

# OPEN SESSION

## Hightstown Borough Planning Board meeting June 13, 2005

### Call to order

Vice-Chairman Mr. Misiura called the Planning Board meeting to order at 7:38 p.m.

Mr. Misiura read the open public meetings act.

### Flag salute

### Roll Call

Name	Present	Absent			
Mayor Patten	X				
Mr. Montferrat		X			
Mr. Sikorski	X				
Mr. Searing	X				
Mr. Cuddy	X				
Mr. Jurgens		X			
Mr. Pratt	X				
Mr. Stults		X			
Mr. Misiura	X				
Alternates					
Mr. Emigholz	X				
Mr. Byrne		X			

Members present: Mayor Patten, Mr. Sikorski, Mr. Searing, Mr. Cuddy, Mr. Pratt, Mr. Misiura, and Mr. Emigholz.

Members absent: Mr. Montferrat, Mr. Jurgens, Mr. Misiura, and Mr. Byrne.

## **Approval of Agenda**

A motion was made by Mr. Sikorski, seconded by Mr. Pratt, to approve the agenda. Roll call vote was all in the affirmative. Motion carried.

## **Approval of Minutes**

A motion was made by Mr. Pratt, second by Mr. Cuddy, to approve the minutes of the May 17, 2005 Planning Board with the suggested admissions. Roll call vote was all in the affirmative with the exceptions Mayor Patten, Mr. Sikorski and Mr. Searing, who abstained. Motion carried.

## **Adoption of Resolutions**

There were no resolutions for adoption.

## **Public Hearings**

**Application 2005-06 for Dalal Corporation – Block 27, Lot 39 – Maxwell Avenue, Two lot Minor Subdivision with variance for lot width on proposed Lot 39.02 for the construction of two single-family dwellings.**

Mr. Leonard Coates, attorney for the applicant was present and introduced Ms. Lorali Totten, of Crest Engineering as a Professional Engineer and Planner for this project. Mr. Shri Dalal, applicant, was also present. Mr. Rosensweig, Board Attorney, swore in all witnesses.

Lorali Totten outlined her credentials for the board, as was accepted as an expert witness.

Mr. Coates identified the property as being Block 27, Lot 39, located on Maxwell Avenue in the R-3 Zone, in the Borough of Hightstown. Mr. Coates advised that the applicant is seeking approval on a two lot minor subdivision; both lots will conform with the lot size requirements within the zoning ordinance for the R-3 Zone; however, the proposed rear lot will require a bulk variance for the frontage. The proposed front lot will be fully conforming to the Borough R-3 Zone.

Mr. Coates advised that there is also another variance required, as pointed out by the Planning Board Engineer, Carmela Roberts, which is a technical variance dealing with lot setback. It is required to take the average of lots that are setback, within 200' of subject lot. 14' would be the average of houses setback, within 200' of this parcel, and it is being proposed as being setback 160' for lot 39.02.

Mr. Coates described the lot as an eyesore, surrounded by a fence that has corroded barbed wire across the top. The lot is completely blacktopped with weeds growing through the cracks. The corners of the property are overgrown with vegetation. The applicant, Mr. Dalal, will be cleaning up the lot, removing all impervious coverage, and the homes will each have a large lawn surface; creating a more appealing site.

Mr. Coates reviewed Ms. Roberts report, which outlined three existing flag lots already existing in the Borough. Mr. Coates further went on to say that the applicant will comply with the request with moving back the inlet, and setting the house back to accommodate a turn around area, will comply with the comments regarding the seasonal high water table and if required, will install sump pumps. Also recognizes that this application is subject to approval by Mercer County Planning Board.

Mr. Coates states that both variances required can be granted on undue hardship and also on the balances of the flexible "C" criteria, adding the benefit of granting the variances outweigh any detriments.

Mr. Rosensweig asked Mr. Coates if Mr. Dalal now owns the property. Mr. Coates advised that Mr. Dalal now owns this property and will provide a copy of the recorded deed.

Mr. Rosensweig also requested Mr. Coates provide a copy of the letter from the State House Commission Act.

Mr. Coates agreed to comply.

Mr. Coates advised that the applicant has a no further action letter from the State of New Jersey Department of Env. Prot. issued an unrestricted use, no further action letter dated 02/21/01.

Ms. Lorali Totten of Crest Engineering described the minor subdivision, with the lot being over 25,000 square feet, located in the R-3 zone. The applicant is proposing to subdivide the parcel into two lots. The property is 100' wide; the frontage requirement is 75'. Ms. Totten advised that the lot drains to the southwestern corner of the property, adding there is an inlet on the property that carries the water into a ditch then into a storm sewer.

