bank, daycare facility.

Mr. Hehl summed up the application. Stated this would be a great improvement over the vacant bank. Looking to do something less intense then what is permitted in the zone. Applicant looking to construct a beautiful building with adequate parking and nice landscaping. Addressed the comments from the Engineer and Planner and the various departments. Looks forward to the Board granting the application.

No one else appeared and this portion of the hearing was closed with the matter referred back to the Board.

**4. DELIBERATION OF Application # ZBA 18-015
Five Aces Resources LLC & Jola Resources LLC
643 Raritan Road & McKinley Street
Block: 642 Lot 8, NC Zone
Block: 642 Lot 9, C-1 Zone**

Applicant is seeking preliminary and final minor site plan approval, and C-1, C-2 and D-3 variances to construct a two-story office building; including possible partial professional or medical offices, in the NC Zone. The property is in a split zone - NC and C-1. Offices are a conditional use in the NC zone and this application meets all the conditions. The proposal will exceed the maximum impervious coverage of 75% in the NC zone, while 82.2% is proposed. The existing coverage is 80%. The C-variances are required for parking and a waiver is requested for parking setbacks. (§255-26G(3)(a)). The parking is proposed behind the building, however being that the property is on a corner lot, the parking is located inside the required setback area of 15' for two streets, McKinley Street and Commerce Drive (the property is bordered by three streets). Therefore, a design waiver is required. The applicant is requesting a variance for 4 parking spaces for the flexibility of possibly placing a medical office use at some point in the future. The last variance requested is for side yard setback where 10.3' is proposed and 12' is required. (§255 Attachment 1, Schedule 1).

Mr. Marotta reviewed the testimony.

Board comments consisted of the following:

Concerned about the impervious coverage. Also no street trees are proposed. Opposed to design waiver for zero-foot setback for Commerce Drive. Is an appropriate development for the zone and for the area. Attractive modest size office building. Applicant has agreed to put landscaping along Commerce Drive. Using permeable pavers to alleviate some of the run off. Flooding will not be worsen by this development. Applicant agreed to put sidewalks on McKinley Street. Is a commercial zone and alternative uses could be more intense. Thanked the residents who came out. Feels it is a good application for Cranford. Look at the alternatives. Feels convenience store would be detrimental to the neighborhood. Could put 2 trees in front of the building, plus a couple of tree islands facing *The Hamlet* to soften the parking lot. By putting in sidewalk, taking safety into consideration. Bank is an eyesore.

Mr. Masol stated that the driveway in the public right of way has to be ADA complaint and the maximum cross slope on a sidewalk is 2%. Stated that permeable pavers act as a storm water device.

Motion to approve Application # ZBA-18-015 (with the following conditions: plantings in conjunction with *The Hamlet* property owner, evergreen shielding on the Commerce Drive side, lighting will be no bleeding off the property and LED lights properly shielded, no visible light source coming off the property, sidewalk will be installed on McKinley Street and ADA compliant. Building lighting will be soft wash. No building sign. Glass will not be overly reflective, and glass will not allow interior spillage out at nighttime. Will work with PD and manufacturer for night time dimming on parking lights in lots. Applicant will maintain all plantings. 3000 Kelvin will be used for lighting. Two street trees will be in front of the building, and one tree island on McKinley), was made by Mr. Salomon, seconded by Ms. Drake. With the following voting in favor of the motion: Mr. Marotta, Mr. Pistol, Mr. Bovasso, Ms. Drake, Mr. Salomon and Ms. Hay.

Ms. Daly voted no.

PUBLIC PORTION:

None

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 11:52 P.M.

Jeffrey Pistol, Secretary