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STANHOPE
BOROUGH

Stanhope Land Use Board
June 13, 2022
Regular Meeting
Minutes

CALL MEETING TO ORDER:

Chairwoman Maio called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

STATEMENT:

Adequate notice for this meeting has been provided according to the Open Public Meetings Act, Assembly Bill #1030. Notice for this Reorganization Meeting was forwarded to the New Jersey Herald and Daily Record on January 12, 2022, was placed on the municipal bulletin board and on the official website of the Borough of Stanhope.

In the event the Board has not addressed all the items on its agenda by 10:00 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.

At this time, please turn off all cell phones.

ROLL CALL:

Nicholas Bielanowski - present

Najib Iftikhar – absent

Glenn Kurtz - present

Christine Lipinski (Alt #1) - absent

Thomas Pershouse - present

John Rogalo - absent

Edward Schwartz - present

Michael Vance - present

Paula Zeliff-Murphy - present

Rosemarie Maio - present

Others present: Board Attorney Glenn Gavan, Board Engineer Eric Keller and Board Secretary Ellen Horak

MINUTES

May 9, 2022 Regular Meeting – On motion by Mr. Vance, seconded by Mr. Schwartz, the Minutes of the May 9, 2022 Regular Meeting were approved on unanimous voice vote.

CORRESPONDENCE

05-13-22 Michael Rowan – Variance Application re: Blk 11006, Lot 13

05-27-22 Tom Gilmore – Site Plan Waiver Application re: Blk 10105, Lot 12

05-31-22 New Jersey Planning Officials – New Jersey Planner (March/April)

06-01-22 Andrew and Shana Walther – Variance Application re: Blk 11208, Lot 2

06-06-22 Tom Dixon – Zoning Official – Request for Clarification the Outdoor Concerts Needed Approval re: BGK Realty Group (Stanhope House)

06-07-22 Eric Keller – (dated April 29, 2022) Technical Review #1 re: Anna Temporale Variance, Blk 11208, Lot 4

06-07-22 Eric Keller – Technical Review #1 re: Juana Lanchipa Variance, Blk 11004, Lot5

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

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairwoman Maio opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairwoman Maio closed the public portion of the meeting.

COMPLETENESS:

22-05, Michael Rowan

Block 11006, Lot 13, Variance

Appl Rec'd: 05/13/22

45 Days: 06/27/22

Chairwoman Maio stated the Completeness Review Committee reviewed the application and recommends it be deemed complete. On motion by Mr. Vance, seconded by Mr. Schwartz and carried by the following unanimous roll call vote, 22-05 Michael Rowan's Variance Application re: Block 11006, Lot 13 was deemed complete.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zeliff-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

The hearing for this application will be scheduled for the July 11, 2022 meeting. The Board directed the Secretary to send the application to the Board Engineer for review and comments.

22-06, Gilmore Electric

Block 10105, Lot 12, Site Plan Waiver

Appl Rec'd: 05/27/22

45 Days: 07/11/22

Chairwoman Maio stated the Completeness Review Committee reviewed the application and recommends it be deemed complete. On motion by Mr. Vance, seconded by Mr. Schwartz and carried by the following unanimous roll call vote, 22-06 Gilmore Electric's Site Plan Waiver Application re: Block 10105, Lot 12 was deemed complete.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zeliff-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

The hearing for this application will be scheduled for the July 11, 2022 meeting. The Board agreed it is not necessary to send the application to the Board Engineer.

22-07, Andrew and Shana Walther

Block 11208, Lot 2, Variance

Appl Rec'd: 06/01/22

45 Days: 07/16/22

Chairwoman Maio stated the Completeness Review Committee reviewed the application and recommends it be deemed complete. On motion by Mr. Schwartz, seconded by Mr. Vance and carried by the following unanimous roll call vote, 22-07 Andrew and Shana Walther's Variance Application re: Block 11208, Lot 2 was deemed complete.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zeliff-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

The hearing for this application will be scheduled for the July 11, 2022 meeting. The Board directed the Secretary to send the application to the Board Engineer for review and comments.

