

MANSFIELD TOWNSHIP PLANNING BOARD
REGULAR MEETING
July 27, 2020

The Regular Meeting of the Mansfield Township Planning Board was held virtually on the above shown date with the following in attendance: Scott Preidel, Douglas Borgstrom, Frederick Cain, Shane Fleming, Colleen Herbert, Robert Higgins, William Tahirak, Ralph Wainwright, Judith Oiler, Paul Tsiknakis, Jeffrey Grouser and Barbara Crammer. Also in attendance was Deputy Clerk Jolly, Clerk Semus and Land Use Secretary Baker-DiCamillo. Joseph Sgro was absent.

The meeting was called to order by Chairman Scott Preidel, followed by the flag salute and the following opening statement:

Adequate Notice has been provided for this Joint Land Use Board meeting and has been published in both the Burlington County Times and the Trenton Times on July 19, 2020, placed on the official website for the Township and filed with the Municipal Clerk of the Township of Mansfield, the notice of which contained the date, time, URL, audio conference call number and PIN/Participant code for telephonic access to said meeting. Said notice further contained the purpose of this meeting, stating that formal action will be taken as so noted in NJSA 10:4-8(d), Amended 1981, by including Section 10:4-18 which addresses Regular Meetings of a public body, which is addressed under “annual notice”.

Deputy Clerk Jolly further stated that all members of the public are asked to remain on “mute” and not interrupt or comment except during the Public Comment portions of the meeting. Public Comments will be limited to two minutes and the board will not entertain repetitive comments. During the public comment portion of the meeting, participants were asked to please state their name and address for the record.

APPLICATION PB-2020-9: Homestead Plaza II Amended Site Plan Approval

Attorney Coleman swore in all witnesses.

Elizabeth Mulbuher, representing Homestead Plaza II, explained that they are looking to amend their prior approval regarding the storage building. They would like to use part of that building for office space, which was not previously approved. Approximately 735 square feet of storage space would be renovated to accommodate office use. Future tenants were discussed as well as the space for the storage of the maintenance equipment.

The professionals discussed all of their respective review letters and there were no further comments after said discussion

PUBLIC COMMENT:

There were no comments from the public regarding the above application.

A motion to approve the above application was offered by **Mr. Tahirak** and seconded by **Ms. Herbert**.

Attorney Coleman stated all of the conditions of approval as will be duly noted on the resolution of approval.

Motion carried on a roll call vote recorded as follows:

AYE: Tahirak, Herbert, Borgstrom, Cain, Wainwright, Oiler, Preidel

NAY: Higgins ABSTAIN: Fleming ABSENT: Sgro

APPLICATION PB2020-11: Christopher Pukenas 189 Public Road, Variance for Undersized Lot

Attorney Coleman explained that the notice provided to the newspapers and the properties within 200ft was not sufficient therefore, the board does not have jurisdiction to hear this application. A new notice must be completed and the application may be heard at the August 24th meeting.

Mr. Pukenas added that he was not aware the notice was insufficient; however, he will complete a new notice for the August 24, 2020 meeting.

APPLICATION PB2020-12: Jason Konek, 28459 Schoolhouse Road, Front Yard Setback Variance

Attorney Coleman swore in all the witnesses.

Attorney Singer, representing the applicant explained that this application is for front yard setback variance. The garage has already been built because zoning/building approval was issued in error. The garage is 25 feet from the front yard setback wherein 30 feet is required.

The professionals discussed all of their respective review letters and there were no further comments after said discussion

A motion to approve the above application was offered by **Mr. Borgstrom** and seconded by **Mr. Cain**.

Attorney Coleman stated all of the conditions of approval as will be duly noted on the resolution of approval.

Motion carried on a roll call vote recorded as follows:

AYE: Borgstrom, Cain, Fleming, Herbert, Higgins, Tahirak, Wainwright, Oiler, Preidel

NAY: None ABSTAIN: None ABSENT: Sgro

RESOLUTION:

LAND USE BOARD OF THE TOWNSHIP OF MANSFIELD

RESOLUTION NO. 2020-7-12

RESOLUTION OF THE TOWNSHIP OF MANSFIELD LAND USE BOARD

CONCERNING THE APPLICATION OF

PROPERTIES AT MANSFIELD

FOR VARIANCE AND PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL

WHEREAS, Properties at Mansfield, LLC (the "Applicant"), has applied to the Land Use Board of the Township of Mansfield (the "Board") for Variance and Preliminary and Final Major Site Plan Approval for property located at 3237 U.S. Route 206, known as Block 4, Lot 10.02 on the Official Tax Map of the Township of Mansfield (the "Property"), for the purpose of renovating two (2) existing buildings and making site improvements to the Property; and

