

A regular meeting of the **BUILDING AND ZONING COMMITTEE** for December was held tonight via web conference, Vice Chairman Matthew Areman presiding. Members present were Commissioners Brockington, Holland, Rappoport, Pransky and Zygmund-Felt. Also present was Ex-Officio member Norris.

Staff present via web-conference were Robert Zienkowski, Township Manager; Alyson Elliott, Assistant Township Manager; Chris Clewell, Public Works Director; and Henry Sekawungu, Director of Planning & Zoning. Also present via web-conference was Joseph Bagley, Esq., Township Solicitor.

Mr. Areman called the meeting to order at 8:01p.m.

1. Action on Zoning Hearing Board Agenda for December 13, 2021.
 - a. Appeal # 21-3685, 165 Township Line Road, Owner LLC for 165 Township Line Road

Mr. Friedman, the applicant's attorney, was present and provided background on this eight-acre development proposal located in the MU2 district. He mentioned the 2019 application, which was before them, and the approval by the Zoning Hearing Board in 2020. Due to COVID, the previously-approved project involving a partnership with SEPTA was abandoned. Despite the change in circumstances, the applicant went back to the drawing board and developed a modified development plan including:

- 5000 square feet of retail space with restaurant and retail
- New high-quality 34,000 square feet retail/office leasable space
- Business offices
- A below ground parking garage

He added that the applicant presented its plan to the Planning Commission, which made a recommendation that parking comply with the Zoning Ordinance. To accommodate this, they lost six parking spaces and would be requesting relief for those spaces. He introduced Mr. Larry Bottel, owner, who proceeded to share the merits of the project:

- It would create a walkable environment
- It would add class A state-of-the-art offices to the market, plus retail uses compatible with commuters
- The property was purchased in 2017 and has maintained its status even through COVID

Jerry Roller, the applicant's architect, provided highlights on the requested variances, most of which were similar to those approved in the 2019 application. This proposal was redacted, but would have the same footprint with a one level garage with rooftop parking. He proceeded to share a PowerPoint on the proposal variances which included:

- A height variance request for the retail building
- Front yard setback for the standalone retail building
- Side yard setback as part of the parking garage as they are only providing four feet
- The proposed height for the office building was over by three feet (33.3 feet)
- Reworked the parking space sizes to meet the zoning requirement, resulting in 162 spaces versus the 168 spaces originally proposed.
- Added vegetation and landscaping in front of the office building
- Added a canopy to the façade as recommended by the Planning Commission
- Variance from the setback surface parking (was more of rooftop parking as part of the garage)
- Variance from the loading dock requirements
- Variance from the floodplain ordinance

Mr. Rick Stoneback, the applicant's engineer, continued with the presentation, highlighting the fact that the proposed development area was currently paved, but they would be increasing the

impervious area, while remaining in compliance with the requirements of stormwater discharge and the NPDES permitting as required by DEP.

A vault storage system, which is a storm trap generally used for smaller areas, would provide storage for about 150,000 gallons of stormwater. The plan proposes to capture all the runoff on the site and direct it into the storm trap, which will be open for infiltration, to reduce the volume and also rate control. The lowest grade of the garage is 210 feet, while the floodplain base elevation is 200 feet. The bottom of the storm trap would be 202 feet.

Mr. Guy DiMartino, P.E., of Traffic Planning and Design provided updates on the traffic study previously performed. The current plan would generate less traffic than the prior plan, but the prior plan complied with SEPTA's traffic flow studies and guidelines.

The Committee provided the following comments and expressed the following concerns as part of the discussion:

- Parking sufficiency based on the retail uses/operators and type of retail uses
- The current plan is significantly better than the prior plan
- The type of tenants for the proposed office space are anticipated to be similar to the existing tenants: money management, financial and tech services. The applicant was responding to the 'flight to quality' high-end office buildings.
- Whether this is still a transit-oriented development given that SEPTA is no longer involved; response: it comes down to access to the train station by commuters.
- Federal mandate for SEPTA to create handicapped parking, and the design of their building to tie into the proposed towers if SEPTA were to move their project along.
- Discharge of stormwater into the railroad track swall and extracting of a measure of improvement from SEPTA to ensure this did not create additional flooding. The response was that the discharge was into a swale owned by Pitcairn.
- Consideration of another detention basin to ensure that there is no additional flooding.
- Fiscal impact study showing that this project would add value to the Township.
- Trash pickup and containment area and that this was part of the retail and office building area.
- The proposed wall, which would be an extension of the existing wall constructed of Wissahickon schist.
- Parking garage level reduction and commitment to security for the garage. The garage would be solely for customers and tenants, with enforceable tag parking, and would be different from the SEPTA garage, which had a public aspect to it and warranted security at a different level.
- The ability of the proposed vegetation to survive in the planters; it would be an irrigated planter with the proper depth as part of the design.
- Surface water runoff coming down from Summit in Jenkintown into the bottom of the creek.
- Concern about the variance requests to reduce the buffers, screening and compensation of these with the use of a fee in-lieu-of, to ensure that the downstream issues were not exacerbated.

