

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
July 8, 2021

Call to order: **Call to Order by Mr. Hagarty 7:30pm**

Pledge of the Flag: **Led by Mr. Hagarty**

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: **Present:** Mr. Hagarty, Mr. Waddington, Mr. James, Mr. Ford, Mayor Green, Mrs. Jones, Mrs. Gilson, Mrs. Wakeley
Absent: Mr. Hagy, Councilman Robb
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Maddoni, Mr. Luste, Zoning Officer Mrs. Keyek

There was a quorum

Correspondence: Letter from Borough Hall on Ordinance 2021-1002 prohibiting the operation of any class of Cannabis Business within its geographical boundaries.

Discussion about Pine Hill Ordinance 2021-1002

Mr. Hagarty reported that everyone should have in their packet a letter from Borough Hall on Ordinance 2021-1002 prohibiting the operation of any class of Cannabis Business within its geographical boundaries.

Mayor Green reported that the Borough introduced an ordinance that prohibits the cultivation distribution or sale of recreational marijuana within the boundaries of the Borough of Pine Hill. He stated that per the state statute the Borough must notify the Planning Board who then have opportunity to comment; that opportunity is not binding on the governing body. Mayor Green commented that is why the letter was sent so that the board can have the opportunity to comment and then send a response letter to Mayor and Council. He reported that this does not deal with medical marijuana that is a totally separate statute. He commented that this just deals with the recreational marijuana and the statute that was enacted allows municipalities to opt out of recreational marijuana or any portion of recreational marijuana. Mayor Green stated that the Borough would have to pass an ordinance by the 15th of August after that if it is not done the Borough would not be able to do it for five years; so that it what this correspondence and ordinance was.

Mr. Hagarty thanked Mayor Green for the background and overview of the correspondence and ordinance.

Mr. Hagarty asked the members if there were any questions on the ordinance.

Mr. James asked how this would impact residents of nearby towns that maybe coming to Pine Hill.

Mayor Green commented that it would not impact anyone who purchases marijuana outside the town and brings it into the town because they are legally allowed to use recreational marijuana. He stated that it just impacts the sale, cultivation, and distribution of that. He reported that there would be no warehouses, no growing and no stores that can sell.

Mr. Sitzler commented if the board thinks of it in terms of alcohol licenses. He stated that there are some towns that are dry towns and some that have licenses.

Mr. Hagarty ask if there were any other questions seeing none; he commented to Mr. Sitzler that he did not believe that the board had to take any action on this matter it is just that they sent the board this correspondence per the statue.

Mr. Sitzler stated that since the board was sent correspondence and an ordinance regarding this matter; they should refer an opinion. He reported that the Planning Board is a referral group all they do is make an opinion and as Mayor Green pointed out Council can do whatever they decide. Mr. Sitzler commented what the board is charged with under the statue is that were a referral group and just reviewing. Mr. Sitzler said it seems that the Planning Board is in favor of what Council is doing so the board might want to take a vote on that they recommend what Council is doing as far as to band marijuana as per this ordinance in Pine Hill. Mr. Sitzler explained, just say the Borough decided to go the other way and said that they would like to have distribution of sales in Pine Hill; they would have five years if they did not like the way that it was going to opt out; but on the other hand what the Mayor is also referring to is that if the Borough does nothing theoretically you could have people come in to petition and of course that five year period would still run and the Borough could cancel it; so the Borough is being proactive here.

Mr. James asked what happens if the Borough says no now but they want to change it in two years from now.

Mayor Green said that cannot be done because it is at least five years; he is not sure what happens after that.

Mr. Sitzler stated that the decision you make is five years.

Mayor Green commented the first one is and he is not sure what the next one will be and this is one of the reasons that the governing body is choosing now to get involved because the reality is that rules

have not even been promulgated as to how this whole thing will work; but the statute is very clear that it was six months after the statute was adopted that you had to make this decision and if you did not that you automatically permit ones of recreational marijuana exactly where you put it and things of that nature.