NEW HEARING

22-02, Anna Temporale

Block 11208, Lot 4, "D" Variance

Deemed Complete: 03/14/2022

120 Days: 07/12/2022

Since the application is for a "D" Variance, Mr. Schwartz and Mr. Vance stepped down.

Anna Temporale came forward and was sworn in. Ms. Temporale stated she is before the Board asking for permission for an additional use at the property located at 11 Main Street, which building is owned by her parents. In accordance with eCode Section 100-86, the property at 11 Main Street is currently being used as a restaurant which is known as Bell's Mansion. The additional use she is asking for is for a retail store to be located on the lowest floor which would be located on the south east building face. This is a space where guest and customers have already been introduced to in passing. The space is approximately 407 square feet. It was previously utilized as part of the restaurant; however, it would better serve the public as its own small store. It is equipped with its own entrance and exit doorway as well as windows and two nearby designated parking spaces. Ms. Temporale expressed her belief that the use variance is appropriate as there will be no exterior building alteration, with the exception of the addition of a small sign above the doorway, and street signage which would be attached to the bottom of two already existing signs that are used for the restaurant. The retail use does not affect any existing circulations, drainage, relationship of buildings to each other, landscaping, buffering, lighting or other considerations of the site plan review per eCode Section 100-33. The granting of the use variance would not result in threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Mr. Pershouse asked what the area is presently being used for. Ms. Temporale responded it was being used as storage for the restaurant. Mr. Pershouse asked if she contacted an architect. Ms. Temporale responded she has not contacted an architect because she is not doing anything inside except painting. Mr. Pershouse stated you cannot put a new use in without an architect. Mr. Gavan stated Ms. Temporale will need architectural plans for her construction permits.

Chairwoman Maio asked what the hours of operation will be. Ms. Temporale responded the hours will most likely be from 12:00 noon to 4:00 p.m. The restaurant is presently open from 12:00 noon to 9:00 p.m. The name of the store will be "Gather & Shop" and would offer the community artisan made goods ranging from home décor, personal care products, gifts, etc. and local farm products such as honey, eggs, dairy, etc. No food items would be prepared in the space. Mr. Pershouse informed Ms. Temporale that there will be Health Department requirements, possibly including a washing station and she will need a license to sell the food products. Ms. Temporale stated she is aware she will need a license and if the Health Department requires a washing station, she will put one in.

Chairwoman Maio questioned the two designated parking spaces. Mr. Temporale responded in front of the door there are two parking spaces which were provided for the tenant apartment. They will be moving the tenants and taking over those parking spaces. These two parking spaces are not counted in the restaurant parking. Ms. Temporale stated the retail store requires one parking space for each 200 square feet of gross floor area and she will have two parking spaces. Mr. Gavan noted according to the 2001 approval, there are 81 parking spaces and only 52 are required. Chairwoman Maio noted that was for indoor seating and there is now outdoor seating.

Mr. Pershouse noted mention of tenants and he recalls the owner having personal living space and he asked if they are now renting the apartment. Ms. Temporale responded that her parents live there and they will be parking their cars next door at 5 Main Street, which property they also own. Mr. Pershouse asked what the apartment will be used for. Mr. Keller stated from a zoning perspective, there is no zoning issue as it is stated the third floor may be used for residential purposes. It does not say it needs to be the owner of the restaurant. There is no zoning issue with that and with respect to parking, there is more than adequate parking. Chairwoman noted the ordinance was before there was outdoor seating for the restaurant and she questioned if the requirements include outdoor seating. Mr. Keller stated the ordinance does not talk about outdoor versus indoor seating. Mr. Keller added that from his experience and his opinion, outdoor seating is a choice, it does not change the occupancy of the restaurant.

Mr. Gavan noted it is a 12:00 noon to 4:00 p.m. operation and only needs two parking spaces. Ms. Temporale said she thinks the majority of the customers for the store will be customers from the restaurant.

Chairwoman Maio said that given the hours will be from 12:00 noon to 4:00 p.m., there would be no need for additional lighting, and she asked if there would be an issue walking to the entrance from the parking lot. Mr. Keller said that walking from the parking lot to the restaurant you go to the right and to the store you would go to the left. Mr. Pershouse asked if the parking space is handicap accessible. Mr. Gavan noted that is not a zoning issue, it is a construction issue.