Citizen Comment

Robert Hyslop, 211 Harrison Avenue, raised questions specific to the floodplain, the lot size, the sizing of the storm trap – which appeared smaller than the lot, frequency of 100-year floods, and ordinary storms verse main storms.

Ms. Stine, resident, had questions about the following: security and the tag parking effect on retail shoppers, which would be monitored by property management; highest height of the buildings which was about the same as Pitcairn at 39'3"; proposed loading dock which did not comply with the ordinance; only proposing two axle trucks; screening of the loading area which is now behind the building as opposed to the original plan; location of the HVAC systems which were on the roof and the fact that they would be screened; light reflection off of the glass wall; traffic analysis

which would be available prior to the Zoning Hearing Board, but with an expanded one as part of the Land Development; and night lighting which would be low key and surface oriented.

Ms. Benton, Webster Avenue, asked about the financial benefit of this development and a bridging of this development with the existing businesses, some of which remain vacant; concern about bringing in national stores which could threaten local businesses, with revenues not remaining in the community; the need for a balance between the preservation of the integrity of neighborhood development and new businesses.

Ms. Welsh, resident, expressed concern on the project's impact in terms of stormwater runoff and traffic from 309 to Greenwood Avenue to Township Line Road, and bottlenecks with two of the existing traffic lights. Mr. DiMartino said they would be evaluating the traffic signal timings.

Ms. Cerebi, resident, expressed concerns about visibility from the Greenwood Avenue Bridge among other locations; flooding and the design/monitoring of a management system.

Ms. Post, resident of Cliff Terrace, agreed with the recommendations for conditions to be imposed, especially regarding trees and landscaping, and ensuring that these conditions are enforced; reduction of the landscaping due to the change in the parking spaces from compact spaces to the regulated sizes; differentiation between the business needs and the resident needs, and the potential destruction of this type of development; parking enforcement and security of the garage; Mr. Roller added that they would be doing a thorough assessment on all the vegetation to ensure it was as ecologically sound as possible.

A *resident* raised a concern about the size of the building and effect on the line of sight.

Upon motion of Ms. Rappoport, the Committee unanimously agreed to authorize sending the Township Solicitor to the Zoning Hearing Board to ensure that the concerns raised are adequately addressed and on the condition that the developer performs a study on all the traffic signals in the Township that would be leading traffic to this location.

b. Appeal # 21-3687, TKO Installations, Inc. for 2401 Cheltenham Avenue

Ms. O'Neill, the applicant's attorney, was present and shared that this application was for installing a drive through ATM, which would take up eight parking spaces. It is a permitted use that would allow for withdrawing and depositing of funds and would require additional signage and a variance related to the size of the signage. The applicant is seeking three signs as opposed to one sign, and would need relief from the stacking requirements. She added that she reached out to the Police Chief who opined that this would not create any issues different from other drive-through uses.

Discussion ensued on the following:

- Security and safety in addition to truck parking at this location.
- Existing Chick-Fil-A stacking issues.
- Compounding of the issue of Wells Fargo ATM double parking in the fire lane; illegal parking in handicap spaces.
- Additional burden of Police calls at this location on a regular basis.
- Multiple existing ATMs at this location and non-existing added value.
- Site management and parking issues by residents south of this location and from Lynnewood Gardens, plus the lack of urgency to resolve these issues.
- Cleanliness of site, and trash that continues to be neglected.
- Lighting plan and pedestrian access. Mr. Atamous, the applicant's engineer, responded that they would have a light pole to project 40' around the ATM and site area.

