

Mount Laurel Planning Board

Regular Meeting Minutes

June 8, 2023

Chairman Bathke called the Regular Meeting of June 8, 2023 to order at 7:00 pm.

Open Public Meeting Notice was read by Chairman Bathke noting that all the postings, filings & emailing have taken place on January 19, 2023.

Chairman Bathke led pledge of Allegiance/Moment of Silence.

Ms. Hochreiter, Planning Board Secretary made an announcement that Mayor Steglik designated in his place this evening, Mr. William Giegerich. Mr. Giegerich is the Township's Community Development Director and the Director of Economic Development for the Township.

Roll Call taken by Board Secretary Ms. Hochreiter – Members in attendance: Chairman Bathke, Mr. Giegerich, Township Manager Riculfy, Mr. Pfeiffer, Ms. Kharoudh. Absent: Mayor Steglik; Vice-Chairwoman Lewis, Councilman Moustakas, Mr. Lieberman, Mr. Dewey & Mr. Coffey

Professionals in Attendance

Mr. Ashton Jones – PB Planner; Mr. William Long – PB Engineer, Mr. Michael Angelastro – PB Traffic Engineer, Mr. Brian McVey – Fire Marshal, Mr. Ron Cucchiaro – PB Solicitor; Ms. Toni Sapio, T & M Associates & Trish Hochreiter – PB Secretary.

Adoption of Minutes:

Chairman Bathke called for a motion to approve the meeting minutes from the regular meeting of May 4, 2023. Mr. Pfeiffer made the motion and Township Manager Riculfy seconded it. All present were in favor and the motion was carried.

Memorialization of Resolutions:

Chairman Bathke asked for a motion to approve Resolution R-2023-11 for an Emergency Generator located at 533 Fellowship Road. Township Manager Riculfy made the motion to approve and was seconded by Mr. Pfeiffer. All present were in favor and the motion carried.

Chairman Bathke asked for a motion to approve Resolution R-2023-12 for Conditional Use with Minor Site Plan Approval for Cannabis Retail at 4004 Church Road. Township Manager Riculfy made the motion to approve and was seconded by Mr. Pfeiffer. All present were in favor and the motion carried.

Planning Board Solicitor Mr. Cucchiaro swore in the Planning Board Professionals.

Mr. Cucchiaro the Planning Board Solicitor explained the procedures of the Planning Board and that the public would be given the opportunity to ask questions, after the applicant has provided testimony, the Planning Board Professionals have read their reports and board members have had the opportunity to ask their questions. He asks that everyone remains on mute, and when its time for the public you will be addressed by the Planning Board Secretary to state your name, address and be sworn in by the solicitor. Mr. Cucchiaro asks that if your questions have already been asked that you simply state that you concur with the questions asked by the previous and not repeat the same.

Public Hearing:

The board solicitor made an announcement that PB 2211 K & L Business Properties, located at 4129 Church Road, which is on the agenda for this evening, has asked to be moved to the August 10, 2023. Planning Board Meeting so they can work out some issues. He announced that if you received notice for this application you would not receive another notice, that this announcement is your notice.

The Boards Solicitor made those on the zoom meeting this evening aware that the jurisdiction of this Planning Board and every Planning Board in the State of New Jersey when they are analyzing a site plan application the uses here at the planning board are permitted by Ordinance. A member's view on whether a certain use should or should not be permit as well as the public view on whether a certain use should or should not be permitted it is irrelevant. That is a decision made by the governing body, the use in this instant is permitted. Any comments or thoughts based upon the fact that you do not like a use is beyond this board's jurisdiction and is improper and basing your decision on such would be deemed arbitrary, unreasonable & capricious by a superior court.

