

CITY OF BURLINGTON

LAND USE BOARD MEETING MINUTES

June 22, 2016

The City of Burlington Land Use Board held their regular monthly meeting on Wednesday, June 22, 2016 in the City Hall Building, 525 High Street, Burlington, New Jersey.

The meeting was called to order at 7:01 p.m.

Members present: Ofc. Matthew Mercuri, Victor Carnivale, Raymond Schobert, Councilwomen Helen Hatala, David Tishler, David Ballard, Ernest Turner, Vice-Chair Samuel Richter, Chairwoman Claudine Conaway.

Absent: Charles Johnston, Bruce Davis

Also present: M. Lou Garty, Solicitor
Bob Perry, Planner

MATTERS BEFORE THE BOARD:

Continuation of a Hearing on a Determination of Need following a Study of an Area in Need of Redevelopment: The Hearing on the Study of the proposed area in Need of Redevelopment was continued from the June 8, 2016 hearing.

Brigette Bogart of Brigette Bogart Planning & Design Professionals, LLC. Ms. Bogart was sworn for testimony. Ms. Bogart was accepted by the Board as an expert in Planning & Development.

Applicant/Expert Testimony:

Ms. Bogart reviewed the criteria for an area to be determined to be an Area in Need of Redevelopment under the applicable legal standard concerning Redevelopment. It was noted that a copy of the map and the report as to the Study of the proposed area in need of Redevelopment which was prepared by Brigette Bogart, P.P., AICP, CGW, of Brigette Bogart Planning & Design Professionals, LLC, was made provided to the Municipal Clerk and otherwise made available for public inspection and review at least ten days prior to the hearing on the study; and

Ms. Bogart provided testimony before the Board in which she articulated the legal standard, applied the legal standard for determining whether the properties within the area of study are in need of redevelopment and offered her professional opinion that the properties within the area of study meet the legal requirements for such designation consistent with the Redevelopment Housing Law, specifically finding and describing how the specific properties meet statutory criteria “a” (that

buildings in the area have deteriorated or fallen into such a state of disrepair that they constitute a threat to the people who live or work in them, or to is a danger to public safety); criteria “b” (that buildings which were previously used for commercial, manufacturing, or industrial purposes that have been vacated or abandoned; criteria “c” (that there is public land which is vacant); criteria “d” (that there is an obsolete layout and design); and criteria “e” (that there is a quantifiable economic “underutilization” or “lack of proper utilization” of properties in the area of study); and

Ms. Bogart testified that the designation of an area as one in need of Redevelopment is a means of encouraging economic growth and revitalization which can result in maximizing beneficial commercial and also adjacent residential uses; as a vehicle to obtain grant moneys to fund public improvements which will enhance the community; and

Ms. Bogart testified that the designation of the area of the study as an area in need of Redevelopment would further the City’ s Master Plan as it relates to the goals for rehabilitation of buildings; providing a variety of housing choices and a mix of uses; that the goals of the Master Plan are not being furthered by this area in its present state because this area is not an economic anchor of development but is instead, a laggard in terms of economic use and development; that under Urban design guidelines, the present state of the properties in this area does not promote pedestrian friendly area; and that the US Pipe site is on the NJ DEP list of contaminated sites; and

Ms. Bogart testified and provided photographic evidence as to the current status of each of the specific properties or sites identified in her report and identified areas which are currently abandoned, contaminated, undergoing remediation, which are in disrepair and/or hazardous and which have evidence of trespasser activity (graffiti) and require a disproportionate amount of police response to complaints of criminal or other activity; which do not have parking or proper site circulation; which are not tenantable or whose current condition creates a hazard to the users of the property and/or the public so as to adversely affect the public welfare.

Ms. Bogart provided the Board with detailed testimony regarding her Draft Determination of Need of Redevelopment report, the basis for her findings and the recommendations/findings.