Ms. Totten stated that the property is nearly completely paved now, and by removing the impervious coverage and building two homes, the impervious coverage will be reduced by more than 50%, which will allow for infiltration of rainwater; which should improve any existing draining conditions. The property will be graded to provide positive drainage away from the houses. Per the engineer's report, the applicant agrees to relocate the inlet. Applicant also agrees to install a drainage easement.

Ms. Totten then reviewed the planning aspects of this presentation beginning with the variances. Ms. Totten explained this property is much deeper than wide. Without the granting of the variance, the property would not be utilized to its fullest potential; which would also conform with the appropriate densities of this zone and zone plan. This lot could easily accommodate two homes due to its size of 25,000 square feet where 10,000 per lot is required.

Ms. Totten stated that by allowing a two-lot subdivision on this parcel, one of which is a flag lot, both lots conform in size; the aesthetics of the site would be improved significantly. The use is being returned to a residential use, the applicant will be removing the barbed wire as well as all fencing on the property; eliminate the significant amount of impervious surface, buffering will also be provided.

Mr. Searing asked that if the houses are to be built with basements, he would like to have storm drain piping from each house to the storm drain system for sump pumps, and not be connected to the sanitary sewer system.

Ms. Roberts stated she has no objection to Mr. Searing's request.

Mr. Cuddy asked if the setback requirements for lot 2 also apply to lot 1. Ms. Totten advised that it would only apply to lot 2.

Mr. Rosensweig asked Ms. Totten what her definition is for "Highest and Best Use".

Ms. Totten stated that what is permitted in the zone is residential, and because of the size of the lot being over 25,000, from a planning perspective, meeting the densities that are set forth in the ordinance which is 10,000 square per lot.

Mr. Rosensweig advised that the development of one lot (home) on this parcel is quite possible.

Ms. Totten advised that due to the amount of site remediation required, it would not be cost effective to build one house; although she has not done a cost analysis.

Mr. Pratt advised that he scaled the adjacent lots, and found there being no lots greater than 50' frontage and feels the proposal being presented is out of the character of the neighborhood. Mr. Pratt further stated that he does not feel that a flag lot is a benefit; however that two 50' frontage lots would be more in keeping with neighborhood.

The board raised concerns regarding setting precedence if this application was approved. Mr. Rosensweig advised that any other application coming in with the same layout would have to make their case, but it would be clear that a policy had been set if this application is approved.

Mayor Patten asked if Mr. Dalal wanted to change his application to two side-by-side lots as opposed to creating a flag lot, if he could amend this application, or make a new application. Mr. Rosensweig advised that it would be best that this application would have to be acted upon and completed, then Mr. Dalal could make another application.

Ms. Roberts added that the most possible lots that could be created would be two due to lot size requirements.

Mr. Shri Dalal, owner of subject property was present to make testimony. Mr. Dalal advised he agrees to comply with the engineer's report. Mr. Dalal also agreed to provide, to the board secretary, copies of all letters from State of New Jersey D.E.P.

Mr. Dalal advised the subdivision would be filed by deed.

Mayor Patten asked if there was a landscape plan available. Mr. Dalal that they currently do not have one, but would make that a condition of approval.

Mr. Pratt suggested placing a landscape buffering between the two lots, to which Mr. Dalal agreed.

Mr. Cuddy asked Mr. Dalal if he would be willing to meet with a subgroup of the planning board, known as the Architectural Review Board, to discuss ways in which the design of the proposed homes could be done to meet the character of the neighborhood.

Mr. Dalal stated that he is willing to comply with the board's request.

## **Public Comments**

Mr. Wetterskog, Zoning Officer for the Borough of Hightstown addressed the board stating that the applicant could come in and build an extremely large single home on this lot, utilizing the entire property without limitations, asking if this is what the board really wants on this property. Stating that one oversized dwelling would look out of place and would not be in keeping with the character of the neighborhood.

Mr. Larry Quattrone of 302 Mercer Street stated that he agrees with the comments of Mr. Pratt and Mr. Cuddy in that a house should be consistent with the area in which it is being built. New construction should not be done in a way to downgrade the existing, neighboring homes. Mr. Quattrone also feels curbs and sidewalks should be a condition of approval, and would rather see two homes side by side as opposed to creating a flag lot.

There being no further public comments, Vice-chairman Misiura closed the public portion of this application.

## **Board Discussion**

For board discussion purposes, Mayor Patten moved this application for discussion, seconded by Mr. Sikorski.

Mayor Patten stated that the Borough has, as a matter of policy, tried to ensure that any new construction will be done in accordance with the character of the existing neighborhood. Mayor Patten also advised that the board needs to consider the best use and layout for this property, keeping in mind that other similar unique situations may appear before the board in the future.