- Frequency of servicing by armored vehicles. Mr. Quinn of TKO said this would be bi-weekly.
- Scheming of the ATM and the response that there would be 24/7 monitoring by camera within the ATM and also within the canopy and use of high-end equipment by Chase.
- The positive response by Chief Slavin given all the concerns raised and the fact that this was of no value to the Township.
- Attacks on ATMs and the tendency for these to be violent.
- Ms. Isser commented on the security concerns raised by the Planning Commission and the need for additional feedback from the Chief.
- Existing standalone ATMs at the Cedarbrook Shopping Center and the minimal disruptions.

A motion was made by Mr. Holland to take no action on the proposed application. The motion failed to carry by a 3-4 vote (Ayes: Norris, Holland and Brockington. Nays: Areman, Rappoport, Zygmund-Felt and Pransky).

A motion was made by Ms. Rappoport to deny the proposal and to send the Township Solicitor to oppose it. The motion carried by a 4-3 vote (Ayes: Areman, Rappoport, Zygmund-Felt and Pransky. Nays: Norris, Holland and Brockington).

c. Appeal # 21-3688, Iain & Barbara Duguid for 608 Twickenham Road.

Mr. Yanoff, Esq., representative for the applicant, said this is a single-family dwelling operating a no-impact business, not a commercial business as indicated by the violation notice. Cavalier King Charles Spaniels are bred at this location and sold to families with physical/emotional needs. This was an A-13 no impact home-based business and had petitions from 20 neighbors who were in favor of the application. The use was compatible with surrounding uses, would not employ any outsiders other than family members, and met all the requirements of the Zoning Ordinance specific to no-impact home business. Sixteen percent of the main floor is dedicated to this use; the only issue was they had not registered with the Township.

Mr. Clewell said he received complaints regarding excessive trash at this property from a neighbor and trash collectors, to which he followed up by visiting the property. He shared his observations regarding the breeding layout in the living area and interactions with the owner. He confirm with the Tax Office that the use did not have a Business Privilege License.

Mr. Areman added that it was a misrepresentation that the property did not generate solid waste, which created concern. He complimented the owners on providing therapy to those in need, but this did not obviate the use requiring zoning approval. The applicant filed an appeal of the violation notice, with an alternative variance, indicating that the argument of no-impact home business was not a solid summation. Mr. Yanoff responded that he wanted to cover all his bases and has used the same language in the past. Ms. Duguid added that they were addressing the solid waste issues and until last year, they did not realize this was going to be a dog breeding business. They stated it was a gradual process, with potential, and they are willing to pay any back trash fees and taxes, apply for any licenses, and affirmed that they had been filing their taxes regularly.

Additional discussion ensued on the following:

- Operating a business at this location by virtue of the contract they had for waste clean-up in the yard and selling of the dogs.
- Stringent regulations and random inspections by the Commonwealth indicate it is a business.
- No-impact business is a misrepresentation since it has been run for several years without paying taxes.
- Theft of Township services while raising the tax burden on the rest of the tax payers.
- How big they were planning to grow, and the response that by law they could have 30 to 50 dogs, but were not at those levels.

- Not a no-impact home business by virtue of its use.

Upon motion of Mr. Areman, the Committee unanimously agreed to send the Township Solicitor to the Zoning Hearing Board to oppose the appeal.

2. Receipt of the Planning Commission Meeting Minutes for November 22, 2021.

Upon motion of Mr. Areman, the Committee unanimously received the Planning Commission minutes from the November 22, 2021 meeting.

3. Review of Zoning Hearing Board Decisions

- a. Appeal #21-3681, Kids Empire Cheltenham PA LLC for 2401 Cheltenham Avenue.

Upon motion of Mr. Holland, the Committee unanimously motioned to take no action.

- b. Appeal #21-3682, Gerald Guzinski for 1609 Harris Road.

Upon motion of Mr. Holland, the Committee unanimously motioned to take no action.

4. Report of the Building Inspector for October and November 2021.

Upon motion of Mr. Areman, the Committee unanimously received the report of the Building Inspector for October and November 2021.

5. Old Business – None.

6. New Business

- a. Discussion on quotes received for converting the Township's email system.

Upon motion of Mr. Areman, the Committee unanimously motioned to table this item.

7. Citizen's Forum – None.

8. Adjournment – There being no further business, upon motion of Mr. Areman, the meeting was adjourned at 10:59 p.m.


Robert Zienkowski
Township Manager

As per Henry Sekawungu
Director of Planning & Zoning