

Date: July 21, 2016
 1st: Grossman
 2nd: Tyler

Minutes of July 7, 2016

The Regular Meeting of the Hazlet Township **Land Use Board** scheduled for July 7, 2016 was called to order at 7:30 PM with a Salute to the Flag followed by a Moment of Silent Prayer and a Reading of the Letter of Compliance.

ROLL CALL:

Present: Mr. Tyler, Mr. Vignola, Mr. Glackin, Mr. Sanfilippo, Mr. Solomeno, Mr. Grossman, Mr. Rooke, Mr. Lavan

Absent: Mayor Aagre, Deputy Mayor Kiley, Mr. Mann, Mr. Byrne, Mr. Moore

Professionals: Mr. Vella, Esq., Mr. Otto- CME, Mrs. Keegan

Motion: To approve the minutes of regular meeting June 16, 2016

Offered By: Vignola

Seconded By: Tyler

ROLL CALL

	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	<u>X</u>	_____	_____
Mr. Lavan	_____	_____	<u>X</u>
Mr. Tyler	<u>X</u>	_____	_____
Mr. Solomeno	<u>X</u>	_____	_____
Mr. Vignola	<u>X</u>	_____	_____
Mr. Rooke	<u>X</u>	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr. Mann	_____	_____	_____
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	<u>X</u>	_____	_____

Mr. Vella stated the two resolutions will be memorialized at next meeting.

New Case # 16-08L: Hoffman, 28 Annapolis Drive- Block 188, Lot 19, R-70 zone. Applicant is seeking permission to: 1) add a 15.5' x 31.5' rear addition, 2) convert garage into living space, 3) add a level, 4) add a 2' x 13.5' front covered entryway, 5) side entryway with roof and landing, 6) retain existing driveway, 7) retain existing concrete pad. Seeking an 8.3 ft. side yard setback where 10 feet is required for

proposed addition, a 16.3 ft. combined side yard setback where 20 feet is required, an 8 ft. side yard setback where 10 feet is required for existing patio, a 3.3 ft. side yard setback where 10 feet is required for proposed side entry with roof and a 0 ft. side yard setback where 3 feet is required for existing driveway.

Attorney Vella swearing in Mary Hoffman, 28 Annapolis Drive, Robyn Sanfilippo and Brad Sanfilippo.

Mr. Vella: Marked exhibit A-1 as application with survey dated 1983 and A-2 as architectural plans prepared by Dominic Macaluso dated April 25, 2016 and LUB-1 as CME report dated June 16, 2016.

Mr. Tyler: Requested Mrs. Hoffman explain what she has planned for the property.

Mrs. Hoffman: Explained she would like to make the house a mother/daughter as she has had recent surgery and has difficulty with stairs. The house is a split level, her daughter and son in law will buy the house and she will have a small apartment for herself.

Mr. Tyler: Asked Mr. Otto to go through the review letter and address each point.

Mr. Otto: Explained that there are five bulk variances requested in this application. Addressed the pre-existing non-conformities which are the 0 ft. setback on the driveway where 3 ft. is required and the 8 ft. side yard setback where 10 ft. is required. The other three are the concrete platform for converted garage access, the rear addition and the combined side yard setback.

Mr. Tyler: Explained that there was no issue with lot coverage and questioned the sidewalk and roof for the side entry. Asked her whether the neighbor on that side had any complaints.

Mrs. Hoffman: Stated that they did not.

Mr. Vella: Asked Mrs. Hoffman to explain why the side entry is necessary and if there is any buffer between the homes.

Mrs. Hoffman: Stated there is a fence on that side.

Mrs. Sanfilippo: Stated there is a 6 ft. white privacy fence between the homes.

Mr. Tyler: Explained the photographs show the fence comes up to the back corner of the house and there is no fence beyond that.

Mrs. Hoffman: Stated that was correct.

Mr. Vella: Questioned whether there would be a second kitchen in the house and if so, where it would be located.

Mrs. Hoffman: Stated there would be a second kitchen with a stove and dishwasher.

Mrs. Keegan: Explained there is not a problem with having a second kitchen as long as the living areas between the existing and proposed are open and flowing. According to the plans, they are.