Solicitor Questions:

Ms. Garty asked Ms. Bogart as to the properties owned by NJ Transit which appear to be within the area to be designated. Ms. Bogart stated that based upon the ownership, she would recommend that the properties be removed from the area to be designated. Ms. Garty also asked about Block 226 Lot 1.02 & making sure the City maintained access to the City of Burlington Water Plant. Ms. Garty further asked about Block 226 Lot 1.08 being that if the lot was included in any development it would cause an access issue to Burlington Island

Board Member Questions:

Mr. Carnivale asked if the lots a crossed from the US Pipe Site has ever been tested for contamination, Ms. Bogart stated she didn't find any reports of contamination while she reviewed the areas. Councilwomen Hatala further addressed the issue with Block 226 Lot 1.08 being included in the Redevelopment Area considering it is the only access route to Burlington Island. There was discussion by the Board members to recommend excluding the NJ Transit property; to exclude the property on which the City's water plant is located and to preserve the City's standing to own the sole access route to Burlington Island. There was a question from the Board on the effect of this Board's report and recommendations to Council on this matter; it was noted that Council is able to accept, reject or modify the Board's findings.

Engineer/Planner Review:

Mr. Perry had no questions

Public Comment:

There were no comments from the Public so the Public portion of the meeting was closed.

Solicitor Review:

Ms. Garty summarized the hearing on the matter before the Board; the legal standard applicable and the proposed findings of Ms. Bogart, as amended by the Board's questions with respect to the parcels previously noted, namely the parcels owned by NJ Transit, the property providing access to Burlington Island and the property where the Water Plant was located. Ms. Garty restated the recommendations from the Board that would be included in the Resolution back to City Council and the Board noted that the Solicitor was authorized to convey the report to the City Clerk or other appropriate officials in Administration. The Chairwoman requested a motion based upon the report and recommendations of the Board to adopt the designation, but to consider the suggested revisions.

Motion: Mr. Carnivale

Seconded: Mr. Ballard

Affirmative: 9

Against: 0

Abstention: 0

Application #733-16 – Ryan Vaxmonsky (7 E Broad St.)

Ryan Vaxmonsky was sworn for testimony regarding his application for a Change of Use with Site Plan Review Waiver.

Applicant/Expert Testimony:

Ms. Garty asked the applicant questions concerning his proposed use & operation of & E. Broad St. Mr. Vaxmonsky testified they would be seeking some outdoor seating.

Proposed hours of operation

Mon.-Thurs. - 7am-8:30pm

Fri.-Sat. - 7am-11pm

Sun – 7am-5pm

Ms. Garty asked if his lease includes any trash & recycling usage. Mr. Vaxmonsky asked for his fiancé to be sworn to answer questions concerning trash & recycling.

Lauren Indyk (applicant's fiancée) was sworn for testimony. Ms. Indyk provided testimony regarding her experience in other coffee shops using upcycling of the used coffee grounds. Mr. Vaxmonsky provided the Board testimony concerning deliveries to & from the location. Ms. Garty advised the applicant that any outdoor seating would have to be approved by City Council. Mr. Vaxmonsky agreed to make the approval on Council a condition of Board Approval. Ms. Garty advised the applicant that the property is located in the Historic District so any exterior signage would require Historic Approval and the Applicant acknowledged that requirement.

Board Member Questions:

Mr. Ballard asked a question regarding the location of the proposed coffee shop.

Vice-chair Richter asked what the applicant would define as the weekend hours, Mr. Vaxmonsky testified as to the proposed hours that the store would be open Friday & Saturday from 7 am until 10pm or midnight to take advantage of people going for coffee after dinner and limited hours on Sunday from 7 am until 5pm.

Engineer/Planner Review:

None for this application

Public Comment: The matter was opened to the public; no comments were made. The Public Comment portion was closed.

Solicitor Review:

Ms. Garty summarized the application before the Board as to the relief sought, burden of proof, the testimony presented and the conditions agreed to by the Applicant.

The Chairwoman called for a motion to approve the Application and relief requested based upon a finding that the burden of proof was met and subject to the conditions cited by the Board.

Motion: Mr. Schobert

Seconded: Ofc. Mercuri

Affirmative: 9; Against: 0; Abstentions: 0

Application #734-16 – Larry Walker (609 E Route 130 S.)

Larry Walker was sworn for testimony for the application seeking a Change of Use & Site Plan Review Waiver.

