Stanhope Land Use Board
November 13, 2017
Regular Meeting Minutes

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STANHOPE BOROUGH

CALL MEETING TO ORDER:
Chairman Maguire called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:
Chairman Maguire invited all those present to stand in a salute to the colors.

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Regular Meeting was forwarded to the New Jersey Herald and Daily Record on January 10, 2017 and was placed on the municipal bulletin board.

In the event the Board has not addressed all the items on its agenda by 11:00 p.m., and it is of the opinion that it cannot complete the agenda in a reasonable period, the Board may exercise its option to continue this meeting at an agreed time and place, within ten (10) days of this meeting.

At this time, please turn off all cell phones.

ROLL CALL:

Nicholas Bielanowski - present
James Benson - absent
Michael Depew – absent
Rosemarie Maio – present
Thomas Pershouse - present
John Rogalo - present
Joseph Torelli - present
Paula Zeliff-Murphy - present
John Maguire - present

Others present: Board Attorney Glenn Gavan (arrived at 7:25PM), Board Engineer Eric Keller and Substitute Secretary Linda Chirip

MINUTES

October 16, 2017 Regular Meeting – On motion by Mr. Torelli, seconded by Ms. Zeliff-Murphy, the Minutes of the October 16, 2017 meeting were approved by unanimous voice vote.

CORRESPONDENCE

10-17-17 Glenn Gavan, Esq. – Resolution of Memorialization re: Juntos Holdings, LLC Interpretation re: Block 11205 Lot 4.01 (1-3 Kelly Place)
10-26-17 Glenn Gavan, Esq. – Resolution of Memorialization re: Steve Solecki Variance Appl re: Block 11001, Lot 7.02
11-01-17 Arlene Fisher, Zoning Official – Sign for Stanhope Eye Associates
11-06-17 Eric Keller – Memorandum re: Manjit Bajwa/Ravinder Kaur Site Plan for 7th Heaven Market & Delta Gas, Blk 11703 Lots 1&2
11-13-17 Stanhope Hose Co. No. 1 – Proposed Convenience Store and Gas Station re: Blk 11701 Lots 1&2

On motion by Ms. Zeliff-Murphy, seconded by Mr. Pershouse, and carried by unanimous voice vote, the Correspondence List was accepted and placed on file.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:
Chairman Maguire opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairman Maguire closed the public portion of the meeting.

RESOLUTIONS OF MEMORIALIZATION:

17-03, Juntos Holdings, LLC
Block 11205, Lot 4.01, Interpretation
Approval Granted: 10/16/2017

Chairman Maguire stated the applicant's escrow account has a shortage of $94.00.

On motion by Mayor Maio, seconded by Mr. Bielanowski and carried by the following majority roll call vote, the Resolution of Memorialization memorializing action taken at the October 16, 2017 meeting for an Interpretation for the proposed use of a brewery for Block 11205, Lot 4.01, was adopted with the condition that the past due escrow amount be paid.

AFFIRMATIVE:	Mr. Bielanowski, Mayor Maio, Mr. Pershouse, Mr. Rogalo, Mr. Torelli, Ms. Zeliff-Murphy, Chairman Maguire
OPPOSED:	None
ABSTENTIONS:	Mr. Pershouse

17-02, Steve Solecki
Block 11001, Lot 7.02 Variance Application
Approval Granted: 10/16/2017

Ms. Zeliff-Murphy stated a correction is required to the resolution. In section 3A the sentence should read: The lot in question *is* oddly shaped (not *if* oddly shaped). Chairman Maguire stated the attorney will be contacted to make the correction.

On motion by Ms. Zeliff-Murphy, seconded by Mr. Bielanowski and carried unanimously by the following roll call vote, the Resolution of Memorialization memorializing action taken at the October 16, 2017 meeting for a Variance of the deck as presented adding that there be a 4' encroachment to the rear yard setback area for Block 11001, Lot 7.02, was adopted with the correction to be made as stated in section 3A.

AFFIRMATIVE:	Mr. Bielanowski, Mayor Maio, Mr. Pershouse, Mr. Rogalo, Mr. Torelli, Ms. Zeliff-Murphy, Chairman Maguire
OPPOSED:	None
ABSTENTIONS:	None

AGENDA AMENDED:

Chairman Maguire amended the agenda. Chairman Maguire stated the hearing for Manjit Bajwa and Ravinder Kaur will be heard once the Land Use Board attorney arrives.

