

Borough of Pine Hill  
Meeting  
Planning and Zoning Board of Adjustments  
November 13, 2014

- Call to order:** Call to Order by Mr. Felix James 7:35pm
- Pledge of the Flag:** Led by Mr. James
- Sunshine Law:** This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.
- Roll Call:** Mr. James, Mr. Waddington, Mr. Castor, Mr. Ford, Mr. Shultz, Mr. Hagy, Mayor Green, Councilman Robb, Mrs. Ciotto, Mr. Greer  
**Absent:** Mrs. Bruno  
**Professionals:** Solicitor Mr. Sitzler, Planner Mr. Hall P.P.
- Correspondence:** The New Jersey Planer Vol. 75, No. 4
- Approval of Minutes:** Motion made by Mr. Hagy to approve minutes of October 9<sup>th</sup> meeting second by Mr. Schultz  
Roll call: Mr. James "aye", Mr. Ford "aye", Mr. Schultz "aye", Mr. Hagy "aye", Mayor Green "aye", Councilman Robb "aye", Mr. Waddington "abstain", Mr. Castor "abstain", Mrs. Ciotto "abstain";  
Motion Carried
- Application 2014-6:** Mr. James: Application 2014-6 Is there anyone here for this?  
Mayor Green: Are they outside?  
Mr. Gallagher: Yes "Mr. Gallagher left room to have applicants come in to meeting."  
Mr. Hall: Mr. Chairman while he is out looking for the applicant, not sure if the board has a copy my letter dated November 7<sup>th</sup> having no plan or drawings for the site and the building and for other reasons this application was deemed incomplete.  
Mr. James: I do not have the letter and I do not think anyone else has the letter.  
Mr. Hall: There is a lot of information they need to supply.

Mr. Gallagher: The site plan actually arrived Friday but I was out.

Mr. Hall: A motion would be in order at some point but believe the applicants are here and you might want to give them the opportunity to talk.

Mr. Sitzler: Mr. Regan would do you want to come forward; you can come right up to the podium.

Mr. Sitzler: why don't you introduce yourself to the board?

Mr. Regan: good evening everyone for the record I'm Bryan Regan representing Max's Bargain and Thrift LLC.

Mr. Sitzler: I don't know if you were in the room while our Planner was speaking. Did you Bryan get a chance to look at the Engineers review letter?

Mr. Regan: I briefly looked at it.

Mr. Sitzler: I believe it is dated November 7<sup>th</sup>.

Mr. Regan: yes it is right here. I believe there the problem as I see it was with some question about the wording of it.

Mr. Sitzler: yes that is my issue and we will take it one at a time. The first issue was: I think it is that letter is it fair to say Mr. Hall that there was a submission of a site plan?

Mr. Hall: I just received it tonight.

Mr. Sitzler: tonight?

Mr. Hall: Yes tonight, it was not part of the original application.

Mr. Sitzler: right; we are acknowledging that our board professionals; that would be our Engineer and Planner did get the site plan just this evening a drawing I believe by John Pettit of the site. The issue that I have from a legal perspective in reviewing the public notices I don't see a problem with the 200 foot notices but in the public notice it is really parroting the 200 foot notice at a minimum that notice when placed is for the whole Borough to be advised of the meeting and anyone of any interest even if they do not live in Pine Hill so they can come an voice their opinion for whatever reason concerning it. And parroting the 200 foot notice does not really let the whole world know; it kind of humbug communicates that it is limited to the people who live within 200 feet so I can't really state it meets the State Statutory Standards of public notice that goes in the newspaper.

Mr. Regan: so my understanding is your talking about the 2<sup>nd</sup> paragraph is where the question is.

Mr. Sitzler: Yes it is where they took the language from the 200 foot list only and put that language in the paper.

Mr. Regan: so if that part of the notice was redacted from the rest of the notice to the public would be ok?

Mr. Sitzler: I think unfortunately the board is going to ask that probably the applicant continue the matter for a completeness issue and that so that our professionals can review the plan that was submitted that they saw this evening; so they will be better prepared to address those issues on behalf of your client. At the least you will have to release that notice of the public portion and because of that notice. Is there anyone here by the way for the record; from the public? "No one from the audience was here from the public" I don't know that you have to re-notice the 200 foot list because that looks like it was done properly. But you will have to do a re-notice for the next meeting; and we would have to ask you to wave the time limit even though the application is incomplete. The time clock does not start till

the application is complete there is some case law that would ask you in public to wave time limitations due to statutory requirements in which to act pending the next meeting.

Mr. Regan: I believe we would have no problem with that.

Mr. Sitzler: I think the record should reflect that we did speak; I know you are into this matter a little late in the game after the application had been filed and in speaking with you we had a conversation that the board would probably suggest that the matter be continued for notice and completeness issues. Now it looks like you addressed the plan but in your notice/ application it states you are only seeking a site plan waiver and normally one would expect an applicant seek a site plan review and or waiver in your public notice and the reason for that is you won't have to come back two times. The reason for this is if you're only asking for a waiver and the board denies the waiver we won't have the jurisdiction to act on a site plan review because the notice does not say you are asking for a site plan review. My suggestion is that when you re-notice that your notice indicates that you are asking for a site plan approval or a site plan waiver that way you're not going to run into that issue.