WHEREAS, variances are required as the proposed development of the Property does not satisfy all of the Ordinance requirements of the Highway Commercial ("C2") Zoning District of the Township; and

WHEREAS, the application was deemed Complete by the Planning Board on June 22, 2020; and

WHEREAS, a public hearing to consider the application was held by the Planning Board on June 22, 2020¹, after public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the statutes of the State of New Jersey; and

WHEREAS, the Applicant presented evidence to the Board through testimony, plans and other evidence, including the following:

- Site and Demolition Plans, Grading and Lighting Plans and Construction Details, prepared by William H. Nicholson, PE, William H. Nicholson Associates, PA, dated 03/12/20;
- Re-construction Plans prepared by Benedetto Catarinicchia, AIA, Zacs International, LLC, dated 03/16/20, revised 04/24/20;
- February 19, 2020 Letter of No Interest issued by the New Jersey Department of Transportation; and
- May 28, 2020 Letter of John C. Gillespie, Esquire, Applicant's Attorney; and

WHEREAS, the following review letters were submitted to the Board by its Professionals:

- June 17, 2020 Review Letter of the Board Engineer, Stout & Caldwell Engineers and Surveyors, by Mark. E. Malinowski, PE;
- June 18, 2020 Review Letter of the Board Planner, Environmental Resolutions, Inc., by Edward Fox, AICP, PP; and
- May 12, 2020 Review Memorandum of the Board Traffic Engineer, Litwornia Associates, Inc., by Alexander J. Litwornia, PE, PP, and

WHEREAS, the Board after carefully considering the evidence presented by the Applicant in support of the Application for Variance and Preliminary and Final Major Site Plan Approval, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant is the owner of the Property located in the Township's Highway Commercial (C-2) Zoning District. The Property is approximately 0.65 acres in area and is improved with two (2) structures, both in disrepair, paved and stone circulation drives, separate ingress and egress drives for Route 206 access and private on-site well and septic system.

2. The Applicant is proposing to renovate the existing structures and make site improvements to the Property, including reconstructing and reconfiguring the existing pavement and stone areas and installing new concrete walkways and an ADA ramp.

3. The Applicant's intended use of the Property is for office, medical and/or retail space, permitted uses in the C-2 Zone.

4. The taxes on the Property are current or exempt.

5. The Applicant has paid and/or posted all required fees and agreed to keep the review escrow current.

6. Proper notice of the application for Variance and Preliminary and Final Site Plan has been given, based upon the certified list from the Office of the Mansfield Township Tax Assessor.

7. The Property's 0.65 acre lot area and 124.98 foot lot width are non-conforming conditions.

8. The proposed development of the Property will require the following variances:

- a. Side yard setback – 8 foot with a 20 foot aggregate required; 7.34 feet with a 36.99 feet aggregate existing and proposed.
- b. Public sewer – required, septic proposed.
- c. Parallel access road – required for properties adjacent to Route 206, not provided.
- d. Improvement setback from right-of-way of all contiguous streets – 25 feet required, 15 feet existing, 23 feet proposed.

9. The Applicant is requesting submission waivers as identified in the review letters of the Board's professionals.

10. The Applicant was represented at the June 22, 2020 Public Hearing by John C. Gillespie, Esquire, of Parker McCay. William H. Nicholson, PE, and Benedetto Catarinicchia, AIA², testified on behalf of the Applicant.

11. Mr. Gillespie made the following representations during the June 22, 2020 Public Hearing:

- a. The Property is currently in disrepair and not utilized.

¹ The June 22, 2020 Public Hearing was conducted electronically in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq., as amended by A-3850 to permit electronic meetings, and in consideration of the Executive Orders issued by Governor Murphy and Guidelines issued by the Department of Community Affairs, to protect the public during the COVID-19 emergency. The virtual meeting progressed with the consent of the Applicant

² Mr. Nicholson and Mr. Catarinicchia were qualified by the Board to testify as experts in their respective fields of engineering and architecture.

