

# **Borough of Hamburg**

## **Land Use Board Meeting Minutes of April 08, 2013**

The Borough of Hamburg Land Use Board Meeting was call to order at 7:30 pm by **the Chairman** in accordance with the open Public Meeting Act.

**The Chairman** read the Statement of Certification. This meeting is in compliance with the Open Public Meetings Act, Public Law 1975, Chapter 231, Sections 4 and 13, as advertised by Annual Notice.

Present were John Haig, Daniel Hall, Guy Harby, Rich Krasnomowitz, Tom Watts, Wendy Brick, Jeanette Tempe, Mayor Marino, and Robert Adams. Also present were: Ken Nelson, Planner; Glenn Kienz, Esquire, and John Ruschke, Engineer.

Oaths of Allegiance for the following members John Haig – Class II Member, Guy Harby - Class IV Member.

### **Approval of January 14, 2013 Land Use Board Minutes:**

**Mr. Hall** made a motion to approve the minutes of January 14, 2013. Seconded by **Mr. Watts**. Ayes: Brick, Haig, Hall, Harby, Krasnomowitz, Tempe, Mayor Marino, Watts, and Adams. Nays: None.

### **Bills/Vouchers:**

**Ms. Tempe** motioned to approve payment of the following bills/vouchers:

*The Nelson Consulting Group* for Patel \$276.00; TCAT Properties \$885.50. Martin Lee, LLC. \$632.50.

*Weiner Lesniak, LLC* for TCAT Properties \$136.00.

Seconded by **Mr. Harby**. Ayes: Hall, Haig, Harby, Krasnomowitz, Marino, Watts, Tempe, Brick, and Adams. Nays: None. Abstained: None.

### **Correspondence:**

**The Chairman** asked the members if they had questions or comments regarding the following correspondences. The members had none.

Hatch Mott MacDonald – dated 1/21/13 – RE: Patel, Blk 14, Lts 9, 10 & 11 Inspection of Sanitary Sewer Connection.

NJ Conservation Rally 3/9/13 in Newark.

NJPO Winter Spring Training Programs

Hatch Mott MacDonald – dated 2/8/13 – RE: TCAT Properties, Blk 32, Lt 3

Harold Pellow & Assoc., Inc. – dated 1/31/13 RE: Patel, Blk 14, Lts 9, 10 & 11

The Nelson Consulting Group – dated 2/25/13 –RE: TCAT Properties, Blk 32, Lt 3

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Vogel, Chait, Collins and Schneider, Thomas Molica, Esq. – dated 3/25/13 RE: Martin Lee, LLC

The New Jersey Planner

The Nelson Consulting Group -dated 3/22/13 RE: Martin Lee, LLC

In Site Engineering for TCAT Properties -dated 3/26/13 RE: Application Review with plans.

Hatch Mott MacDonald – dated 3/28/13 – RE: Martin Lee, LLC

Mr. Robert O'Connor dated 4/4/13 RE: Martin Lee, LLC.

**Resolutions:** There were no resolutions.

### **New Business:**

#### **TCAT Properties LU01-13 Block 32 Lot 3 – Preliminary Site Plan, Final Site Plan and C Variance**

The applicant was represented by Ira Weiner, Esquire. He discussed that the applicant is requesting preliminary and final site plan approval and (C) variances regarding impervious coverage and signage and no loading area.

Appearing and testifying on behalf of the applicant were Robert P. Freud, a licensed professional engineer & planner, and Jose Santos, a licensed professional architect.

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The witnesses testified that the applicant is proposing to remove an existing service station that has been vacant on the property for a number of years and replace it with a new free-standing 7-Eleven building. Exhibits were A-1 4/8/13 exterior of the proposed 7-11. Exhibit A-2 was the Preliminary and Major Site Plan dated 4/8/13.