Mr. Keller questioned the signage, noting any deviation from the standards are design waivers. Mr. Keller stated the Main Street sign as it appears now has changed from what was approved in 2002, adding there are two panels beneath the main sign. Ms. Temporale said both signs were there when her parents purchased the property. Mr. Keller said the additional panels on the sign indicate the restaurant hours and daily happy hour times. There is also a panel on the Route 183 sign which states "Heated Tent Open." Ms. Temporale stated she will be replacing one of those panels with something that is the same size. Mr. Keller asked if the intent is to have a sign on the Route 183 side also. Ms. Temporale responded in the affirmative. Mr. Keller asked if the heated tent sign would then be taken down. Ms. Temporale responded in the affirmative adding it will be one or the other, not both. Chairwoman Maio asked the name of the establishment. Ms. Temporale responded she is thinking of naming it "Gather & Shop." One panel on each of the signs will be replaced with her business' sign.

Mr. Keller noted the Borough's Zoning Officer made a note that there was a sign that said "Apartment Parking 2-Spaces." Ms. Temporale said the two parking spaces mentioned, which were labeled as "Apartment Parking – 2 Spaces" were designated tenant spaces, but have now been moved to the property at 5 Main Street. When she spoke to the Zoning Officer, he showed her a site plan that shows the Apartment Parking sign. There is no sign on the building that states tenant or apartment parking. Mr. Keller said he has photographs of the space and he confirmed there is no sign.

Mr. Keller asked if the retail use is permitted in the zone. Ms. Temporale responded it is a permitted use; however, since there would then be two principal uses which is not permitted, she needs a "D" Variance.

Chairwoman Maio opened the meeting to the public for comments or questions on this application.

Kathy Sacchiero, 7 High Street was sworn in. Ms. Sacchiero testified she lives in the house directly behind Bell's Mansion and she has nothing but praise for the owners. The owners have been good people and good neighbors. Ms. Sacchiero stated she has lived in her home long before the present owners purchased the property and she has no doubt if they plan on doing something, it will be something good for the town and for Sussex County.

Seeing no one further wishing to speak, Councilwoman Maio closed the public portion of the meeting.

On motion by Mr. Kurtz, seconded by Mr. Bielanowski and carried by the following unanimous roll call vote, the Board granted the "D" Variance for the two permitted uses in the same property with the condition that the retail space be 407 square feet, the signage will be modified to remove one of the existing panels and replacing it with a sign for this use and the hours of operation will be from 12:00 noon to 4:00 p.m. seven days per week re: 22-07 Anna Temporale, Block 11208, Lot 4.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Ms. Zelif-Murphy, Chairwoman
Maio
OPPOSED: None
ABSTENSIONS: None

Mr. Schwartz and Mr. Vance returned to the dais.

22-04, Juana Lanchipa

Block 11004, Lot 5, Variance Application

Appl Rec'd: 04/04/22

45 days: 05/19/22

Adriana Baudry, Esq. came forward representing the applicant. Ms. Baudry stated the applicant is seeking a "C" Variance for a fence and a shed. When her client purchased the property there was an existing fence that she later learned encroached into a municipal easement. Her client also obtained a permit to replace an existing shed, but mistakenly placed it in a location that encroached into the municipal easement. Her client would like to correct those mistakes. The house is on a corner lot so there are two front yards.

Juana Lanchipa was sworn in. Ms. Lanchipa testified when she purchased the property there was an existing fence and shed on the property and when she applied for a permit to replace the fence she found out that the fence and shed were not on her property. She wants to replace the existing fence with the same size fence, but place it on her property. She also wants to move the shed onto her property. Ms. Lanchipa stated she removed the smaller shed from the property there is now only one shed that needs to be moved onto her property. Ms. Lanchipa said she must relocate her shed, but her yard is small and she does not want it in the middle of her yard. She would like to put the shed in the backyard corner about 5-foot off the property line. The shed is 10' x 10'. The shed is pre-existing as it came with the house, it is just in the wrong location.