- b. The proposed improvements, both to the buildings and the site, will restore the Property to active utilization.
 - c. The existing buildings are not being demolished; only where necessary to repair damaged areas, including damaged framing.
 - d. The existing foot print of each building will be maintained.
 - e. Tenants for each of the buildings have not been identified.
 - f. The end uses of the buildings will be permitted uses; a Use Variance will not be required.
 - g. The buildings will continue as a 1 and ½ story building and a 1-story building.
 - h. The useable floor area will be 1,398 square feet for Building I and 905 square feet for Building II, 2,303 square feet in total.
 - i. The need for variances arise from the pre-existing conditions of the Property and the existing improvements.
 - j. No changes are proposed for the existing access drives and the New Jersey Department of Transportation issued a Letter of No Interest for the proposed development of the Property.
 - k. Submission waivers are appropriate as the Property was previously utilized and testimony will be provided by the Applicant's professionals.
12. Mr. Catavinicchia provided the following sworn testimony during the June 22, 2020 Public Hearing:
- a. He is the Applicant's licensed architect.
 - b. Identifies Building I as the existing 1 and ½ story building and Building II as one-story.
 - c. Building I's half story will be brought up to current code.
 - d. Improvements to the buildings include new roofs and windows and new siding for Building I.
 - e. The finished buildings will be an aesthetic improvement of the Property and restore the buildings to active use.
13. Mr. Nicholson provided the following sworn testimony during the June 22, 2020 Public Hearing:
- a. He is the Applicant's Professional Engineer.
 - b. Existing paving and stones area will be demolished/removed.
 - c. The parking area will be re-configured and will include paved and stoned areas.
 - d. A total of 18 parking spaces are provided for the proposed office and retail uses.
 - e. Identifies the pre-existing non-conforming conditions and how the development of the Property is impacted by the existing conditions.
 - f. The proposed development of the Property advances purpose "M" of the Municipal Land Use Law as it repurposes an existing site.
 - g. The actual coverage of the Property, as developed, will be 68%, less than the maximum permitted.
 - h. The Property does not abut a residential site so a screened buffer area is not required.
 - i. The Property drains to the North.
 - j. Sidewalk will not be provided to the Bilco door, as same is not necessary and would increase the Property's impervious coverage.
 - k. He will work with the Board Engineer to provide a location for a trash enclosure on site, if so needed by a tenant.
 - l. Stones and paving that encroach onto adjacent Lot 10.01 will be removed.
 - m. Public sewer is not available to this area of the Township.
 - n. The parallel road is not warranted for the development of the Property as proposed by the Applicant.
 - o. Decorative lighting sconces, located by the doors, will be added.
 - p. A site triangle will be added to the site plan, rather than a site triangle easement.
 - q. A traffic study with trip generation is not required as this is not "new" development of a never-utilized property, it's the restoration of a previously developed property to usefulness.
 - r. The Applicant will continue to utilize two (2) signs for the Property, the existing sign and a sign to be installed on the 2 sign posts that still stand at the Property.
14. During the Public portion of the June 22, 2020 Hearing, Robert Tallon commented that the stream that runs by the Property is classified as a C-1 stream, subject to the stream buffer requirements.
15. The Board Professionals reviewed their respective Review Letters/Memorandum and had no objections to the submission waivers requested or the proposed development of the Property as there are no significant

changes to the site and the building footprints and the Applicant has addressed the submission requirements through testimony or revisions to the plans. The Board Professionals concurred that variances are not required for coverage or buffer screening, as indicated in their review letters.

AND WHEREAS, based upon the above factual findings, the Land Use Board has come to the following conclusions:

1. The Applicant has submitted a Complete set of plans in connection with its application so that the Board has the necessary information to act on the application for Waivers, Variances and Major Site Plan Approvals.

2. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and of the Zoning Ordinance of the Township of Mansfield would be advanced by the deviation from the Zoning Ordinance requirements for side yard setback, public sewer, parallel access road and improvement setback, as described herein and requested by the Applicant.

3. The benefits of the deviation from the Zoning Ordinance requirement specified herein would substantially outweigh any detriment to the public good as variance approval and waivers allow for the development of the Property, and otherwise promote the safety, health and general welfare of the community.

4. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

5. It is not unreasonable to waive submission items and design standards, including traffic study, with trip generation, a loading area and sidewalk to the Bilco door, for the improvements proposed by the Applicant. The granting of the submission waivers and design standard waivers, not otherwise required herein, as identified in the review letters/memorandum of the Board Professionals, is reasonable as the Property is a developed non-residential site and the Applicant addressed the waivers through testimony, the waivers have been recommended or can be a condition of approval.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Mansfield, on the 22nd day of June, 2020, that this Board hereby grants to the Applicant the following:

1. Submission waivers, except as otherwise required as a condition of approval, as identified in the Review Letters of the Board Engineer and Planner and the Review Memorandum of the Board Traffic Engineer;

2. Design waivers to permit stone surface for a portion of the parking area and to permit no sidewalk extending to the Bilco door;

3. Variances to permit (i) a side yard setback of 7.34 feet, with a 36.99 foot aggregate side yard; (ii) continued use of the private on-site waste disposal system; (iii) no access road parallel to Route 206; and (iv) a 23 foot setback for the improvements adjacent to the right-of-way of contiguous streets; and

4. Preliminary and Final Major Site Approval for improvements to the Property that include the renovation of the existing buildings and other site improvements to the Property that include reconstructing and reconfiguring the existing pavement and stone areas, installing new concrete walkways and an ADA ramp, in accordance with the Application, Plans, Reports, Studies, Letters, Representations and Testimony submitted by the Applicant, which approval is subject to the following conditions:

a. Subject to the Applicant obtaining all other approvals that may be required for the development, including, but not limited to Burlington County Planning Board approval, Burlington County Soil Conservation District approval and Burlington County Board of Health approval. Copies of all other approvals shall be submitted to the Township upon receipt.

b. Subject to the testimony of the Applicant and its agents and representatives at the June 22, 2020 Planning Board Public Hearing.

c. Subject to the submission of revised plans complying with the comments of the Board's Professionals and with this Approval.

d. Subject to the comments of the Board Engineer as contained in the June 17, 2020 Review Letter of Stout and Caldwell Engineers, LLC, by Mark E. Malinowski, PE, except as modified by the representations contained in the May 28, 2020 letter of the Applicant's Attorney, John C. Gillespie, Esquire and as modified in this Resolution.

e. Subject to the comments of the Board Planner as contained in the June 18, 2020 Review Letter of Environmental Resolutions, Inc., by Edward Fox, AICP, PP, except as modified by the representations contained in the May 28, 2020 letter of the Applicant's Attorney, John C. Gillespie, Esquire and as modified in this Resolution.

f. Subject to the comments of the Board Traffic Engineer as contained in the May 12, 2020 Review Memorandum of Litwornia Associates, Inc., by Alexander J. Litwornia, PE, PP, except as modified by the representations contained in the May 28, 2020 letter of the Applicant's Attorney, John C. Gillespie, Esquire and as modified in this Resolution.

g. Subject to the Applicant's escrow account for the review of the Application for Preliminary and Final Major Site Plan Approval being current. Failure of the escrow account to be current may result in the non-issuance of permits.

h. Nothing herein contained shall be deemed to waive or modify the requirement that the Applicant obtain from any and all other agencies having jurisdiction in this matter, any and all approvals required by law and this approval is specifically conditioned upon the Applicant obtaining those approvals.

i. Subject to this approval not guaranteeing the issuance of any zoning permit, construction permit or certificate of occupancy; the Applicant is subject to all applicable codes, statutes, ordinances, rules and regulations for the issuance of said permits and certificates.

j. Subject to a site triangle being provided on the revised plans to prohibit the placement of anything not shown on the approved site plan from being placed within the site triangle area. The Applicant is advised that it will be a violation of site plan approval if anything is located within the site triangle area or if the site triangle area is not properly maintained.

k. Subject to the revised plans to address Items 9, 19, 33, 34 and 39 of the Completeness Review section of the Board Planner's Review Letter.

l. Subject to a trash enclosure area being shown on the revised plans. The Applicant's engineer shall coordinate with the Board Engineer the size and location of the trash enclosure and receptacles required for the uses proposed for the Property. The Applicant is advised that trash pickup for this site will be by private contract, there will be no public trash pick-up.

m. Subject to the Applicant maintaining all surfaces of the Property, including the stone surfaced parking area.

n. Subject to the submission of a letter from either the Burlington County Board of Health or the New Jersey Department of Environmental Protection that the existing septic system will be adequate for the approved site.

o. Subject to the Applicant posting all performance guarantees, maintenance guarantees and inspection fees required by the Municipal Land Use Law of the State of New Jersey for the development of the Property as approved.

p. Subject to the Applicant assuming all risk if construction of the improvements to the Property, as approved, commences prior to the expiration of the appeals period.

q. Subject to all paving and stones encroaching onto adjacent Lot 10.01 being removed.