Mr. Vella: Explained that there would be a provision in the resolution prohibiting the home being rented out or used as a two family home.

Mrs. Keegan: Explained that it is written that way on the zoning application and permit. There cannot be separate utilities or rentals. It is a single family home.

Mr. Glackin: Questioned what lighting would be present down the entry side of the house.

Mrs. Hoffman: Noted she had not decided yet, probably just a regular light.

Mr. Glackin: Explained he was concerned if there was a flood light there, it could become an issue for the neighbor next door. He advised keeping the path well-lit but not glaring.

Mrs. Hoffman: Explained she would just need enough light to see.

Mr. Vella: Reviewed the items that were addressed and the conditions that the property cannot be rented and there cannot there be separate utilities.

Chairman Tyler opened the floor up for public comments. No one spoke.

Offered By: Vignola **Seconded By:** Lavan

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	X	_____	_____
Mr. Lavan	X	_____	_____
Mr. Tyler	X	_____	_____
Mr. Solomeno	X	_____	_____
Mr. Vignola	X	_____	_____

Mr. Rooke	<u> X </u>	<u> </u>	<u> </u>
Deputy Mayor Kiley	<u> </u>	<u> </u>	<u> </u>
Mayor Aagre	<u> </u>	<u> </u>	<u> </u>
Alt #1 Mr.Mann	<u> </u>	<u> </u>	<u> </u>
Alt #2 Mr. Moore	<u> </u>	<u> </u>	<u> </u>
Alt #3 Mr. Grossman	<u> X </u>	<u> </u>	<u> </u>
Alt #4 Mr. Sanfilippo	<u> X </u>	<u> </u>	<u> </u>

Motion passed.

Carry Over Case #15-11L: First Hartford Realty Corp/CVS; Highway 36 and Laurel Avenue; Block 134 Lot(s) 1, 15, 15.01 & 16, BH Zone and R-70 Zone. Applicant is seeking Preliminary and Final Site Plan & Subdivision approval, Use variance approval and several bulk variances to construct a new CVS store.

Mr. Gianetti: Explained that the site plan had been modified by CVS in response to board and public comments. He would like to cross examine the objector’s witnesses and then discuss the changes that have been made. They will provide direct testimony as to the changes at another meeting.

Mr. McKenna: Explained that he objected to anything being presented to the board at this meeting because the application had not been amended and there is nothing formal in front of the board, only the use variance. He feels that the applicant is not entitled to present something informally to the board that isn’t on file and ask for comments. He would have no opposition if the applicant amended their application and filed it at least ten days prior to the next meeting. He pointed out the changes he had seen and felt it was inappropriate for the applicant to ask for the board’s comments informally. He suggested either bifurcation or properly filing the amended application.

Mr. Vella: Explained that the applicant is entitled to amend their plan but that the board has not had an opportunity to review it. He agreed the board would hear a short synopsis of the changes being made prior to review without offering comments.

Mr. Gianetti: Agreed and stated that his cross examination for this meeting was not affected by the changes. He disagreed that the application should be bifurcated. He will give a short presentation of the changes and feels that the board should be able to comment if they choose to.

Mr. Solomeno: Questioned what was the point of hearing about the changes if there is going to be a formal presentation at the next meeting. Also questioned how there could be cross examination of testimony presented on another site plan.

Mr. Vella: Explained that cross examination would be based mostly on the planner's testimony and that the new plans don't change the use variance aspect of the application that much.

Mr. Tyler: Suggested that we should complete the cross examination based on the testimony already given. Explained that the information had just been received and thought that it would be appropriate to hear a preview of what will be presented at a future meeting. He did not foresee much discussion about it since the plans had just been received.

Mr. McKenna: Explained that he would have no problem with Mr. Gianetti explaining his letter that was sent out but strongly objects to him being able to call up professionals or present renderings.

Mr. Vella: Stated that it would be okay for the engineer to simply explain what the proposed changes are.

Mr. Solomeno: Expressed his concern about the process moving forward correctly and felt that the application should be amended before any professional testimony.