Mr. Sitzler spoke about different states and what their views are on this matter. He commented that New York is the first and only state so far that approved marijuana. He stated that in New York recreational marijuana can be smoked anywhere cigarette smoking is allowed.

Mayor Green reported that some towns are embracing it, other towns have prohibited it and a lot of towns have not made up their mind; but the ones that have not made up their mind do have a time deadline.

Mr. Hagarty commented so based on the clarifications by the Mayor and Mr. Sitzler does anybody have any additional questions? He said seeing none that he would entertain a motion.

Mr. James: Made a motion to approve; seconded by **Mr. Waddington** – **Mayor Green abstained** all others present “aye” approved

Mr. Sitzler commented that the Planning Board can notify Council by a letter.

Approval of Minutes: **Mr. Hagarty:** If everyone had a chance to review the meeting minutes from June 10, 2021, I will entertain a motion to approve.

Mr. Waddington: Made a motion to approve; seconded by **Mayor Green - Mr. James abstained** all others present “aye” minutes approved

Resolution 2021-13: **Mr. Hagarty:** This is a resolution of the Pine Hill Land Use Board granting a bulk variance to add a second-floor addition pursuant to plans provided by Roderick Wizzart for property located at Block 99.03 Lot 12 also known as 46 Terrace Avenue in the Borough of Pine Hill, County of Camden, State of New Jersey. He commented that if everyone has had a chance to review that resolution; he would first ask if there were any questions that anyone has? He stated seeing none he would entertain a motion to approve.

Mr. Waddington: Made a motion to approve; seconded by **Mrs. Wakeley – Mr. James and Mr. Ford abstained** all others present “roll call” Resolution 2021-13 approved

Application 2021-4

Mr. Hagarty reported that the next item before the board is 2021-4 Multani and Sons LLC, 101 Cross Keys Road, Block 131 Lot 30 on a Use Variance. Mr. Hagarty welcomed them back.

Mayor Green commented Mr. Chairman since this is a use variance that he would not be participating.

Mr. Hodulik reported that he was representing the applicant. He asked since this is a combined voice how many members that are present will be able to act on the application tonight?

Mr. Sitzler stated that there were seven members present to act on the application tonight.

Mr. Hodulik commented members of the board, board professionals were here before you this evening to ask for approval for a use variance and honor site plan approval for an existing gas station that has a car wash presently on it requesting to have the building converted over to a convenience store. He stated that the ordinance specifically permits convenience stores in the zone, but car washes and gas stations are not permitted. Mr. Hodulik commented that they are here before you tonight to ask for the use variance relief as well as the minor site plan approval. Mr. Hodulik reported that he would like to call their first witness Mr. John Teets.

Mr. Sitzler asked if they had been sworn in. Mr. Hodulik stated that since it was informal, he did not think anyone was sworn in last meeting and Mr. Multani may testify. Mr. Sitzler read the oath and sworn them in.

Mr. Hodulik asked Mr. Teets if he prepared a set of architectures for this project?

Mr. Teets reported that the floor plan, elevations, and preliminary walkway as the minor site plan.

Mr. Hodulik asked Mr. Teets if he wanted to describe on what the building is as to what is proposed for the building.

Mr. Teets reported on the building and that it is not contained with anything whatsoever. He commented that the car wash itself is currently in the back which would become the convenience store. He stated that all the changes would be internally to the store.

Mr. Hodulik commented that since they had the opportunity to review the board professionals' letters from last month as well as this month there were some additions made to the site plan to add some further landscaping.

Mr. Teets reported that there was a concern by the board about pedestrians and the parking area crossing over. He stated some details regarding enclosures to aid this concern and commented about the landscape mentioning maybe some additional plants.

Mr. Sitzler stated so from a planning perspective what are the special reasons that exist for the board to

grant a variance and the reasons it is being change from a car wash to a convenience store.