Applicant/Expert Testimony:

Ms. Garty questioned the applicant regarding his proposed use & operation of 609 E. Route 130 S. Mr. Walker testified that he believes he will have (3) trainers. The Applicant testified as to the proposed hours of operation being (with approximate times) Monday-Friday: 9am-10pm; Saturday: 9am-1pm; closed on Sunday

Ms. Garty asked how many staff members outside of the trainers would be on site. Mr. Walker testified he believes the only additional staff member would be a receptionist. Ms. Garty asked about trash & recycling services, Mr. Walker testified that he didn't believe any trash would be generated & the recycling that would be generated would be taken off site for disposal. Mr. Walker testified that no food/snacks would be sold on location; the only item that would be sold is Water. The Applicant testified that the footprint or exterior of the building would not be revised so that drainage would not be affected and addressed operations as it related to parking and the activities on site. There was a concern stated as to parking in that area if there was an event with a large crowd in attendance and the Applicant was asked whether there would be special events with boxing matches for viewing by the general public. Mr. Walker testified that there would be no public events, but that parents could watch their children spar and practice. He testified as to proposed signage testifying that the size of any business sign would not change. He agreed to comply with a condition for approval to comply with City Code requirements as to any required building or construction permits; business registration and obtaining a permit for any signs and for complying with all other applicable requirements including payment of all fees and escrows.

Board Member Questions:

Mr. Ballard asked about parking at the Site, Mr. Walker testified they would be installing no parking signs in the front of the property. They would advise all their clients to park in the rear of the property on Mitchell Ave.

Chairwomen Conaway asked what the applicant would do with the existing handicap parking spaces, Mr. Walker testified he would leave the handicap parking spaces.

Ms. Garty questioned the signage the applicant proposed, Mr. Perry provided the applicant with direction concerning the signage at the proposed location.

Mr. Turner asked a question regarding the address of the proposed Boxing Gym. Mr. Walker testified that he proposes the only use (1) point of entry.

Mr. Turner further asked a question regarding the electric at the site.

Councilwomen Hatala asked if the Gym would be a men's only Boxing Gym, Mr. Walker stated the Gym would be open to everyone.

Councilwomen Hatala further asked if a monthly fee would be charged for membership.

Mr. Turner asked if any exhibitions would be held, Mr. Walker testified that they may have month open sparing sessions.

Mr. Turner further asked if the members would be children or adults, Mr. Walker explained the regulations that USA Boxing puts on any boxing gym.

Councilwomen Hatala asked the applicant if he believed his gym would promote loitering outside the location; Mr. Walker testified that his business doesn't allow loitering.

Engineer/Planner Review:

None for this application

Public Comment:

The matter was opened to the public; no comments were made. The Public Comment portion was closed.

Solicitor Review:

Ms. Garty summarized the application before the Board as to the relief sought, burden of proof, the testimony presented and the conditions agreed to by the Applicant.

The Chairwoman called for a motion to approve the Application and relief requested based upon a finding that the burden of proof was met and subject to the conditions cited by the Board.

Motion: Mr. Schobert

Seconded: Mr. Ballard

Affirmative: 9

Against: 0

Abstention: 0

NEW BUSINESS: None

NEXT MEETING SCHEDULED:

July 27, 2016

APPROVAL OF MINUTES:

None

RESOLUTIONS:

Resolution #14-2016

RESOLUTION GRANTING THE APPLICATION OF DANALIS ANDERSON, TO APPROVE A CHANGE OF USE AND GRANTING THE REQUEST FOR A WAIVER OF THE REQUIREMENT TO SUBMIT A SITE PLAN FOR REVIEW WITH RESPECT TO BLOCK 32, LOT 3, MORE COMMONLY KNOWN AS 400 HIGH STREET

Resolution #15-2016

RESOLUTION GRANTING THE APPLICATION OF FISHBIRD, LLC, TO APPROVE A CHANGE OF USE AND GRANTING A REQUEST FOR A WAIVER OF THE REQUIREMENT TO SUBMIT A SITE PLAN FOR REVIEW WITH RESPECT TO BLOCK 209, LOT 17, MORE COMMONLY KNOWN AS 801 BORDENTOWN ROAD

Motion: Mr. Ballard

Second: Mr. Carnivale

8-Affirmative

0-Against

1-Abstention (Mr. Tishler)

PUBLIC COMMENT:

None

ADJOURNMENT:

Upon the motion of David Ballard, seconded by David Tishler, this meeting of June 22, 2016 was adjourned was adjourned at 8:42 PM.

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