The applicant will be redeveloping the property by demolishing the existing gas service station and constructing improvements to provide for a new retail convenience store. No gasoline will be pumped on site. The 7-Eleven will operate 24/7 and may have up to three (3) employees. It is noted that the lot is irregular in shape. The new structure will contain 2,940 square feet and will meet all appropriate setback requirements. The proposed building will be located in the back northeast corner of the property to provide as much movement for traffic flow in the front of the building as is possible. It was discussed that no loading space was being provided given the odd shape of the property. Deliveries to the site would take place during off-peak hours to not interfere with their daily business. They will be asking NJDOT if they could replace the stone along the highway frontage with grass/landscaping. They would provide some additional landscaping on the easterly side of the property around the building to provide additional screening.

Testimony was provided which indicated this was a unique parcel of land due to its almost triangular shape and having frontage on two (2) state highways. It was their professional's opinion that this was not in conflict with any area wide development standards, did promote the public's health, safety and welfare and enabled this parcel to be used reasonably. It was also noted that the site plan was consistent with DOT requirements for the area.

**Mr. Haig** motioned to open the meeting to the public at 8:01 pm. **Ms. Tempe** seconded the motion. All were in favor.

Kathy Garrett, resident of 14 Vernon Avenue. She voiced her concerns regarding the noise and trucks in the late night. She was glad that the Board will dictate the hours the trash company will pick up and hours deliveries could be made. She discussed that the other convenience stores are not open 24/7. The Mayor stated that many of them are open until 2:00 am. Attorney Kienz discussed case law that if it is a permitted use they have the right to stay open 24/7.

Resident Ivy Lepore, of 9 Vernon Avenue discussed that she rents out the property of concern. She is worried about the ability to rent because of the smell from the dumpster which is 8 feet from her property, the traffic, noise and loitering. Tenants with small children would be concerned because of those loitering. She asked if they could limit the parking time. She researched and many of the locations do not have houses this close. She asked about the roof top vents. Attorney Kienz asked the applicant if they would be willing to turn the vents so that they face the highways. The applicant's professionals agreed. She asked if the fencing could be a color other than white. The Board discussed the color and agreed that a natural color possibly a beige color would work. The applicant will work with Mr. Nelson regarding the color. She asked about snow removal and where will the snow be placed. It was discussed that the snow will be placed in the front on the grassy areas.

Dr. Peter Caras of 11 Vernon Avenue asked that the board please limit the hours. He also asked that the trash pickup time be limited.

Resident Mr. Ron Garrett of 14 Vernon Avenue expressed his concern with the traffic crossing the double yellow line on route 23. He also agreed with not operating 24/7.

**Mr. Haig** motioned to close the meeting to the public at 8:19 pm. **Mr. Hall** seconded the motion. All were in favor.

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The applicants Engineer discussed that the roadway and traffic were designs of the NJDOT. The trash company will be advised of pick up times. The deliveries of goods shall be between the hours of 9am and 9 pm, as the board requests. Rodents should not be a problem because food waste and such will be limited due to the customer carrying prepackaged food offsite. The dumpsters will have lids. The dumpster area was discussed and the board believed that the 10x20 area should be reduced.

The applicant's professionals will work with the Land Use Professionals on the items as suggested by the Board. Reports from the Board Engineer, John Ruschke, dated February 8, 2013 and Ken Nelson were reviewed. The applicant agreed to respond to all items in Mr. Ruschke report as well as Mr. Nelson's, which will be made a condition of the Board's approval.

The applicant will not be permitted to occupy and begin operations in the building until final as built plans have been submitted and are found to be satisfactory to the Boards Planner and Engineer.

No temporary or final Certificate of Occupancy may be granted until the Boards Planner and Boards Engineer have signed off on the plans. Development of the parcel shall be in accordance with the plans submitted and approved by the Board and Professional. All recommendations in the professional's reports and changes made by the Board during the hearing shall be adhered to. The landscaping shall be in accordance to the report and recommendation of the Boards Planner. The deliveries shall take place between 9:00 am - 9:00 pm. A white vinyl fence shall be replaced with a natural beige color. There shall be no seating outdoors. Roof equipment shall face away from the residential areas. The dumpster size shall be decreased from the 10X20 area.