Mr. Teets commented that this would be considered an upgrade from a car wash to the convenience store. He stated that it would create less traffic as well because people line up in car washes. He reported in general the convenience store would be giving full service. Mr. Teets stated people would come in get gas and walk in the store to get cigarettes, a cold drink, monster drink whatever and go. He commented that is generally, the way it happens. He reported that they do need the parking requirement for people who do want to park. He stated that in one resource they did find out that employees in some cases will get rides from others because of the pay structure that exist for pumping gas and so fore which will reduce transportation when they get a ride with someone else.

Mr. Sitzler asked Mr. Teets about the development area regarding open space.

Mr. Teets reported that this plan has a huge amount of open space and there is a very small coverage of the pipeline. He commented that there are no chemicals from the car wash, and it is neutral to the environment.

Mr. Sitzler asked Mr. Teets if a use variance could be granted without a substantial detriment.

Mr. Teets said he would say so because 80% of gas that is sold at a convenience store; it is not sold stand alone. He spoke about the comparisons between the car washes and convenience stores. He commented that they could not compete with some of the larger car washes and that the convenience store works better. He stated that it is not a large store, they would not sell coffee because of Dunkin Donuts next store. He commented that it would be mostly cigarettes, salty snacks and drinks things like that.

Mr. Hodulik asked Mr. Teets to hand out the photograph of the building and do an overview.

Mr. Teets reported on the stone and the red metal roof, so it has some broad to it because we are not having any signs as far as the application reads. He stated that there will be no graphics on the building, they have lights, the metal and just as you see it is what it is. Mr. Teets said that there will be no change in the color scheme. He commented about some details regarding the inside of the building.

Mr. Sitlzer asked the board if they had any questions regarding John Teets testimony.

Mrs. Wakeley reported that she has concerns with the parking. She stated that her concern is regarding the safety if people fly into that entrance even if there are signs how that would be.

Mr. Teets reported that in the past many service stations had an intersection on all four corners and there would be an entrance right at the corner. He stated as he pointed to the diagram there are these three spaces here, seven down here and then the employee portion would be to park down here. Mr. Teets said over half of these stores if we see six cars max that is a lot. He stated usually there are

three to four people at a time in the store, it is very quick. He reported that it is not like Wawa you are not waiting for someone to make a hoagie or something, you are just buying what it is and going to the counter. Mr. Teets commented that the person is normally in a store like this about 2 ½ minutes where if you go somewhere like a Royal Farms or a Wawa it is often 5 minutes or more. He stated that they only need a certain number of spaces due to people coming from the pumps as well as the parking area.

Mr. Hagarty asked Mrs. Wakeley if that addressed her question.

Mrs. Wakeley said yes.

Mr. Hagarty asked if there were any additional questions.

Mrs. Keyek asked if parking was prohibited in front of the store.

Mr. Teets responded yes pretty much it is a no parking zone and there is no loading zone that is required for over ten thousand feet. He commented that they do have small vehicles that come to deliver and that allows that to happen without using any parking spaces. Mr. Teets commented basically, by having those line spaces most people will know what that is.

Ms. Jones asked if there would also be proper lighting.

Mr. Teets responded sure. He explained that the lighting across the front is all led. He stated they want it to be safe.

Ms. Jones asked what are your hours of operation?

Mr. Teets replied that the hours of operation are 6:00am till 10:00pm.

Mr. Ford asked if they were going to have any signs?

Mr. Teets replied that they were not going to change any of the existing signs. He commented that when people come in for gas, they will see the convenience store and it becomes automatic, so signs are not needed.

Mr. Sitzler mentioned that he was reviewing some of the fixtures that are there from existing signs and there is a sign relating to the car wash; would that be able to be swapped out with some type of mart?

Mr. Teets reported that they have a choice that they can remove that light box, or they can replace that sign with a new box.

Mr. Sitzler commented that he thought that would be up to the board to decide. He asked the board if they could swap out that sign since it is pre-existing.

Mr. James stated that he thought that would be fine because the sign is already existing, and they are just swapping it out for a sign of similar size that will fit in that box.

Mr. Hagarty reported that he thought that some of what your hearing is not related to the existing sign it is what additional sign.