A motion to memorialize the above resolution was offered by **Mr. Borgstrom** and seconded by **Mr. Fleming**. Motion carried on a roll call vote recorded as follows:

AYE: Borgstrom, Fleming, Cain, Tahirak, Oiler, Tsiknakis, Preidel

NAY: None ABSTAIN: Herbert, Higgins, Wainwright, Grouser, Crammer

ABSENT: Sgro

APPROVAL OF MINUTES:

February 24, 2020

A motion to approve the above minutes was offered by **Chairman Preidel** and was seconded by **Mr. Cain**. Motion carried on a roll call vote recorded as follows:

AYE: Preidel, Cain, Fleming, Herbert, Tahirak,

NAY: None ABSTAIN: Higgins, Wainwright, Oiler, Tsiknakis, Grouser, Crammer

ABSENT: Sgro

April 15, 2020

A motion to approve the above minutes was offered by **Chairman Preidel** and was seconded by **Mr. Cain**. Motion carried on a roll call vote recorded as follows:

AYE: Preidel, Cain, Fleming, Herbert, Higgins, Tahirak, Wainwright

NAY: None ABSTAIN: Oiler, Tsiknakis, Grouser, Crammer
ABSENT: Sgro

PUBLIC COMMENT:

Bob Tallon 2454 Axe Factory Road – He had questioned the Township previously about the Tri County Forced Main Sewage and was wondering if there was any information the Land Use Board had regarding same. **Attorney Coleman** explained that the Land Use Board does not have that information

Frank Pinto 420 Island Road- He questioned if there was a wetlands delineation done on the property on which the application was not heard. **Attorney Coleman** stated since that application was not heard it cannot be discussed during public comment prior to hearing. **Mr. Pinto** then questioned whether an LOI for the Tower Gate property was submitted. **Attorney Coleman** stated that he could not answer that question at this time.

Katherine Tallon 53 Oak Lane, New Egypt – She questioned why the Tower Gate approval for Redevelopment was approved while a member of the Land Use Board had wanted to walk the property prior to voting; yet he did not have the opportunity to do so. In her opinion it seemed the Attorney had pushed this through. **Attorney Coleman** stated he did not push anything through. He was aware that the Township would have liked the Board to make a decision one way or another that night and he advised the Board of same.

Daniel Golenda 18 Georgetown Road – He had questions regarding PILOT programs. **Attorney Coleman** advised that Mr. Golenda that the Land Use Board has no jurisdiction over PILOT's; that is a question for the Township Committee. **Mr. Golenda** stated that he had a conversation with Administrator Fitzpatrick, but he still was not sure he understood and he would like more clarification.

Michael Fitzpatrick 2 Fireside Circle- He explained that he had a good conversation with Mr. Golenda and was under the impression that all went well. He asked that if Mr. Golenda needed more clarification to please reach out.

Karen Buttler 16 Oak Lynn Drive – She questioned what benefits the warehousing bring to the residents. **Attorney Coleman** advised Ms. Buttler to question the Township Committee on this matter.

Steve Knezick – He wanted to know how he could get more information regarding the applications, agendas, resolutions and other pertinent information prior to a meeting. **Attorney Coleman** advised Mr. Knezick to sign up for email alerts on the Township website which will notify him of any updates.

A resident questioned what resolution was approved. **Attorney Coleman** explained that the board approves or denies an application on the night of its hearing and usually the resolution for said approval/denial would be memorialized at the next meeting.

John O'Callaghan- He questioned the difference between ODL and LI zones. **Planner Ed Fox** explained the differences which can also be found in the Township Code Book under the respective zones.

There were no further comments from the public.

MOTION FOR ADJOURNMENT: A motion for adjournment was offered by **Mr. Cain** and was seconded by **Mr. Tahirak**. All ayes. Motion carried.

Respectfully Submitted by:

Date Approved:

Ashley Jolly, Deputy Clerk