**The Mayor** explained that the Board tries to conform to the residents needs and hear what they have to say. They are trying to fit everything together, neighbors, town and businesses to finish the intersection. Not a lot could fit on the lot with limited space. The property has been vacant for a long time.

**Mayor Marino** made a motion to approve preliminary and final site plan with ancillary "C" variances. Seconded by **Mr. Adams**. Ayes: Brick, Haig, Hall, Harby, Krasnomowitz, Tempe, Mayor Marino, Watts, and Adams. Nays: None. Abstained: None

**Martin Lee, LLC LU13-02 Block 31 Lot 11 –Amend Final Site Plan and D Variance**

The applicant was represented by Attorney Tom Collins of Vogel, Chait, Collins and Schneider testifying also was Wayne McCabe, professional planner. It was determined that there was no conflict of interest for Wayne McCabe as he serves as the Planner for the Hamburg Historic Preservation Commission. Mayor Marino and Mr. Krasnomowitz stepped down. Exhibits were A-1, A-2 and A-3 which were as-builts. The applicant is seeking a D-1 use variance for converting (4) four office spaces on the first floor into (4) four - (1) one bedroom apartments in the RO zone. Ms. Tempe stated she is employed by Discovery Years, which is one of the tenants in the office space. Ms. Tempe and Attorney Kienz discussed that there is no conflict of interest.

Attorney Collins discussed that the applicant is requesting a use variance to convert four (4) existing commercial units on the first floor to four (4) one (1) bedroom apartments and site plan approval to allow the change of use.

Mr. McCabe and Mr. Licata were sworn in for testimony. They explained that a picnic area would be provided in the rear of the property. Mr. Nelson and Mr. Ruschke reports were discussed. The applicant expressed that the vacancy rate is high for commercial properties. Mr. McCabe discussed that the traffic from the property would be reduced if approved. The bus parking was discussed and it was determined that the bus will no longer be parked in the location. **Ms. Brick** discussed the email sent to the board from Mr. O'Connor. The applicant agreed to clean up the site as discussed and landscaping will be improved with Mr. Nelson's recommendations. The recommendations in the reports of the Boards Professional will be followed along with the recommendations from the Board.

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**Mr. Haig** motioned to open the meeting to the public at 9:05pm. **Mr. Harby** seconded the motion. There were no comments from the public.

**Mr. Harby** motioned to close the meeting to the public 9:07pm. **Mr. Hall** seconded the motion.

The development shall be in accordance with plans submitted and approved by the Board and its professionals. The existing sign in the front of the property shall be removed. There shall no longer be bus parking on the property. The lighting of the property will be reviewed by the Boards Engineer. The applicant will provide the Borough with compliance with the DCA requirements. The landscaping and picnic area in the rear of the property will be approved by the Boards Planner. The front porches, parking area and yard areas shall not be used for gatherings.

**Mr. Hall** motioned to approve the amendment to Final Site Plan and with Use (D) Variances. Seconded by **Mr. Harby**. Ayes: Brick, Haig, Hall, Harby, Tempe, and Adams. Nays: Watts. Abstained: None.

**The Chairman** opened the meeting for public comment. Seconded by **Ms. Tempe**. All members were in favor. There were no comments from the public.

Planner Report: None

Chairman's Agenda: The Board briefly discussed changing the meetings start time, but decided that meetings are so few they decided to keep the time at 7:30 pm.

A motion by **Mayor Marino** was made to adjourn at 9:35 pm. Seconded by **Mr. Harby**. All were in favor.

Respectfully submitted by:

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Marguerite L. Nemeth  
Secretary to the Land Use Board