Mr. Regan: Right so let's be clear the language now we are asking for quote: a site plan waiver and all required variance and waivers.

Mr. Sitzler: Yes right now you are not asking for a site plan approval and if the waiver is denied you have nothing. You are kind of starting all over again and you have to review the whole thing all over again, so generally in these kinds of cases it is best that the applicant do both and either or to say. That way the board has the jurisdiction of acting on both circumstances at the same time without coming back again.

Mr. Regan: Even if they do now have an outdated site plan?

Mr. Sitzler: Well yes the only release you are asking for is to wave a site plan that is the only thing you have here tonight that was on the application and was sent out. Rethinking what I said earlier is if you asking for both you may have to redo the 200 foot notice.

Mr. Regan: The wording of the notice may qualify for that it does read a site plan waiver and/or a site plan approval and all required variances and waivers.

Mr. Sitzler: Yes I'm not as much concerned about the 200 foot notice as I am the public notice that is really not going to meet I don't think statutory standards.

Mr. Castor: Looking through the paper work I also see a W9 in here for Frank Funaro.

Mr. Sitzler: Yes that is another issue.

Mr. Castor: But he is not listed as the owner.

Mr. Sitzler: In the application package what is being pointed out here is I noticed this as well. If you look at the application there is a Frank Funaro and a Frank Lauletta Sr. on the letter that might somehow be involved together in Erial 717 LLC or 717 Erial Rd LLC but if you notice Mr. Regan on the letter submitted by Mr. Lauletta on Letter Head says the LLC is noted as 717 Erial Road,

Mr. Regan: That is the letter you are referring to from the land lord.

Mr. Sitzler: Yes but if you look at the request for tax payer identification application it says Erial 717 LLC You just can't say that is form over substance.

Mr. Regan: So 717 Erial Road LLC is what you're concerned about.

Mr. Sitzler: Yes we need to know what the correct name of the LLC is; as crazy as it may seem it could be two different properties, I'm sure it is just a mistake.

Mr. Castor: The question I have how can they use one name here when Max's Bargain and Thrift owner Benko?

Mr. Sitzler: Well let me clarify all the parties to this application. So the Land Lord is 717 Erial Road LLC.

Mr. Funaro: Erial 717 LLC.

Mr. Sitzler: Yes, Erial 717 LLC, so who are the principals in that if I might ask? In that LLC are they Mr. Funaro and Mr. Lauletta?

Mr. Funaro: That is Correct.

Mayor Green: Don't both of those have to sign.

Mr. Sitzler: well we don't want to run into a problem down the road; when there is approval the letter that authorizes Ryan Benko of Max's Bargain and Thrift to apply for a Site plan waiver again that should be site plan approval or waiver at 717 Erial Road should be signed by both principals. I don't know what their perspective interests are in the LLC; weather or not one is greater than the other or they are both 50/50 they should probably both sign for housekeeping purposes.

Mr. Castor: It says right here Max's Bargain & Thrift with principal owner as Benko.

Mr. Regan: They are present here Mr. and Mrs. Benko.

Mr. Castor: They can be the owner but they can't use Tax payer ID of someone else it isn't going to fly.

Mr. Funaro: That is his Tax ID.

Mr. Castor: Who's?

Mr. Funaro: Banko's.

Mr. Castor: Okay, just have to make sure it is all straightened out before you come back you say Benko but it is signed by Frank.

Mr. Sitzler: Yes you really should clarify that as well.

Mr. Regan: Is that in the actual application?

Mr. Castor: Yes; the W9 is right here.

Mr. Sitzler: just so the board is aware; Mr. Regan the attorney was just recently retained.

Mr. Castor: Oh okay.

Mr. Sitzler: You were not involved in the application process were you?

Mr. Regan: No I was not. Would I just have to have the application amended?

Mr. Sitzler: I think so, that would be the best. Mr. Hall our planer would you have any other comments.

Mr. Hall: I did take a quick look at these drawings that were submitted and it really doesn't talk about or show; I think it will have to be amended to show how many parking spaces will possibly be needed on the site. There should also be a location for recycling, and solid waste storage/disposal and I would also like to see some more information about lighting and signage that is being proposed. I also suggest that you take a look at the ordnances to see what other details might be required. We understand that this is an existing site and building and you are not proposing any improvements but this information should be on the drawing at some point. We would also like to know about the building it's self is the whole building going to be occupied or just a portion of it, this should be on the drawing on a floor plan.

Mayor Green: Should they not submit the original site plan for the original 4 units? I mean you can't come in with ½ a site plan.

Mr. Hall: It should show what is existing now perhaps and what portion of the building will be occupied.

Mr. Funaro: Right essentially what is happening this is a place that was previously approved as a carpet store that is now vacated and will be the thrift shop.

Mayor Green: Would the old tenant have a site plan approval?