He went on to discuss another concern not just this application but all applications is traffic. Whether a permitted use will generate traffic, the Planning Board has limited jurisdiction and that jurisdiction is only required to make sure the ingress and egress to a site is safe. The fact that additional general traffic will increase that may be true but the courts state this is a determination that the governing body would have thought about when making these permitted uses. Increases of traffic alone cannot support a decision to deny an application it should be pinpointed on the safety of ingress and egress.

1. NJ Mt. Laurel Pleasant LLC, 907 Pleasant Valley Road, Block 1201.04, Lot 3, Preliminary & Final with Bulk Variance approval for 214,665 sq. ft. warehouse PB-2305. This is a continuation of a prior meeting held on May 4, 2023. The Planning Board Solicitor Mr. Ron Cucchiaro explained the procedures of this board and that their focus is that this applicant complies with the criteria standards and not dispute whether they like the idea of an approved use going into this approved zone. Mr. Richard Wells, Esq. Archer & Greiner Law Firm represented the applicant, and explained that the application is for a 214,665 sq. ft. refrigerated warehouse that is a permitted use in the industrial zone. He also advised the applicant's professionals that they are still under oath. He advised that the applicant's professionals provided their testimony and board questions were asked and answered as well as board professional questions. The only outstanding item was the request for 3D renderings, which they will show this evening and mark them as A-7.1 .2 & .3 (Colored Rendering) June 2023, A-8 (Section View/Sight Line) dated June 8, 2023 & A-9.1 & A-9.2 (Lighting Plan) dated May 31, 2023.

Mr. Wells introduced a new witness this evening who was not present at last month's May 4, 2023 meeting. Mr. Leon Williams was sworn in by the Township Solicitor and is currently the Architect on the project; he provided his credentials that were accepted by the Chairman. He was asked about the plans and he was able to provide testimony to the fact that he Mr. Wells stated that after the last meeting they went back to the applicants to discuss if any modifications could be made to the berm to shield the building more. Mr. Domen again and reminded him that he was still under Oath and if anything had changed with his license since the last meeting which he responded no.

Mr. Domen, explained with the revisions made to the plan the berm was raised about 3 to 4 feet. With this change, the footprint stayed the same nor does it create any storm water or run off from this site. The fire lane grading will remain the same. The left side of the berm went from 33 to 38, with 5 ft. increase and is now its going 33 to 43 and over by the office area, the elevation 31 to 37 for 6 ft. height and now it is going from 31 to 40 with 9 ft. height increase.

If the approval is granted and built, they have agreed to provide a final as built plan.

The chairman opened the public portion at 7:32 PM. The residents of 906 Pleasant Valley were represented by Mr. Alan Fox, Esq from the law firm of Capehart & Scatchard, also introduced was Mr. Mark Remsa a Professional Planner and Landscape Architect that was there to represent the residents of 906 Pleasant Valley

Ms. Williams proceeded with her testimony that included the length of time; she has lived in Mount Laurel and that the previous owner of 907 Pleasant Valley was only passenger cars, with a 9 to 5 job, and no weekend or holiday hours or traffic. There was no noise that came from the previous owner who provided solar panels and beautiful landscaping. She wanted to present the negative impact on the use of their property if this is approved. She went on to address the concerns of trucks entering and exiting causing accidents, and traffic built up, she continued on to noise concerns from the refrigeration units, as well as doors slamming, back up alarms beeping. She expressed concerns on the establishment's hours of operation, and the toxics chemicals that would be released into the air by this refrigerated warehouse. She mentioned the water demands on a cold storage warehouse and the effects, it would have on their infrastructure and if this demand would result in higher water bills for residents.

The company she advised by doing a google search is a foreign liability company that is a developer and in construction of cold storage warehouses. They are not operates which means we do not know who the operator of this business will be. "How can the applicant give testimony on the number of trips if they do not have an operator for this warehouse".