Mr. Cuddy advised that he is very sympathetic to growth and increased densities. The Master Plan Re-examination Report calls for continued growth but also requires, as key elements, good design and coordination. Mr. Cuddy also advised that there is an adjacent sister lot that the board needs to take into consideration as well as looking long term, when considering this application, adding that the site plan before the board has more of an uncomfortable suburban feel.

Mr. Pratt reiterated his previous comments, adding that he would prefer to see two narrow lots side by side by side by side, which would allow the construction of two homes and would better, serve the neighborhood, as opposed to creating a flag lot.

Mr. Emigholz echoed the comments of Mr. Cuddy and Mr. Pratt and that the lots across the street are similar to creating two side by side lots.

There was a discussion of the board, and the consensus was that the board would prefer to see two side-by-side long, narrow lots.

A motion was made by Mayor Patten, seconded by Mr. Sikorski to grant a minor subdivision approval on application 2005-06. Roll call vote was all in the negative. Motion denied.

A motion was made by Mr. Cuddy, seconded by Mr. Pratt to deny the granting of a minor subdivision on application 2005-06. Roll call vote was all in the affirmative. Motion to deny application was carried.

**Application #2005-07 – Peacock Inn Associates, Block 48.01, Lot 21, 303 Morrison Avenue, Hightstown, NJ – Minor Subdivision with Variance request for impervious coverage on existing lot, and the construction of a single family dwelling on the newly created lot.**

Robert Friberg, Esquire was present as legal counsel for the applicant along with Daniel Doran, who is the engineer for this project, and Michael Walker, President of Peacock Inn.

Mr. Friberg explained the application to the board as being an application for a minor subdivision with a minor variance request for impervious coverage of 7.7% on the existing lot. Mr. Friberg advised that the plans submitted are as a result of comments they received from Carmela Roberts, Borough Engineer.

All witnesses were sworn in. Mr. Doran presented his credentials before the board and was accepted as a professional witness.

Marked into evidence as exhibit A-1 is a lot layout showing existing lot conditions and proposed subdivision. Which is a colorized version of sheet 2 submitted with the subdivision application.

Mr. Doran advised the variance the applicant is seeking is for impervious coverage on proposed lot 21.01, the larger that houses the existing dwelling. Mr. Doran advised that the R-4 zone allows a maximum of 50% impervious coverage, where the applicant is seeking 57.7% coverage, which is over 1100 square feet.

Mr. Doran explained the parking area would be reconfigured to put a majority of the parking on the rear portion of the site. They will be constructing a 6' high solid fence along the property line. The existing garage will also help to visually buffer the parking.

Mr. Doran advised that proposed lot 21.02, that will house a single family dwelling, will two staking parking spaces where one vehicle will park behind the other.

Mr. Pratt asked if it were possible to have a porch added to the proposed new single family. Mr. Doran advised that the house has not yet been designed, but will keep the boards comments in mind.

Mr. Pratt asked Mr. Doran if the applicant would consider constructing a detached garage to the rear right corner of the property and allow the driveway to pass by the house.

The board raised the question of removing the need for the 7.7% impervious coverage. They discussed modifying some of the parking spaces, which would create a lesser impervious coverage variance, but it would not eliminate the need for the variance.

Mr. Searing requested that if the applicant proposes to construct a home with a basement, that a storm pipe be installed for a sump pump so the sump pump will not discharge into the sewer system.

Mr. Michael Walker testified that he is the owner of the Peacock Inn along with his wife. They have owned the property for six years. Mr. Walker outlined the capacity of the building and advised that they have never had a problem with parking.

Mr. Cuddy asked Mr. Walker if he would be willing to construct a porch on the new house and Mr. Walker advised that is a reasonable suggestion.

Mr. Rosensweig asked Mr. Walker what would be the outcome if they obtained new tenants and would require parking beyond the 7 spaces. Mr. Walker advised that he has not come across this before.

Ms. Roberts advised that if they needed additional parking, they could park on the street with exception of when there is a snowfall. After discussions, Mr. Walker agreed to put a stipulation in his lease limiting the number of vehicles allowed to be owned by the tenants and kept on the property.

Mr. Pratt advised the applicant that the Borough has a non-binding subcommittee called the "Architectural Review Committee" and asked if the applicant would be willing to meet with the "ARC" to review the architecture of the new house to help it fit in with the surrounding neighborhood. The applicant has agreed to this request.

Mr. Searing advised the applicant that the sewer manhole in front of the proposed lot has been abandoned and they would have to find an alternate hook up location.

Ms. Roberts asked the applicant about the gore areas issue and was advised that would be handled by boundary line agreement or deed.

Ms. Roberts inquired about submission of a plot plan for the new property. This will be complied with.

#### Public Comments

Stacey Judge of 307 Morrison Avenue asked whether or not the large old Oak Tree would be taken down, or if there would be a way of saving it. The tree, which is not shown on the survey, was slated for removal; however after some discussion, the applicant has agreed to take measures to relocate five of the parking spaces to try to salvage the tree. The board requested the applicant submit an alternate plan for review and if there is a majority of board members objecting to the new layout, the applicant would return to the board.