Mr. James stated that basically what you are saying is based upon your clientele you will not need to do any talking; people naturally by coming there will know that they can come in the store and see the change. He commented that they are relying on their customers to know that it is a convenience store without any signs.

Mr. Hodulik reported that with the glass windows people driving in to get gas can see that the market is in there.

Mr. Ford commented about them putting something on the windows like a Pepsi sign because that way you could obstruct what is going on in there, but if the windows are open as the store is detailed with the rows; one said baked goods on it you would be able to see that it is a market inside verses the Pepsi sign. Mr. Ford asked what the three pipes were on the outside of the front of the building.

Mr. Teets stated that the pipes are vent pipes from the tanks.

Mr. Hagarty asked if there were any additional questions and there were none.

Mr. Hagarty asked Mr. Maddonni to step in if there are issues that he sees with respect to completeness.

Mr. Maddonni commented that there are couple issues. He commented about the written statement on the cover sheet it shows what the proposing improvements are. He stated that it says existing car wash portion to be changed and it does describe what it is supposed to be so that covers that. Mr. Maddonni reported that information regarding the use variance was not addressed therefore applications need to be completed. He commented that their testimony did provide the information on the use variance; it is an existing car wash and will become a convenience store so that seems to be adequate.

Mr. Luste commented that he had no objections to the use variance.

Mr. Sitzler stated that as Mr. Teets pointed out that their taken 2 non-conforming uses and getting rid of one of them and added a conforming use and now, they will only have one lot as a non-conforming use. He commented that if the board would take notice to this it is a trend that most gas stations have a store attached to the gas station.

Mr. James asked what is the non-conforming use that they are getting rid of?

Mr. Sitzler replied that it was the car wash.

Mr. Hagarty asked if there were any more questions.

Mr. Ford asked if there were sidewalks there. He commented that the rest of the things that the board has been working on all have sidewalks. He stated why not the corner.

Mr. Hodulik reported that there are sidewalks between the curb cuts along the aprons.

Mr. Ford commented then there are no sidewalks that go continuous around.

Mr. Hodulik reported that there are no sidewalks continuously around.

Mr. Sitzler reported that Cross Keys Road is a county road, and they are working on improvements to widen the road. He stated that they have not completed the improvements yet, but it will be coming in your direction. Mr. Sitzler commented that what they can do is require people to deposit money towards the future for when the road is widen. He said this would be required today for your area to be improved. Mr. Sitzler stated that they are not sure how long it will be 2 years or could be up to 5 years.

Mr. Hodulik commented so you are asking for an escrow that will be held by the town?

Mr. Sitzler responded yes.

Mr. Hodulik asked Mr. Multani if that was a problem.

Mr. Multani responded no.

Mr. Sitzler stated that the board's interest has been consistent here just so you know with every applicant that does something on Cross Keys Road.

Mr. Hagarty stated that the board would want to continue that on. He asked if there were any other questions in respect to completeness and there were none. He commented so we heard the testimony from the applicant, the professionals, the questions, and all of that.

Mr. Hagarty reported that if there were no other questions, he would entertain a motion with respect to the completeness of this application.

Mr. James: Made motion to deem the application 2021-4 complete; seconded by **Mr. Waddington** - all others present "roll call"

Mr. Hagarty reported that the application was deemed complete.

Mr. Hagarty stated that now that the application is deemed complete is there any other additional questions with respect to the applicant.

Mr. Sitzler stated that the first issue to the entire project is the use variance.

Mr. Hagarty commented that before that motion is taken, he would entertain a motion to open the meeting to the public with respect to only application 2021-4.

Mr. Ford: Made motion to open the meeting to the public; seconded by **Mr. Waddington** - all others present "aye"

Mr. Hagarty reported that the meeting is now open to the public with respect to application 2021-4. He said seeing no members from the public, he would entertain a motion to close the meeting to the public.

Mr. Ford: Made motion to close the meeting to the public; seconded by **Mr. James** - all others present "aye"

Mr. Hagarty reported that the meeting is now closed to the public with respect to application 2021-4.