NEW BUSINESS:

Stanhope Eye Associate's Sign Request – Chairman Maguire stated Stanhope Eye Associate's contacted the Borough's Zoning Official and would like to install a new sign. The proposed sign is well within the ordinance. The Zoning Official has asked the Land Use Board for approval as per code. Chairman Maguire asked the Board for their comments. Ms. Zeliff-Murphy stated she is of the opinion the new sign is a good idea.

On motion by Mr. Bielanowski, seconded by Mr. Torelli and carried by the following majority roll call vote, approval was granted to Stanhope Eye Associate's for the installation of the new sign.

AFFIRMATIVE:	Mr. Bielanowski, Mr. Pershouse, Mr. Rogalo, Mr. Torelli, Ms. Zeliff-Murphy, Chairman Maguire
OPPOSED:	None
ABSTENTIONS:	Mayor Maio

RECESS:
Chairman Maguire called for a recess at 7:13PM while waiting for the Land Use Board Attorney to arrive.

The Meeting resumed at 7:26PM. Attorney Glenn Gavan arrived at 7:25PM and apologized for the delay.

NEW HEARING:

Manjit Bajwa and Ravinder Kaur
Block 11703, Lots 1 & 2, Preliminary and Final Site Plan Application
Deemed Complete 10/16/17 120 days: 02/13/18

Chairman Maguire invited the applicant and his attorney to come forward to begin the hearing. Attorney Dennis McConnell, of the firm McConnell, Leonard and Campbell, stated he is here on behalf of the applicant and owner. One of the issues today is the question of jurisdiction of this Board in regard to the notices which were sent out to the residents of Byram Township. The issue revolves around an old tax map. When the applicant acquired the property, on May 27, 2014, over three and a half years ago, Block 11703, Lot 1 and 2 were combined. The deed conveyed from the municipality to his client clearly indicated this was one lot. There is a lot across the street which is known as Lot 1, Block 11703.01. The notices were sent out based on the tax map provided by Stanhope Borough. A list was also received from Byram Township and notices were sent out. All were duly delivered along with the affidavit of proof. The problem revolves around the fact that Byram Township looked at the old tax map which indicated there were two lots. However, those lots were joined together over three years ago. Attorney McConnell introduced as evidence the official tax assessment for Block 11703, Lot 1 and Block 11703.01, Lot 1. The deed has already been included in the application packet. Attorney Gavan asked for the tax assessments to be marked and submitted. Attorney Gavan asked Attorney McConnell what his request to Byram Township included. Attorney McConnell stated he requested the list for Block 11703, Lot 1. Attorney McConnell showed the location of the two lots on the old tax map. Mayor Maio stated she is of the opinion the two lots were combined when they were foreclosed on many years ago. Attorney Gavan stated the legal description contained in the deed is for one lot, Lot 1 and 2, and it is the only description. The deed itself lists it all as Lot 1 and it is a description for both lots as

one. Attorney Gavan stated he is comfortable that the right indication was made on the notice to us and the correct list was provided by the town. Chairman Maguire stated the hearing can continue based on this information. Attorney Gavan confirmed he is comfortable moving forward.