Mr. Gianetti: Pointed out that in any application board members make comments and the applicant reacts to it. Explained he had his architect and engineer to highlight what the changes were.

Mr. McKenna: Again expressed his concern that Mr. Gianetti would be presenting two witnesses giving testimony on an application that is not before the board yet.

Mr. Tyler: Stated that he thought the letter from Mr. Gianetti was straightforward and suggested that only an executive summary should be given.

Mr. McKenna: Agreed.

Mr. Gianetti called Mr. Lee Klein, traffic engineer for cross-examination.

Attorney Vella reminded Mr. Klein he was still under oath.

Mr. Gianetti: Asked Mr. Klein if he had ever provided professional traffic testimony on behalf of CVS, Walgreens or Rite Aid and whether he was aware of what a pharmacy considers sufficient from a parking perspective.

Mr. Klein: Indicated he had not given testimony and was not aware of what a pharmacy considers sufficient parking.

Mr. Gianetti: Questioned when Mr. Klein did an analysis of other pharmacies, how he had counted the number of cars and parking spaces. Asked how he counted the cars and spaces at the existing CVS on Route 35 and Bedle Road.

Mr. Klein: Indicated he had a count board on his lap and drove through the parking lot as he counted.

Mr. Gianetti: Asked whether Mr. Klein had looked at the plans that are on file with the board that shows the number of parking spaces at that site.

Mr. Klein: Indicated he had not.

Mr. Gianetti: Questioned whether Mr. Klein had looked at the approval for the application with respect to the number of parking spaces at that site. He also asked whether he had looked at an aerial photo of the site to count the number of parking spaces at that site.

Mr. Klein: Indicated he had not. He drove through and counted them manually.

Attorney Vella recorded as Exhibit # A-17 CVS Hazlet Township resolution dated 7-11-13 of Application # 13-01P.

Mr. Gianetti: Asked Mr. Klein to read from page 3 the section regarding the parking variance granted as a result of the addition of the Minute Clinic.

Mr. Klein: Read aloud that there were 64 spaces provided where 95 are required.

Attorney Vella marked as Exhibit # A-18 survey of tax lots 1,2,3,&4, Block 165 dated 7-8-2013.

Mr. Gianetti: Explained that their engineer will testify that there are 64 spaces at this site, not the 72 that Mr. Klein had testified to and questioned how he came up with this number.

Mr. Klein: Indicated that he would have to go back to look at his field notes, he drove through and counted the number of spaces. This was the same method he used for all of the sites he looked at.

Mr. Gianetti: Asked Mr. Klein about his testimony that there were 135 parking spaces at the Walgreens on Route 36 and Poole Avenue and whether he counted once or double checked.

Mr. Klein: Indicated that he believes that is what he counted, he only counted once.

Mr. Gianetti: Questioned Mr. Klein's testimony that there were 38 and 31 cars parked at the site during peak hours between 4 and 6 pm. Asked whether he considered that a lot of unused parking space.

Mr. Klein: Indicated he had only been there once and was not sure whether there had been other characteristics of that site that required it to have more parking.

Mr. Gianetti: Questioned whether with 64 spaces, the proposed CVS would still have excess parking when considering the counts he made during peak hours at the other sites.

Mr. Klein: Indicated that at the times he counted, there was excess parking available.

Mr. Gianetti: Questioned whether he was aware that the previous use was an automotive repair shop as well as a gas station and whether that would be considered a destination use as opposed to pass by traffic.

Mr. Klein: Indicated that he was not aware when the auto bays were being used for automotive repair and didn't think it was always a destination use.

Mr. Gianetti: Questioned whether it was true that pass by traffic for a gas station was 42% and 49% for a pharmacy.

Mr. Klein: Stated he would have to look that up in the book.

Mr. Gianetti: Questioned whether Mr. Klein had ever disagreed with the ITE counts when doing other commercial applications and used his own numbers instead.

Mr. Klein: Indicated he normally uses the ITE numbers but had occasionally not used the pass by discount in certain cases.

Mr. Gianetti: Questioned whether it was Mr. Klein's testimony that people would make a right onto Route 36 and a right onto Liberty Place in order to go north on South Laurel Avenue.