Mr. Hagarty stated before I entertain a motion last and final does anyone have any other questions.

Mr. Waddington asked if the use variance was all that was being done tonight.

Mr. Sitzler commented that if the applicant is getting their use variance, they have already submitted their minor site plan application. He stated that there may be questions after they have their use variance.

Mr. Hagarty reported that procedurally we are going to deal with the use variance first.

Mr. Hagarty stated that if there were no questions, he would entertain a motion for the use variance.

Mr. Ford: Made motion to approve the use variance; seconded by **Mr. Waddington** - all others present "roll call"

Mr. Hagarty reported motion passed.

Mr. Hagarty commented that as Mr. Sitzler said now before us is the site plan. He asked if there were any questions that anyone had in respect to the site plan.

Ms. Gilson asked how it would work with the sidewalk escrow amount.

Mr. Sitzler responded that the Borough engineer, board engineer would come up with an estimate as to how much they should post for the sidewalk. He stated that it would be put in escrow for a period of five years. He stated that five years would begin from the date of approval.

Mr. Hagarty asked if there were any other questions with respect to the site plan.

Ms. Gilson asked if the board had to vote on that.

Mr. Hagarty stated that the board would make it a condition as part of it.

Mr. Sitzler reported that it will be a condition of the site plan approval with all of it. He stated that in the future it should be developed where the sidewalk comes to the edge of their property then they would bring it up to Cross Keys Road. Mr. Sitzler asked if there were any place of sidewalk on the other road.

Mr. Teets commented no because it is undeveloped.

Mr. Hodulik commented if it does not happen in five years what happens then.

Mr. Sitzler commented that they know that Cross Keys should be done in five years unless something happens that they do not anticipate. He stated that they do not know when the side street will be developed because there is no proposal. Mr. Sitzler said so I do not think we can have the board escrow money for the side street and that should not be required right now.

Mr. Hagarty stated that they are both county roads. He asked if there were any other questions with respect to the site plan. He said seeing none I will entertain a motion for approval of the minor site plan with the following conditions; the applicants will deposit an escrow for a period of up to five years from the date of approval an amount that will be calculated by the board engineer for future sidewalks along Cross Keys Road. He stated additionally the applicant has agreed without a deposit in escrow to provide for sidewalks on Watsonstown – New Freedom Road in the event that there are future sidewalks as part of the downstream development along that road. Mr. Hagarty reported that if sidewalks are development in terms of any of the lots adjacent to the property the applicant will provide those sidewalks. He commented that additionally they talked about signage agreed on the applicant's testimony there would be no additional signages and it would be allowed for the modification of the one sign that does exist for the car wash to reflect the market. He also said that the applicant stated that the hours of operation are 6:00 am to 10:00 pm. Mr. Hagarty asked if there was anything else that he missed.

Mr. Ford commented that he knew it was discussed but there should be no parking in the front of the building if there is no room.

Mr. Hagarty stated between no parking and some sort of yellow striping whatever it is to clearly identify that there is no parking in front of the building. He commented so based on the testimony and those conditions he entertained a motion for the minor site plan.

Mr. Ford: Made a motion to approve the minor site plan; seconded by **Mr. Waddington** – all others present “roll call” approved

Mr. Hagarty reported motion passed.

Mr. Hagarty asked if there was any new business, seeing none he opened the floor to the public on any matters.

Mr. Ford: Made motion to open meeting to the public; seconded by **Mr. Waddington** - all others present “aye”

Mr. Hagarty stated that the meeting is now open to the public on any matter. He commented seeing none of the public present he entertained a motion to close the meeting to the public.

Mr. James: Made motion to close meeting to the public; seconded by **Ms. Gilson** - all others present “aye”

Motion to Adjourn: **Mr. Hagarty** entertained a motion to adjourn the meeting.

Mr. James: Made motion to adjourn meeting; seconded by **Mrs. Wakeley**

All present “aye” meeting adjourned 8:47 pm