Mr. Funaro: The process in the past was we came in and talked to Neil Clark; the process was for the carpet store and the acupuncture we told him what was going in and he signed it over the counter we got the permit the tenant moved in and that was the process.

Mayor Green: Do you have a site plan for the building?

Mr. Funaro: We never gave one to him; he never asked for it.

Mayor Green: I believe you are being told that is part of the issue here you need to have a site plan for the building.

Mr. Regan: Real fast what is the requirement?

Mr. Hall: The board does require a floor plan for the building and I think it should show the entire building. I think it is a 1-1/2 story or at least a portion of it.

Mr. Furano: yes and there is a basement.

Mr. Hall: You will need to show the entire building with all the floor space and mark out what space you are going to occupy. You're not the applicant right?

Mr. Furano: No I'm one of the owners, the land lord.

Mr. Hall: Okay you will need to mark out the space where the applicant the thrift shop will occupy and mark out the rest of the building that will remain vacant until you get other tenants in there. We just need to know how much Max's Thrift shop is going to take up.

Mr. Castor: You have to make sure the taxes are paid up too; it is blank on the application. I would hate to hold it up this but the application has to be complete.

Mr. Furano: There is a tax balance of maybe \$3000.00 or so.

Mr. Castor: It has to be paid. I might be wrong but I don't think this application can be heard till paid am I correct?

Mayor Green: You're right.

Mr. Regan: So at this point the application is deemed incomplete for other reasons.

Mr. Furano: We don't have to do a new application? We're just going to take this back and make sure everything is in order and come back next month.

Mr. Hall: Yes, and you should be submitting the site plan first even before the board would get the application. This is a permitted use it is a retail use, and it is permitted in that zone which is a central business district. We just need more information to be put on the site plan, taxes to be paid, notices to be correct; those are issues that should be done before any public hearing.

Mr. Regan: So we will resubmit application with appropriate entries as well as a detailed site plan drawing showing the occupied space and any other information set forth from the Engineer.

Mr. Hall: If you have and questions on the plan or the application we are there to entertain the questions and review with comments before you resubmit.

Mr. Furano: Do you need to talk to John directly?

Mr. Sitzler: John Pettit?

Mr. Furno: Yes; John Pettit the Engineer.

Mr. Sitzler: Yes; that happens all the time.

Mr. Dougherty: I know we have been focusing on the space to be occupied but the vacant space also we will need to know the square footage and what could eventually go in there because it is going to relate the density of the site.

Mr. Regan: Like the parking spaces that are there.

Mr. Dougherty: Correct

Mr. James: Any Discussion?

Mr. Sitzler: I would also like the applicants' professionals talk to the board professionals before the meeting to make sure any of those things are cleared up. Does anyone else have any concerns?

Mayor Green: Do they need to make a formal request resubmit the application?

Mr. Sitzler: Do you want to make a formal request to adjourn to redo what we just talked about?

Mr. Regan: Yes; we will resubmit the application the site plan and prepare the notices in the displacement of this hearing.

Mr. Sitzler: Right; with the understanding the application was incomplete so the clock does not start and also waived at this time just so the record is clear. Just to be consistent with the application process.

Mr. Furno: One other question what is the dead line to get all this information to you; to get onto the agenda for next month? Do you have a drop dead date?

Mr. Sitzler: Well you have to have the public notice at least 10 days before the hearing date.

Mayor Green: Also the documents have to be in the borough at least 10 days in advance in case the public wants to come in and see.

Mr. Sitzler: Yes; you have to have your application on file here in the Borough incase people want to come in and look at it. So two weeks would be a better turn in date.

Mr. Dougherty: Yes; two weeks would allow us to review the plan and the next meeting is December 11<sup>th</sup> so you back off the time from there.

Mr. James: do we need to take any action?

Mr. Sitzler: Yes; let the board vote on it separately, the first should be that the board is in agreement that the application is incomplete.

Mr. Castor: I make a motion to that effect that the application is incomplete.

Mr. James: is there a second? Second by Mr. Ford; roll call all "aye" motion carried

Mr. Sitzler: Know we would need a motion to post pone it for them to make the amendments necessary to make their application complete.

Mr. Castor: I make that motion: Second by Mr. Hagy; roll call all "aye" motion carried

Mr. Sitzler: Let the record also show that no one from the public did appear tonight, and weather that is a consequence of the notice not being up to standards or not but they are going to reintroduce anyway.

**Old Business:** Mr. James does anyone have any old?

**New Business:** Mr. James does anyone have any new business, reminder the next meeting is December 11<sup>th</sup> at 7:30

**Open Floor to Public** Mr. James: Motion to open floor to the Public. Motion by Mr. Hagy second by Mr. Ford "no public present"

Motion to close floor to public: by Mr. Schultz second by Mr. Hagy

Mr. Castor: I would like to apologize to the board. I had back surgery and have missed some meetings I will try to be here as often as I can.

**Motion to Adjourn:** motion made by Mr. Castor, second by Mr. Ford, all others "aye"  
motion carried.