Ms. Judge also expressed concerns about water run off and snow removal asking how would the snow be removed and where would it be placed.

Mayor Patten asked Ms. Roberts if there could be a drain in place.

Ms. Dale Grubb of 302 Morrison Avenue advised that the intersection of Summit and Morrison is extremely busy, and there would be no parking in front of the existing rental dwelling.

Mr. Agostino of 317 Morrison Avenue asked if the applicant should be designing for a 100-year storm as opposed to a 25-year storm. Ms. Roberts advised that the standard design for this type of project is a 25-year storm.

Pam Bower of 603 Summit Street advised she shares the same concerns as the other residents, and has a concern with water runoff coming onto her property.

Mr. Rosensweig advised the board that a letter was received from an objector raising safety concerns, will be placed in the file. Adding that the letter is not something that the board can rely on when making their decision.

Ms. Roberts advised that the addition of the inlet to the rear of the property, as previously agreed to, would create less water run off, even with the increased impervious coverage.

Stacey Judge asked if they had made a decision regarding the snow removal. Mr. Doran advised that there are snow removal companies that could come to remove the snow.

Mr. Cuddy moved the application be opened for discussion. Seconded by Mr. Emigholz.

Mr. Cuddy stated that the board had discussed having the owner build into the lease, parking restrictions, and asked if those restrictions could be made deed restrictions so they could still be enforced in the event of a change of ownership.

Mr. Rosensweig advised that the resolution could be attached to and made part of the deed.

Mr. Cuddy asked if it were possible to make the “ARC” review a condition of approval, and Mr. Rosensweig agreed.

A motion was made by Mr. Cuddy, seconded by Mr. Emigholz to grant a minor subdivision on application #2005-07 subject to the following conditions:

- ❖ The applicant will install a catch basin to the rear of the property.
- ❖ Review before the Architectural Review Committee.
- ❖ Plot Plan Submission as required by the Borough Engineer.
- ❖ Snow Removal procedure.
- ❖ Lease restrictions regarding the number of vehicles allowed on the site.
- ❖ Locating the sewer connection.
- ❖ Reduction in impervious coverage.
- ❖ Reduction of driveway to 18’ from 24’.
- ❖ Lease parking restrictions become deed restrictions by attaching a copy of the Resolution to the filed deed.
- ❖ Piping of sump pump to a drainage system, and not into the sewer system.
- ❖ Relocating the proposed dwelling to the left of the property to allow the driveway to extend to a rear yard detached garage.
- ❖ Extending the sidewalk and bonding for public improvements.
- ❖ Submission of an alternate plan to save the large oak tree.

Roll call vote was all in the affirmative with the exception of Mr. Sikorski who voted no. Motion to approve carried.

### **Informal Hearing**

St. Anthony’s of Padua, 156 Maxwell Avenue, Block 27, Lots 12.01, 27, 31, 32, 34, 35, 36, 37, 46, 47 & 48 – addition to rear of building.

Mr. Misiura requisied himself from this portion of the meeting, and Mr. Pratt took over as chairman.

Mr. Rosensweig advised the applicant and the board members that this is an informal hearing and that testimony given on either side is non-binding.



Mr. James Collins, attorney for the applicant was present and advised the board that the church wishes to construct an addition to the rear of the church, which will be utilized as a gathering space for weddings, funerals, etc. They will also be constructing additional bathroom facilities. The construction of the addition will cause the church to lose 10 parking spaces; however the church is already over their required parking. The church will also be conducting some interior renovations along with the proposed addition. Mr. Collins advised the board they would also be seeking waivers for their application.

Mr. Rosensweig advised Mr. Collins that since this is an informal presentation, the board would not be able to act on or review their waiver requests this evening and advised Mr. Collins to make a formal application to appear before the board.

James Mennuti, 157 South Main Street, Block 28, Lot 43, - removal of existing garage to be replaced with a two-story garage with a home office on the second level.

Mr. Mennuti advised the board that the garage presently on his property is approximately 20' high, and in deteriorating condition. He is seeking clarification of the zoning ordinance for the RPO district, which does not address accessory structures. Mr. Mennuti is looking to replace the 20' high structure with a 30' high structure and was inquiring about any height restrictions in the RPO district regarding accessory structures.

Mr. Rosensweig advised Mr. Mennuti that it is up to the Zoning Officer, Mr. Wetterskog, to make the determination as to whether or not there are any height restrictions regarding accessory structures within the RPO district.

### **Adjournment**

There being no further business, the meeting was adjourned at 11:25 p.m.

Respectfully Submitted,

Debra Bodine-Kolo