Ms. Baudry stated there was a prior zoning application that showed the fence was encroaching on the right-of-way of the town and her client wants to correct that. The lot size is 50' x 100' and is a very narrow lot. There is no other place to put the shed other than in the middle of the lot. It would be more aesthetically pleasing for the new 6-foot fence than the existing one. The fence will also give privacy from the main road and to shield her from the neighbors.

Ms. Zeliff-Murphy asked what the "brown area" is on the drawing. Mr. Keller stated the applicant had submitted two zoning applications to expand the driveway, which he denied when he was the Acting Zoning Officer. The "brown area" is the requested expanded driveway. The applicant resubmitted with a different plan with a survey which was reviewed by Tom Dixon, the current Zoning Officer, who informed her the expanded driveway would need approval by this Board. Mr. Keller noted it is an undersized lot and has frontage on two streets. Mr. Keller stated it does not impact the sight distance. The fence is already up and it is not a constraint to view lines. Moving the fence as proposed would have no impact. The plan is to keep the fence at 6-feet, but move it onto her property and to put the shed in the back corner.

Chairwoman Maio asked about the driveway. Ms. Lanchipa responded if this application is approved, she may resubmit for the driveway.

Chairwoman Maio opened the meeting to the public for questions or comments on this application. Seeing no one from the public wishing to speak, Chairwoman Maio closed the public portion of the meeting.

Mr. Gavan noted the recommendation in Mr. Keller's report that the right of way and the common boundary line with Lot 6 be staked in the field by a licensed surveyor prior to the fence being installed.

On motion by Mr. Pershouse, seconded by Mr. Vance and carried by the following unanimous roll call vote, the Board granted the variance relief requested as presented with the condition that a licensed surveyor stake the property lines prior to installation of the fence re: 22-04 Juana Lanchipa, Block 11004, Lot 5.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zeliff-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

RESOLUTIONS OF MEMORIALIZATION

21-03, Sergio Lemus

Block 10105, Lot 1.01, Variance Application

Approval Granted: 04/11/22

Mr. Gavan noted the comments provided by Mr. Keller will be included in the Resolution.

On motion by Mr. Schwartz, seconded by Mr. Kurtz and carried by the following majority roll call vote, the Board adopted the Resolution of Memorialization, with the incorporation of Mr. Keller's comments, granting the Variance Application for steep slope disturbance and minimum road frontage, filed by Sergio Lemus for Block 10105, Lot 1.01.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Schwartz, Ms. Zelif-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

Mr. Pershouse and Mr. Vance were not eligible to vote.

22-01, BGK Realty Group, LLC
Block 11207, Lot 8, Request for Interpretation
Approval Granted: 04/11/22

Mr. Gavan noted Counsel for the applicant is present in the public.

On motion by Mr. Pershouse, seconded by Ms. Zelif-Murphy and carried by the following majority roll call vote, the Board adopted the Resolution of Memorialization that the granting of an Interpretation that live music is ancillary and incidental to the Beer Garden use is appropriate.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Ms. Zelif-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

Mr. Schwartz and Mr. Vance were not eligible to vote.

BILLS:

Miscellaneous

05/18/22 Local Media Group (NJ Herald) legal notice re:
Resolution of Memorialization (Stanhope Fuel, LLC) \$ 19.59

On motion by Mr. Schwartz, seconded by Ms. Zelif-Murphy, the aforesaid bills were approved on the following unanimous roll call vote.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zelif-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