The Board Solicitor made comment to some statements made by Ms. Williams, he indicated that one of the statements made was this application should have been summarily dismissed, the board solicitor indicated that this is not an option, Land Use Law doesn't allow this in this case or any other case in New Jersey. It states that Land Use Law requires if any applicant that applies and pays their fees has an opportunity to make a case before a planning board or zoning board. He went on to explain that if you do not allow an applicant the right to present their application this is a violation of their constitutional due process that the applicant has a right to, this will of course go to litigation, and you will loss the case because you cannot summarily not hear an application. In addition, if an application is submitted you have a certain amount of time for this application to be heard, if you do not give them this opportunity then it will be an automatic approval and this will be upheld in the courts.

Next introduced was Mark Remsa who is there to represent the residents of 906 Pleasant Valley as their Professional Planner and Landscape Architect his credentials were qualified by the chairman and he proceeded to testify that he has reviewed all the documents submitted by the applicant. He went on to discuss the ordinance and the need that the short term parking stalls should require a use variance and should not be heard by this board. The height was his next comment along with the accessory building not permitted in the front yard, which he claims, is the fire tank and a variance would be require. Mr. Remsa provided several exhibits that he prepared and made available on shared screened. Mr. Wells the applicant's attorney was given the chance to look at the exhibits as they appeared on screen and gave no objection for these to be shown and the first plan the grading plan was entered first, the next was a cross section plan A-A and the last one was a Landscaping Plan. All presented and viewed by the applicant's attorney and had no objection except he could not speak of the accuracy of the measurements on the cross section plan and this was noted.

The testimony from the this resident concluded and the Board Solicitor asked if they had any questions for the applicants professional or the Board Professionals and Mr. Fox stated no he had no questions. The applicant's attorney had no questions for the objecting witnesses but did respond to questions that were presented by them and this may help with questions that others may have and have not been asked yet. Mr. Wells did respond and had several of his expert witnesses address some of the questions posed by the objecting witness.

Mr. Wells addressed the comment that somethings were not provided in fact they were at the last meeting, which included hours of operation. It was announced by the Board Chairman that we have gone over the 1 hour ½ permitted and he could either poll the members or this could be moved to the August 10, 2023 Planning Board Meeting.

It was decided to move to the August 10, 2023 Planning Board Meeting to give the Board Professionals the opportunity to review the information that was presented this evening, and also for the applicants and their witnesses to review the information submitted by the opposing witnesses.

2. Leventhal Realty, 204 E. Park Drive, PB 2314 Block 1201.07, Lot 1.01 and in I Zone. The applicant is seeking Preliminary and Final Major Site Plan for a 45,120 SF warehouse. Mr. Kristopher Berr, Esq. with Del Duca Lewis represented the applicant.

Mr. John Longa was the first to provide his testimony; he explained they are a wholesale wine & spirits distributor with locations in Basking Ridge, Elizabeth and Mount Laurel. The products are produced and packaged at the primary location in Elizabeth at night; they service bars, restaurant, and package stores. They are then shipped to the Mount Laurel location where they are placed in shipping bins and placed on in house trucks for distribution throughout the area.

Mr. Theodore Wilkinson indicated after discussion with Mr. Ashton Jones, there would be more landscaping provided and they are agreeable to that request and will work with Mr. Jones the Board Planner to achieve this. They will create a cross access easement and deed document between these two buildings because they may have two separate users. They are required to have a flood hazard permit therefore; they have to comply completely with the DEP regulations and the storm water control ordinance for local and state. This is pending approval at the State currently.

Storm water complies and mild revisions as asked by Mr. Long will be addressed at resolution compliance. A new proposed technical sub slab water retention below building which was started in the mid-west. This will have a roof top runoff that comes down vertically inside the building, discharged into a vessel, and slowly dissipates out of the underground storage and into the open-air basin and infiltrate and return to ground water under the recharge rules this improves the water quality. They have agreed to comply with Mr. Long's comments.