Attorney McConnell stated what we have before us tonight is the property known as Block 11703, Lot 1, and there is an additional lot Block 11703.01, Lot 1 which we would like to include. This is a small slip of property located on the other side of the road. It is not being developed. On August 9, 1999, there was a prior resolution for a gas station and a much larger development was approved on this lot. Attorney Gavan stated according to the map, Belton Drive cuts between the two lots. Attorney McConnell came forward to the dais to review the map with Attorney Gavan. Attorney McConnell stated the prior application, which was approved in 1999, restricted this piece of property from being developed. Attorney McConnell stated in order to follow what was done in 1999; this property needs to be added to the application. This lot will aid with impervious coverage. Attorney McConnell stated this is a new application and if the Board chooses not to include this property that is their decision. Chairman Maguire stated he is of the opinion there are some questions with impervious coverage for this application. The Land Use Board's Engineer, Eric Keller, stated clarification is needed regarding the application. The application needs to be amended. The current application states Lots 1 and 2, which has been determined now to be just Lot 1. If Block 11703.01, Lot 1 is to be part of the application, this needs to be amended as well. Attorney McConnell stated Block 11703.01, Lot 1 is not going to be developed. Attorney Gavan stated it is restricted and should be part of the application. Attorney McConnell stated if this lot is considered part of the development, then the notice was only based on Block 11703, Lot 1. Attorney Gavan stated for anything to do with the application there is case law which deals with underground utilities and storm drains which extend way past the lot and notice is required. If we are going to include this property with restrictions as part of an approval for the project on Block 11703, Lot 1, then Block 11703.01 Lot 1 has to be included in the notice. Attorney McConnell asked for a moment to explain this to his client. Attorney Gavan stated if the Borough wants to include this property, it has to be noticed. The 1999 deed restriction could come up during this hearing. There has been case law since 1999 which states even improvements that are not on a lot, such as building for stormwater which will go 300 yards up the road; you have to notice within 200 feet of that area too. If impervious coverage becomes an issue during the course of the hearing and the Land Use Board wants to restrict development on Block 11703.01, Lot 1, then the lot should be included as part of the application from the beginning. Attorney Gavan stated the problem with notice is that it is jurisdictional. Attorney McConnell has dealt with this before and he is in a tough spot but notice always has to be interpreted as broadly as possible. It is always better to notice more people than less. Chairman Maguire asked if there are property owners who will be affected by adding the lot to the application. Attorney McConnell confirmed there are property owners who would be affected.

Mr. Keller stated the variance being sought permits 30% impervious coverage in the zone and they are at 44%. Presuming the zoning has not changed since 1999, the resolution approved at that time is still valid, not that this is what they are seeking. A condition of that approval was that Block 11703.01, Lot 1 was included and was to remain unimproved and not have any development potential. It was attached to and made part of the application, which is reasonable as it is an orphaned piece across the road, and it does help with the impervious coverage. There are a number of items in the review letter to be addressed. Mr. Keller stated if the decision is made to carry the hearing because of the notice issue, this will give the applicants Engineer time to resolve the comments that have been made. Attorney Gavan stated if there is the slightest chance that Block 11703.01, Lot 1 will be brought up during this hearing, and given the fact that it was included in the previous approval, it is his opinion that the hearing should be re-noticed. Attorney McConnell asked if the hearing should be re-noticed in the newspaper.

Attorney Gavan confirmed the newspaper must also be noticed. Mr. Keller stated from a plan perspective and an application perspective, both need to be amended to eliminate Block 11703, Lot 2 which does not exist and Block 11703.01, Lot 1 needs to be added. Stanhope Borough's tax map page 117 needs to be updated to show the lots as one. Attorney Gavan stated at this point the hearing has to be re-noticed. Chairman Maguire stated the next Land Use Board meeting is scheduled for December 11th.

BILLS:

Miscellaneous

10/19/17	**NJ Herald** Re: Leavy – Legal Notice	$18.00
11/09/17	**Criscuali & Gavan, LLC** Re: Solecki – Variance Application	$132.00

On motion by Mr. Torelli, seconded by Ms. Zeliff-Murphy, the aforesaid bill was approved by the following unanimous roll call vote:

AFFIRMATIVE:	Mr. Bielanowski, Mayor Maio, Mr. Pershouse, Mr. Rogalo, Mr. Torelli, Ms. Zeliff-Murphy, Chairman Maguire
OPPOSED:	None
ABSTENTIONS:	None

ESCROW ISSUES:

Chairman Maguire stated there are two applicants with escrow shortages. They are Juntos Holding, LLC, which was discussed earlier in the meeting, and Ryan Leavy. Chairman Maguire asked the secretary to send letters to both applicants informing them of the amount due. In the case of Juntos Holding, LLC, the resolution will be held until the funds are received. Mr. Pershouse stated if the letters are copied to the Construction Department he will hold any permits submitted until the escrow shortage is cleared.

OPEN TO THE PUBLIC:

Attorney Gavan asked the public if they are all in attendance regarding the hearing which did not take place. A member of the public asked if they could ask questions. Attorney Gavan stated the Board does not have jurisdiction over the application and therefore cannot answer any questions. Attorney Gavan stated the public can ask questions to the applicant, if the applicant is willing to answer them, after the meeting.

ADJOURNMENT:

On motion by Mr. Rogalo, seconded by Ms. Zeliff-Murphy, it was the consensus of the Board to adjourn the meeting at 7:42 P.M.

Respectfully submitted,

Linda Chirip