Mr. Klein: Stated he believed that would be one of the routes people would take.

Mr. Gianetti: Showed exhibit# O-9 presented by Mr. Simpson as a feasible alternative to the CVS site. Asked whether the access point of the driveway shown was closer to the intersection than the proposed CVS driveway.

Mr. Klein: Indicated that was correct.

Mr. Gianetti: Pointed out that there could be other commercial uses and whether the driveway being that close to the intersection would cause more people to turn right onto the highway and use Liberty Place.

Mr. Klein: Indicated he had not been involved in creating this exhibit and it could be configured another way to avoid that.

Mr. Gianetti: Asked which driveway would push more cars out and onto Liberty Place.

Mr. Klein: Agreed that the closer the driveway is to the intersection, the higher the chance that cars will exit directly into the queue.

Mr. Gianetti called Mr. Higgins, Planner. Attorney Vella advised Mr. Higgins still under oath/previously sworn.

Mr. Gianetti: Asked whether Mr. Higgins had attended previous meetings or read transcripts if not present and whether he had reviewed the master plan and master plan re-examination.

Mr. Higgins: Indicated he had attended some meetings and had reviewed transcripts of the ones he missed and he had reviewed the master plan and re-examination.

Mr. Gianetti: Asked if Mr. Higgins was aware of any rezoning requests made to the township for the residential lots that had been denied.

Mr. Higgins: Indicated he was not aware of any.

Mr. Vella: Asked Mr. Gianetti to provide the board with a copy of exhibit A-17. Also, explained that the public will still have an opportunity to comment on the application.

Mr. Tyler: Explained that we are providing Mr. Gianetti the opportunity to give a short explanation of the changes proposed as a courtesy.

Mr. Gianetti: Explained that the size of the building had been reduced by 1900 sq. ft., most of which was in the rear of the building lessening the intrusion into the residential zone. The building has also been rotated slightly counter-clockwise and more in line with South Laurel Avenue frontage. They will also be providing a right turn only lane onto Route 36 to lessen the queueing back to the driveway. The parking is being reduced from 68 spaces to 58 spaces due to the changes. The store has been redesigned to give it a more residential feel adding vinyl siding instead of stucco, changing the roofline and adding faux windows on the side that faces the residential lots. These changes were in response to comments from the board and members of the public and all of the details will be presented at the next meeting.

Mr. Vella: Asked Mr. Gianetti if 60 days was sufficient in order to submit the revised application.

Mr. Gianetti: Stated that the first week of September would work.

Mr. Vella: Indicated that September 15 was the available meeting date in September.

Mr. Gianetti: Agreed to that date and indicated they would re-notice.

Attorney Vella announced the CVS case would be carried to September 15, 2016 at 7:30 pm with re-noticing.

Chairman Tyler opened the floor for public comments.

Attorney Vella swearing in Elizabeth Roessner, 55 Liberty Place.

Ms. Roessner: Asked for clarification of the right of way change that was spoken about.

Mr. Vella: Explained that there would be a dedicated right turn only lane onto Route 36.

Mr. Gianetti: Pointed out that CVS would dedicate part of their property in order to build the third lane.

Mr. McKenna: Pointed out that offering the right of way does not mean it will be built, it would still need to be accepted.

Attorney Vella swearing in Joanne Santasieri, 39 Liberty Place.

Ms. Santasieri: Stated that the left lane should not be for left turn only because that would worsen the traffic in the jughandle. It had been done previously and had to be changed. She feels that the shade trees proposed will bring mold and mosquitoes. Also, questioned what would happen to property taxes if their homes lose 25% in value as previously testified to.

Mr. Vella: Explained that the traffic engineer will speak to the state and township about the lane changes and present testimony at the next meeting.

Chairman Tyler opened the floor for public comments on other topics.

Offered By: Solomeno

Seconded By: Lavan

No one spoke.

Motion to Adjourn:

Offered By: Vignola

Seconded By: Lavan

VOICE VOTE: Yes

Next Meeting: July 21, 2016

Respectfully submitted: Laura McPeck