The applicant requests that a waiver be granted for the comment made by the Environmental Commission to do several soil testing in this area. As stated, the applicant understands if this was going to be residential being built this would be an acceptable request he indicated that this area is not a historic farm anymore, this area was built by the contractor in the 1980's and using new gravel. Therefore, when they performed the test pits out at this location they found only gravel no remnants of any historic farmland activity all of that disturbed gravel, so they are asking for a waiver from soil testing in this area.

They have agreed to comply with the comments issued by Mr. McVey in his review letter.

Currently there are no propose signage with this application, only because they do know whom the tenant will be but they assure the board that the sign will comply with Township ordinance and will not be required to come back to the board for the sign.

They request two design waivers the first being a waiver from the design criteria with landscaping in parking lot islands and the other request is for a waiver for additional sidewalks.

At the time of resolution of compliance, they will provide a metes & bounds and deed document for the cross access easements.

Mr. James Whittaker provided his credential as an expert witness for the Applicant and was accepted by the Board Chairman as a qualified architect. He went through the look of the building and confirmed that the exhibits that were presented are consistent with the look of this proposed warehouse.

A report dated, May 26, 2023 by the Board Planner Mr. Jones was discussed and he advised the Board that he had discussed with Mr. Wilkinson prior to the meeting and with the testimony provided tonight they have agreed with his comments. In addition, they will comply with the ordinance on parking requirements for the number of employees under the code once that is none. The applicant does not require any variance relief. Total impervious coverage is 78% less than required 80 this is a compliant bulk standard. They have also agreed to the sidewalk and waiver will not be granted.

A report dated, May 24, 2023 by the Board Engineer Mr. Long stated their response dated May 31, 2023 was received and he has no objections to completeness on the two items they are asking a waiver on. If they do not receive DEP approval, they will have to come back before the board. Mr. Long advised that the underground water storage under this building, Mount Laurel currently doesn't have this anywhere yet, the Township does have this in parking lot for example the parking lot of the Aloft but this is under the parking lot and not under a building. EIS they agreed to comply with, and agreed to provide the historical fill information to Mr. Long when this site was originally disturbed, this could address the soil testing requirements and will see this information when it is submitted. They have agreed to all comments. One board member asked about this new technology and as Mr. Long explained this is under the building and does not have easy access if there is an issue, with this system under the parking lots in several location over the years there have been no failures.

The Traffic Engineer Mr. Angelastro reviewed his report dated May 24, 2023. He indicated he does not expect any traffic issues at this site, he also indicated that they have 168 parking spaces where 318 are required however, with not knowing the number of employees and based on the ITE 85th percentile demand they should have 106 and they have 168 they have enough to satisfy the demand.

The applicants have agreed to comply with the ordinance and not request the variance.

The Fire Marshal Mr. McVey reviewed his report dated May 18, 2023 and stated that based on testimony this evening and speaking with them they have or will comply with this report.

This completed the review of the board professional's letters and any comments from the Board. At this time, 10:05 pm the chairman opened up the public portion for this application and seeing none closed the public portion.

The Board Solicitor read the conditions into the record and they agreed to all stated.

Chairman Bathke asked for a motion to approve the application presented as PB 2314 located at 204 East Park Drive, Township Manager Riculfy made the motion and Mr. Pfeiffer seconded. All present were in favor and the motion was carried.

The Planning Board Solicitor Mr. Cucchiaro announced that unfortunately the planning board is not able to initiate another application after 10:00 pm; the application for PB 2308 Gateway Business Park, located at 124, 136 & 158 Gaither and 200 East Park Drive will carry to the next Planning Board meeting scheduled for August 10, 2023 at 7:00 pm via zoom. The applicant will not be required to notice for this meeting that this announcement is the notice.

Chairman Bathke asked for a motion to adjourn, Mr. Pfeiffer made the motion, Township Manager Riculfy seconded, and the motion was carried. The meeting ended at 10:15 PM.

Respectfully Submitted,

Trish Hochreiter

Planning Board Administrator

Adopted On: August 10, 2023