GENERAL DISCUSSION

Zoning Officer’s Request for Clarification That Outdoor Concerts Needed Approval – Chairwoman Maio noted the Stanhope House was taken to court by the Zoning Officer over the concert they held that consumed the parking lot. The Judge sent the Stanhope House to the Land Use Board for clarification; however, they missed the deadline to file an Appeal of the Zoning Officer’s decision. The Judge now wants to know the status of the matter. The Zoning Officer would like confirmation from the Board that an outdoor concert requires approval by the Board. Chairwoman Maio clarified they are speaking about concerts, not the regular beer garden music. Mr. Pershouse questioned that they are not talking about the normal music associated with the operation, it is a special concert. Chairwoman Maio clarified it is a concert not the normal beer garden music. It is opening the parking lot to a full “parking lot concert.” Mr. Gavan stated it is appropriate for the Board to vote on the fact that any outdoor concerts not directly

associates with the normal course of business in the beer garden requires specific Board approval and cannot be approved by the Zoning Officer. On motion by Mr. Schwartz, seconded by Mr. Vance and approved the following unanimous roll call vote, the Board determined that this type of concert must be approved by the Board and not the Zoning Officer, as the Zoning Officer does not have that authority.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zeliff-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

Mr. Gavan said he will prepare a resolution that states no outdoor concerts not approved by the Zoning Officer for Beer Garden music must be approved by the Board. Mr. Gavan asked the Board to memorialization the resolution tonight, subject to his writing it so he can get it written with a memorialization date and get it right to the Board this week so it can be sent to the Court. Mr. Pershouse asked, when they come in for this type application, will it be a full site plan. Mr. Gavan responded they will need to show what they are going to do, but will not need an engineer. After a brief discussion the Board determined this type of application should be "Temporary Use Application for Outdoor Concerts." On motion by Mr. Vance, seconded by Mr. Kurtz and carried by the following unanimous roll call vote, the Board memorialized the resolution being prepared by Mr. Gavan, as discussed for stating Temporary Use Application for outdoor concerts require a majority of the Board's approval.

AFFIRMATIVE: Mr. Bielanowski, Mr. Kurtz, Mr. Pershouse, Mr. Schwartz, Mr. Vance, Ms. Zeliff-Murphy, Chairwoman Maio
OPPOSED: None
ABSTENSIONS: None

Zoning Officer's Request Clarification on Accessory Structures Being Prohibited in a Front Yard –

Chairwoman Maio noted the Board received a request from the Zoning Officer for clarification on accessory structures being prohibited in a front yard. This relates to corner properties where there are two front yards. Mr. Pershouse stated he requested the Zoning Officer ask for clarification. This resulted from someone installing an air-conditioning unit. You can install an air-conditioning unit as long as you know you have 72-hours to obtain a permit. The zoning application was submitted and denied by the Zoning Officer because it was in the front yard. In this case the air-conditioning condenser was way back from the street. Mr. Gavan said he does not believe air condensers are considered accessory structures. Mr. Gavan stated anything being considered part of the use of the house are not structures under the Zoning Code. Mr. Gavan noted the common things requiring approval would be a shed, swing set, cabana; not mechanical, i.e. generators, propane tanks, HVAC units. Any utility related equipment for a principal structure are not considered accessory structures. Mr. Keller noted the ordinance states accessory uses, it does not state accessory structures. Mr. Gavan stated the Zoning Board can interpret the ordinance. They can interpret the type of items that can be placed on the side of the residential house if there are two front yards. The Board discussed various items to be considered. Mr. Gavan will draft a resolution to be reviewed at the next meeting and adopted.

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS:

Chairwoman Maio opened the meeting to the public for non-agenda items. Seeing no one from the public wishing to speak, Chairwoman Maio closed the public portion of the meeting.

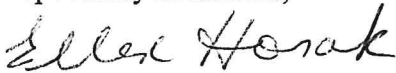
DISCUSSION:

Mr. Keller informed the Board that the DEP tried to introduce emergency rules that were to go into effect Friday that change the flood hazard and stormwater rules, but they withdrew them. They have not yet announced when they plan to move forward. The changes will affect the Borough's stormwater ordinance that was adopted last year. The rule changes would have increased the flood hazard elevation of all non-tidal water courses/bodies by at least 2 feet and increased rainfall intensities by as much as 50 percent. It will affect flood hazard areas and stormwater run-off and will require the Borough to update its stormwater and flood hazard regulations.

ADJOURNMENT:

On motion by Ms. Zeliff-Murphy, seconded by Mr. Schwartz, it was the consensus of the Board to adjourn the meeting at 8:10 P.M.

Respectfully submitted,



Ellen Horak, Board Secretary